

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Military and Veterans Affairs, Space, and Domestic Security

BILL: SB 1262

INTRODUCER: Senator Collins

SUBJECT: Qualifications of the Director of the Division of Emergency Management

DATE: January 26, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ingram	Proctor	MS	Pre-meeting
2.			GO	
3.			RC	

I. Summary:

SB 1262 requires that the director of the Florida Division of Emergency Management (FDEM) meet minimum training and education qualifications as established by FDEM rule.

The bill takes effect July 1, 2024.

II. Present Situation:

Rulemaking Authority

The Administrative Procedure Act¹ (APA) sets forth a uniform set of procedures an agency, as defined in section 120.52, F.S., must adhere to when exercising delegated rulemaking authority. Rulemaking authority is provided through statutory language that explicitly allows or requires an agency to adopt, develop, establish, or otherwise create any statement coming within the definition of the term “rule.”^{2,3} Rulemaking is not a matter of agency discretion.⁴ An agency must have a general grant of authority, as well as a specific law that is being implemented in order to adopt a rule.⁵

Section 252.46, F.S., provides that in accordance with ch.120, F.S., the political subdivisions of the state and other agencies designated or appointed by the Governor or in the state

¹ Chapter 120, F.S.

² Section 120.52(16), F.S. defines rule as each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The definition provides exclusions.

³ Section 120.52(17), F.S.

⁴ Section 120.54(1), F.S.

⁵ Sections 120.52(8) and 120.536(1), F.S.

comprehensive emergency management plan are authorized and empowered to make, amend, and rescind such orders and rules as are necessary for emergency management purposes.

State Emergency Management Act

Florida is vulnerable to a wide variety of emergencies, including natural, technological, and manufactured disasters threatening the health and safety of people, damaging and destroying property, disrupting services, and impeding economic growth and development.⁶ To reduce these vulnerabilities, promote emergency⁷ preparedness, response, mitigation, recovery, and coordinate all emergency management functions of the state with the political subdivisions of the state, other states, and the Federal Government,⁸ the Legislature adopted the State Emergency Management Act (Act).⁹

Under the Act, emergency management¹⁰ responsibilities include:

- Reducing vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural, technological, or manmade emergencies¹¹ or hostile military or paramilitary action.
- Preparing for prompt and efficient response and recovery to protect lives and property affected by emergencies.
- Responding to emergencies using all systems, plans, and resources necessary to preserve adequately the health, safety, and welfare of persons or property affected by the emergency.
- Recovery from emergencies by providing for the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies.
- Providing of emergency management system embodying all aspects of preemergency preparedness and postemergency response, recovery, and mitigation.
- Assisting with the anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.¹²

Florida Division of Emergency Management

Overview

The FDEM is created within the Executive Office of the Governor in accordance with s. 14.2016, F.S.,¹³ to implement the purposes of the Act. The FDEM is the state's liaison with federal agencies and other public and private agencies, and it administers programs to assist

⁶ Section 252.311(1), F.S.

⁷ Section 252.34(4), F.S., defines emergency as any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

⁸ Sections 252.311 and 252.32, F.S.

⁹ Sections 252.31-252.60, F.S. See s. 252.31, F.S.

¹⁰ Section 252.34(5), F.S., defines emergency management as preparation for, the mitigation of, the response to, and the recovery from emergencies and disasters.

¹¹ Section 252.34(7), F.S., defines manmade emergency as an emergency caused by an action against persons or society, including, but not limited to, enemy attack, sabotage, terrorism, civil unrest, or other action impairing the orderly administration of government.

¹² Section 252.34(5)(a)-(f), F.S.

¹³ Ch. 2011-142, s. 7, Laws of Fla.

communities impacted by an emergency.¹⁴ With a mission to coordinate, collaborate, and communicate with community stakeholders, the FDEM plans for and responds to both natural and manmade disasters,¹⁵ including, but not limited to, floods, hurricanes, and incidents involving hazardous materials or nuclear power.¹⁶ The duties of the FDEM include preparing and updating the state comprehensive emergency management plan (CEMP);¹⁷ adopting standards and requirements for county emergency plans;¹⁸ assisting political subdivisions with preparing and maintaining their emergency management plans;¹⁹ and reviewing the political subdivision plans, ensuring consistency with the CEMP and the adopted standards and requirements.²⁰ Additional duties include, coordinating federal, state, and local emergency management actions in advance of an actual emergency to ensure availability of adequately trained and equipped personnel before, during, and after an emergency or disaster.²¹

The FDEM also conducts extensive exercises to test state and county emergency capabilities and provides emergency operations training for state and local governmental entities.²² Additionally, after a disaster, the FDEM advises the Governor on whether to declare an emergency and seek federal relief funds.²³ The State Emergency Operations Center, maintained by the FDEM in Tallahassee, serves as the communications and command center for reporting emergencies and coordinating the state response activities. The State Warning Point, a state emergency communications center operated by the FDEM and staffed around the clock, maintains statewide communications with county emergency officials.²⁴

FDEM Core Programs²⁵

- Preparedness Bureau administers a statewide emergency management all-hazards preparedness program to ensure the State Emergency Response Team²⁶ is prepared.
 - Facilitates prompt and efficient response and recovery.
 - Protects lives and property impacted by disasters.
 - Coordinates training courses for counties and first responders.

¹⁴ Section 14.2016(1), F.S.

¹⁵ Section 252.34(2), F.S., defines disaster as any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States. The statute further delineates disasters by the severity of resulting damage as catastrophic, major, or minor.

¹⁶ Fla. Division of Emergency Management, About the Division, *available at* <https://www.floridadisaster.org/dem/about-the-division/> (last visited Jan. 19, 2024).

¹⁷ See section 252.35(2)(a), F.S. The state comprehensive emergency plan must be integrated into and coordinate with federal emergency management plans and programs.

¹⁸ Section 252.35(2)(b), F.S.

¹⁹ Section 252.35(2)(c), F.S.

²⁰ Section 252.35(2)(d), F.S.

²¹ Section 252.35(2)(l), F.S.

²² Fla. Division of Emergency Management, *supra* note 16.

²³ Pinellas Park Fire Department, Florida Division of Emergency Management, *available at* <https://www.pinellas-park.com/236/Florida-Division-of-Emergency-Management> (last visited Jan. 24, 2024).

²⁴ *Id.*

²⁵ Fla. Division of Emergency Management, Presentation, *Overview of FDEM*, p. 2 (Nov. 14, 2023) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

²⁶ The FDEM website provides that the State Emergency Response Team is an inter-agency organization authorized by law for the purpose of responding to, recovering from, mitigating against, and preparing for disasters, *available at*, <https://www.floridadisaster.org/sert/> (last visited on Jan. 19, 2024).

- Response Bureau coordinates state operational response activities among partner organizations that are active during emergencies and disasters affecting the state.
 - Monitors incidents that may require state response.
 - Manages 24/7 State Watch Office.²⁷
 - Oversees logistics vendor management and resource deployment.
 - Supports the State Emergency Response Commission through the Technological Hazards Unit.²⁸
- Recovery Bureau works to maximize and accelerate federal disaster assistance to eligible public-sector partners and residents through various state and federal disaster assistance programs and administers recovery funding, such as public assistance.
- Mitigation Bureau assists communities in reducing the impacts of certain disasters and provides technical assistance to counties developing and implementing local mitigation strategies.
 - Administers federal mitigation grant programs, including the Hazard Mitigation Grant Program, Pre-Disaster Mitigation Program, and Flood Mitigation Assistance Program and the Building Resilient Infrastructure and Communities Program.
 - Administers the Hurricane Loss Mitigation Program, a state-funded mitigation program. Routinely updates the State Enhance Hazard Mitigation Plan.²⁹

Office of the Director

The director's office provides management and oversight to the FDEM's overall functions.³⁰ In accordance with section 14.2016(1), F.S., the FDEM director is appointed by and serves at the pleasure of the Governor and is the head of the FDEM for all purposes.³¹ Background or credential requirements of the director are not prescribed in the statute nor under the Act.

Within the office of the director, the media office handles internal and external affairs; the Florida National Guard Liaison is the primary point of contact for inquiries and coordination between the military and the FDEM; and regional coordinators live and work across the state and are first in line to support to their respective area regions on all emergency management issues including local plan development, preparedness, training and exercise, recovery, and mitigation information.³² The office also includes Offices of General Counsel and Inspector General.^{33,34}

²⁷ Section 14.2016(2), F.S., provides that the State Watch Office is established within the FDEM and is a clearinghouse of information with a primary purpose to record, analyze, and share information with federal, state, and county entities for appropriate response to emergencies.

²⁸ Fla. Division of Emergency Management, About the Division, Response, *Technological Hazards*, available at <https://www.floridadisaster.org/dem/response/technological-hazards/> (last visited Jan. 19, 2024).

²⁹ Fla. Division of Emergency Management, About the Division, *Mitigation*, available at <https://www.floridadisaster.org/dem/mitigation/> (last visited Jan. 19, 2024).

³⁰ Fla. Division of Emergency Management, Office of the Director, available at <https://www.floridadisaster.org/dem/directors-office/> (last visited Jan. 19, 2024).

³¹ Section 14.2016(1), F.S.

³² Fla. Division of Emergency Management, *supra* note 29.

³³ Section 20.055(2), F.S., provides that an office of inspector general is established in each state agency to provide a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government.

³⁴ Fla. Division of Emergency Management, *supra* note 29.

III. Effect of Proposed Changes:

SB 1262 amends s. 14.2016, F.S., requiring the director of the FDEM to meet minimum training and education qualifications as established by FDEM rule.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 14.2016 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
