The Committee on Rules (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 788 - 890

and insert:

Section 12. Section 252.38, Florida Statutes, is amended to read:

252.38 Emergency management powers of political subdivisions.—Safeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state. However, political subdivisions are given police powers to preserve, not impair,
private rights. Therefore, a political subdivision that deprives any person of a constitutional right, a fundamental liberty, a statutory right, or property to address a purported emergency bears the burden of proving that the exercise of police power is narrowly tailored, serves a compelling governmental interest, and accomplishes the intended goal through the use of the least intrusive means.

(1) COUNTIES.—
(a) In order to provide effective and orderly governmental control and coordination of emergency operations in emergencies within the scope of ss. 252.31-252.90, each county within this state shall be within the jurisdiction of, and served by, the division. Except as otherwise provided in ss. 252.31-252.90, each local emergency management agency shall have jurisdiction over and serve an entire county. Unless part of an interjurisdictional emergency management agreement entered into pursuant to paragraph (3)(b) which is recognized by the Governor by executive order or rule, each county must establish and maintain such an emergency management agency and shall develop a county emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program. Counties that are part of an interjurisdictional emergency management agreement entered into pursuant to paragraph (3)(b) which is recognized by the Governor by executive order or rule shall cooperatively develop an emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program.

(b) Each county emergency management agency created and
established pursuant to ss. 252.31-252.90 shall have a director. The director must meet the minimum training and education qualifications established in a job description approved by the county. The director shall be appointed by the board of county commissioners or the chief administrative officer of the county, as described in chapter 125 or the county charter, if applicable, to serve at the pleasure of the appointing authority, in conformance with applicable resolutions, ordinances, and laws. A county constitutional officer, or an employee of a county constitutional officer, may be appointed as director following prior notification to the division. Each board of county commissioners shall promptly inform the division of the appointment of the director and other personnel. Each director has direct responsibility for the organization, administration, and operation of the county emergency management agency. The director shall coordinate emergency management activities, services, and programs within the county and shall serve as liaison to the division and other local emergency management agencies and organizations.

(c) Each county emergency management agency shall perform emergency management functions within the territorial limits of the county within which it is organized and, in addition, shall conduct such activities outside its territorial limits as are required pursuant to ss. 252.31-252.90 and in accordance with state and county emergency management plans and mutual aid agreements. Counties shall serve as liaison for and coordinator of municipalities’ requests for state and federal assistance during postdisaster emergency operations.

(d) During a declared state or local emergency and upon the
request of the director of a local emergency management agency, the district school board or school boards in the affected area shall participate in emergency management by providing facilities and necessary personnel to staff such facilities. Each school board providing transportation assistance in an emergency evacuation shall coordinate the use of its vehicles and personnel with the local emergency management agency.

(e) County emergency management agencies may charge and collect fees for the review of emergency management plans on behalf of external agencies and institutions. Fees must be reasonable and may not exceed the cost of providing a review of emergency management plans in accordance with fee schedules established by the division.

(2) MUNICIPALITIES.—Legally constituted municipalities are authorized and encouraged to create municipal emergency management programs. Municipal emergency management programs shall coordinate their activities with those of the county emergency management agency. Municipalities without emergency management programs shall be served by their respective county agencies. If a municipality elects to establish an emergency management program, it must comply with all laws, rules, and requirements applicable to county emergency management agencies. Each municipal emergency management plan must be consistent with and subject to the applicable county emergency management plan. In addition, each municipality must coordinate requests for state or federal emergency response assistance with its county. This requirement does not apply to requests for reimbursement under federal public disaster assistance programs.

(3) EMERGENCY MANAGEMENT POWERS; POLITICAL SUBDIVISIONS.—
(a) In carrying out the provisions of ss. 252.31-252.90, each political subdivision shall have the power and authority:

1. To appropriate and expend funds; make contracts; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any emergency; and direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies.

2. To appoint, employ, remove, or provide, with or without compensation, coordinators, rescue teams, fire and police personnel, and other emergency management workers.

3. To establish, as necessary, a primary and one or more secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

4. To assign and make available for duty the offices and agencies of the political subdivision, including the employees, property, or equipment thereof relating to firefighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency operation purposes, as the primary emergency management forces of the political subdivision for employment within or outside the political limits of the subdivision.

5. To request state assistance or invoke emergency-related mutual-aid assistance by declaring a state of local emergency in the event of an emergency affecting only one political subdivision. The duration of each state of emergency declared
locally is limited to 7 days; it may be extended, as necessary, in 7-day increments. Further, the political subdivision has the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

a. Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.

b. Entering into contracts.

c. Incurring obligations.

d. Employment of permanent and temporary workers.

e. Utilization of volunteer workers.

f. Rental of equipment.

g. Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.

h. Appropriation and expenditure of public funds.

(b) Upon the request of two or more adjoining counties, or if the Governor finds that two or more adjoining counties would be better served by an interjurisdictional arrangement than by maintaining separate emergency management agencies and services, the Governor may delineate by executive order or rule an interjurisdictional area adequate to plan for, prevent, mitigate, or respond to emergencies in such area and may direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint emergency plan, a provision for mutual aid, or an area organization for emergency planning and services. A finding of the Governor pursuant to this paragraph shall be based on one or more factors related to the difficulty of maintaining an efficient and effective
emergency prevention, mitigation, preparedness, response, and recovery system on a unijurisdictional basis, such as:

1. Small or sparse population.
2. Limitations on public financial resources severe enough to make maintenance of a separate emergency management agency and services unreasonably burdensome.
3. Unusual vulnerability to emergencies as evidenced by a past history of emergencies, topographical features, drainage characteristics, emergency potential, and presence of emergency-prone facilities or operations.
4. The interrelated character of the counties in a multicounty area.
5. Other relevant conditions or circumstances.

(4) INVALIDATION OF CERTAIN EMERGENCY MEASURES.—The Governor, or the Legislature by concurrent resolution, may at any time invalidate an order, an ordinance, a proclamation, a rule, or any other measure issued by a political subdivision to address a purported emergency if the Governor or the Legislature determines that such order unnecessarily restricts a constitutional right, a fundamental liberty, or a statutory right.

Section 13. Subsections (1), (2), and (3) of section 252.385, Florida Statutes, are amended to read:

252.385 Public shelter space.—

(1) It is the intent of the Legislature that this state not have a deficit of safe public hurricane evacuation shelter space in any region of the state by 1998 and thereafter.

(2)(a) The division shall administer a program to survey existing schools, universities, community colleges, and other
state-owned, municipally owned, and county-owned public
buildings and any private facility that the owner, in writing,
agrees to provide for use as a public hurricane evacuation
shelter to identify those that are appropriately designed and
located to serve as such shelters. The owners of the facilities
must be given the opportunity to participate in the surveys. The
state university boards of trustees, district school boards,
community college boards of trustees, and the Department of
Education are responsible for coordinating and implementing the
survey of public schools, universities, and community colleges
with the division or the local emergency management agency.

(b) By January 31 of each even-numbered year, the division
shall prepare and submit a statewide emergency shelter plan to
the Governor and Cabinet for approval, subject to the
requirements for approval in s. 1013.37(2). The emergency
shelter plan must project, for each of the next 5 years, the
hurricane shelter needs of the state, including periods of time
during which a concurrent public health emergency may
necessitate more space for each individual to accommodate
physical distancing. In addition to information on the general
shelter needs throughout this state, the plan must shall
identify the general location and square footage of special
needs shelters, by regional planning council region, during the
next 5 years. The plan must shall also include information on
the availability of shelters that accept pets. The Department of
Health shall assist the division in determining the estimated
need for special needs shelter space and the adequacy of
facilities to meet the needs of persons with special needs based
on information from the registries of persons with special needs
and other information.

(3) The division shall annually provide to the President of the Senate, the Speaker of the House of Representatives, and the Governor a list of facilities recommended to be retrofitted using state funds. State funds should be maximized and targeted to regional planning council regions with hurricane evacuation shelter deficits. Retrofitted facilities in regions with public hurricane evacuation shelter deficits shall be given first priority and should be completed by 2003. All recommended facilities should be retrofitted by 2008. The owner or lessee of a public hurricane evacuation shelter that is included on the list of facilities recommended for retrofitting is not required to perform any recommended improvements.

Section 14. Subsection (1) of section 252.44, Florida Statutes, is amended to read:

252.44 Emergency mitigation.—

(1) In addition to prevention measures included in the state and local comprehensive emergency management plans, the Governor shall consider on a continuing basis steps that could be taken to mitigate the harmful consequences of emergencies. At the Governor’s direction and pursuant to any other authority and competence they have, state agencies, including, but not limited to, those charged with responsibilities in connection with protecting and maintaining the public health, flood plain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards, shall make studies of emergency-mitigation-related matters. The Governor, from time to time, shall make such...
recommendations to the Legislature, local governments, and other
appropriate public and private entities as may facilitate
measures for mitigation of the harmful consequences of
emergencies.

Section 15. Present subsection (3) of section 252.46,
Florida Statutes, is redesignated as subsection (6), a new
subsection (3) and subsections (4) and (5) are added to that
section, and subsection (2) of that section is amended, to read:

252.46 Orders and rules.—
(2) All orders and rules adopted by the division or any
political subdivision or other agency authorized by ss. 252.31-
252.90 to make orders and rules have full force and effect of
law after adoption in accordance with the provisions of chapter
120 in the event of issuance by the division or any state agency
or, if adopted promulgated by a political subdivision of the
state or agency thereof, when filed in the office of the clerk
or recorder of the political subdivision or agency adopting
promulgating the same. Failure of a political subdivision to
file any such order or rule with the office of the clerk or
recorder within 3 days after issuance voids the declaration or
order. All existing laws, ordinances, and rules inconsistent
with the provisions of ss. 252.31-252.90, or any order or rule
issued under the authority of ss. 252.31-252.90, must shall be
suspended during the period of time and to the extent that such
conflict exists.

(3) Emergency ordinances, declarations, and orders adopted
by a political subdivision under the authority of ss. 252.31-
252.90, including those enacted by a municipality pursuant to s.
166.041(3)(b), must be available on a dedicated webpage
accessible through a conspicuous link on the political
subdivision’s homepage. The dedicated webpage must identify the
emergency ordinances, declarations, and orders currently in
effect. Each political subdivision adopting emergency
ordinances, declarations, or orders must provide the division
with the link to the political subdivision’s dedicated webpage.
The division must include these links in an easily identifiable
format on its website.

(4) An order issued by a political subdivision
automatically expires 10 days after its issuance; however, such
an order may be extended before its expiration by a majority
vote of the governing body of the political subdivision if
deemed necessary. Upon the expiration of an order, a political
subdivision may not issue a substantially similar order to
respond to the same emergency. In the event the governing body
of the political subdivision is unable to convene before the
expiration of the emergency order due to the impacts of a
hurricane or other weather-related natural disaster, the 10-day
period is tolled until the governing body is able to convene.
However, an emergency order issued under this section may not be
in effect for more than 30 days unless the governing body
approves an extension of the order.

(5) An order issued by a political subdivision pursuant to
this section which imposes a curfew restricting the travel or
movement of persons during designated times must nonetheless
allow persons to travel during the curfew to their places of
employment to report for work and to return to their residences
after their work has concluded.
And the title is amended as follows:

Delete lines 99 - 112

and insert:

emergency funds; amending s. 252.38, F.S.; specifying that a political subdivision has the burden of proving the proper exercise of its police power in the issuance of certain emergency orders; authorizing the Governor or the Legislature to invalidate emergency measures issued by a political subdivision under specified conditions; amending s. 252.385, F.S.; requiring the division’s hurricane shelter plan to address hurricane shelter needs during public health emergencies; amending s. 252.44, F.S.; requiring emergency mitigation planning by state agencies to include agencies with jurisdiction over public health; amending s. 252.46, F.S.; providing that a failure by a political subdivision to file certain orders and rules with specified entities within a specified timeframe voids the issued orders or rules; requiring that certain orders be available on a dedicated website; requiring the Division of Emergency Management to provide such links on its website in a specified format; providing for the automatic expiration of emergency orders issued by a political subdivision; authorizing the extension of such orders if certain conditions are met; prohibiting a political subdivision from issuing a subsequent order for the same emergency that is substantially similar to the
expired order; providing for the tolling of the automatic expiration of an order if certain conditions exist; requiring that orders issued by a political subdivision which impose a curfew restricting travel or movement allow persons to travel during the curfew to and from their places of employment; amending s. 377.703, F.S.;