

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EDTS 14-02 Division of Emergency Management

SPONSOR(S): Economic Development & Tourism Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Development & Tourism Subcommittee	12 Y, 0 N	Duncan	West

SUMMARY ANALYSIS

The Emergency Management Assistance Compact (EMAC) is an agreement entered into by the 50 states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions to provide mutual assistance to manage an emergency or disaster declared by the governor of the affected state.

The Division of Emergency Management (DEM) has received numerous requests through EMAC to assist states responding to manmade or natural disasters. There are times when DEM employees work in a state in which the travel and meal costs are greater than the rate authorized for reimbursement. Current law does not permit state employees traveling under EMAC to receive travel reimbursement based on the amount agreed upon by the requesting state and DEM.

The bill provides that the travel expense reimbursement provisions under s. 112.061, F.S., do not apply to a state employee traveling under EMAC when such expenses are reimbursed by the state in need of assistance based on the amount agreed upon in an interstate mutual aid request for assistance.

The bill does not have a fiscal impact on state or local government revenues.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb02a.EDTS

DATE: 2/24/2014

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Division of Emergency Management

Florida's Division of Emergency Management (DEM) is administratively housed within the Executive Office of the Governor.¹ DEM is responsible for all professional, technical, and administrative support functions necessary to carry out its responsibilities. The Director of DEM is appointed by, and serves at the pleasure of, the Governor and is the head of DEM for all purposes. DEM is tasked with administering programs to rapidly apply all available aid to communities stricken by an emergency and serves as a liaison with federal agencies and other public and private agencies.²

The State Emergency Management Act (Act)³ establishes the powers of DEM. It tasks DEM with maintaining a comprehensive statewide program of emergency management efforts that includes coordinating efforts with the Federal Government, local governments, other state agencies, school boards, and private agencies that have a role in emergency management.⁴ The statewide program of emergency management includes, but is not limited to:

- preparation of a comprehensive statewide emergency management plan;
- adopting standards and requirements for county emergency management plans;
- assisting political subdivisions in preparing and maintaining emergency management plans;
- ascertaining the requirements for equipment and supplies for use in an emergency;
- instituting statewide public awareness programs;
- coordinating federal, state, and local emergency management activities in advance of an emergency; and
- using and employing the property, services, and resources within the state in accordance with the Act.⁵

Emergency Management Assistance Compact (EMAC)

In 1996, a joint resolution of the U.S. Congress granted consent for EMAC.⁶ That same year, the Florida Legislature authorized the state's participation in EMAC,⁷ an agreement entered into by 50 states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions. The purpose of EMAC is to provide mutual assistance between states entering into the compact in managing an emergency or disaster declared by the governor of the affected state. The emergency may arise from a natural or manmade disaster, technological hazard, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack.

The EMAC Process⁸

1. Governor declares a state of emergency due to a natural or man-made disaster/emergency.

¹ Section 14.2016, F.S. DEM is a separate budget entity, as provided in the General Appropriations Act and is required to prepare and submit a budget amendment in accordance with Ch. 216, F.S. *Id.*

² *Id.*

³ Sections 252.31 – 252.60, F.S.

⁴ Section 252.35(1), F.S.

⁵ Section 252.35, F.S.

⁶ Public Law 104-321 – Oct. 19, 1996.

⁷ Chapter 96-244, L.O.F.

⁸ Emergency Management Assistance Compact, Training & Education, Education Publications, Being Deployed Under EMAC? What You Need To Know, July 2013, p. 3, 2013 EMAC Deployment Brochure – July 2013.pdf.

2. Affected state assesses resource needs and identifies shortfalls for which assistance will be requested.
3. State requests resources from EMAC member states through the state emergency management agencies.
4. State emergency management personnel and local resource providers work together to identify available resources and estimated mission costs.
5. The requesting and assisting states execute the EMAC Request for Assistance Form, which is called the REQ-A.⁹
6. Personnel deploying under EMAC are given a Mission Order Authorization Form which outlines the mission, helpful information, and guidance.
7. Resources are sent to the requesting state from the assisting state.
8. When the mission is completed, resources return to the home state.
9. Deployed personnel provide receipts/records and work with the home state to develop and review reimbursement packages.
10. Reimbursement package is sent to the requesting state.
11. The requesting state reimburses the assisting state.

A properly executed REQ-A authorizes the EMAC mission and constitutes a contract between two states. Upon accepting resources offered by another EMAC member state, the requesting state is financially obligated to reimburse the assisting states for expenses incurred in performance of the EMAC mission. Self-dispatched resources that deploy without state authorization are not recognized under EMAC and are not eligible for reimbursement.¹⁰

Reimbursement under EMAC is not dependent upon the receipt of disaster relief funds that are available through the Federal Emergency Management Agency (FEMA) after the president declares a major disaster or emergency. The requesting state may seek funds from FEMA or any other sources but its obligation under EMAC to pay for services rendered are not contingent upon the receipt of federal funds.¹¹

DEM Deployment - EMAC

DEM has received numerous requests through EMAC to assist states responding to manmade or natural disasters. There are times when DEM employees work in a state in which the travel and meal costs are greater than the rate authorized by Florida law. Current law does not permit state employees traveling on an EMAC mission to receive travel reimbursement based on the amount agreed upon by the requesting state and DEM. Below is a list of missions in which DEM staff was deployed to provide assistance under EMAC from 2010-2013.¹²

MISSION	NUMBER DEPLOYED	LOCATION	EVENT
2013			
Hazard mitigation grant experts	2	Colorado	Flood
Public information specialist to assist with operations JFO	2	Alaska	Flood
State Volunteer Agency Liaison	1	Alaska	Flood

⁹ The REQ-A is the official form used by states to request, offer, and accept assistance through EMAC. It is also the basis for reimbursement. The Emergency Management Assistance Compact, EMAC Overview 9-2011.pptx, Library Documents Docs ID #2646, Slide 35, available at http://www.nemaweb.org/index.php?option=com_pollybrowser&Itemid=201

¹⁰ National Emergency Management Association, Section III. Reimbursement, NEMA Library Documents Doc ID#2492, available at http://www.nemaweb.org/index.php?option=com_pollydoc&format=raw&view=doc&id=2492.

¹¹ *Id.*

¹² Florida Division of Emergency Management, Email to House Economic Development & Tourism Subcommittee staff, Dec. 10, 2013. Email on file.

2012			
Law enforcement strike Teams	28	New Jersey	Sandy
Region IV Support Team to assist in staffing EOC.	10	New York	Sandy
Donations Management Coordinator	1	New Jersey	Sandy
Personnel able to support NYC EOC	14	New York	Sandy
Donations Coordinators	1	New York	Sandy
Governor's Office of Volunteerism	1	New Jersey	Sandy
Finance personnel to assist NYS EOC	1	New York	Sandy
Field operations (door to door)	2	New York	Sandy
Request for assistance with mass care/feeding	2	Maryland	Sandy
2011			
Need for mitigation officer	2	Vermont	Irene
Request ESF 6 support	1	New Jersey	Irene
Donations Manager	1	New York	Tropical Storm Lee
Request EOC support team	17	New York	Irene
Mitigation personnel	3	Tennessee	Flood
Cadaver Dog Team	7	Alabama	Tornados
Communication teams	2	Alabama	Tornados
Volunteer donations coordinator	1	Missouri	Tornados
Volunteer donations coordinator	1	Alabama	Tornados
PIO Request	2	Alabama	Tornados
Individual Assistance Personnel	5	Mississippi	Severe weather
2010			
Air Craft Crew Chiefs for oil spill	15	Louisiana	Deep Water Horizon
National Guard	20	Louisiana	Deep Water Horizon

Party State Responsibilities

Each member state (party state) of the EMAC program is directed to compose procedural plans and programs for interstate cooperation in the performance of the required responsibilities.¹³ The authorized representative of a party state may request verbally or in writing the assistance of another party state by contacting the authorized representative of that state. Verbal requests must be followed by a written request within 90 days of the verbal request. The provisions of the agreement only apply to requests for assistance made by and to authorized representatives. Requests must provide the following information:¹⁴

- a description of the emergency service function for which the support is needed, such as fire services, law enforcement, emergency medical transportation, communications, public works and engineering, building code inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;
- the amount and type of personnel, equipment, materials, and supplies needed, and a reasonable estimate of the length of time the resources will be needed; and
- the specific place and time for staging of the assisting party's response and a point of contact at that location.

¹³ Section 252.924(1), F.S.

¹⁴ Section 252.924(2), F.S.

Certain EMAC provisions require frequent consultation with free exchange of information between state officials who have assigned emergency management responsibilities, other appropriate representatives of the party states with affected jurisdictions, and the U.S. Government.¹⁵

Reimbursement

A party state that provides aid to another state through an EMAC mission must be reimbursed by the party state receiving the aid for any loss or damage or expense incurred in the operation of any equipment or services provided in answering a request for aid. However, any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost. Party states are authorized to enter into supplementary agreements establishing a different allocation of costs among those states.¹⁶

State Travel Law

The Legislature has standardized travel reimbursement rates, procedures, and limitations, with certain justifiable exceptions and exemptions, applicable to all public officers, employees, and authorized persons whose travel is authorized and paid for by a public agency.¹⁷ All travel must be authorized by the head of the agency, or his or her designated representative, from whose funds the travel is paid.¹⁸ State law establishes three categories of travel:¹⁹

- Class A Travel – continuous travel of 24 hours or more away from official headquarters.²⁰
- Class B Travel – continuous travel of less than 24 hours which involves overnight absence from official headquarters
- Class C Travel – travel for short or day trips where the traveler is not away from his or her official headquarters overnight.

Class A and Class B travel includes any assignment on official business outside of regular office hours and away from regular places of employment when it is considered reasonable and necessary to stay overnight and for which travel expenses are approved.²¹

The state is required to allow for subsistence for public employees engaged in Class A or Class B Travel and provided two travel reimbursement options:²²

- \$80 per diem; or
- If actual expenses exceed \$80, the state will pay a maximum of \$36 (\$6 for breakfast, \$11 for lunch, and \$19 for dinner) in addition to the actual expenses for lodging at a single-occupancy rate supported by paid bills.

Effect of Proposed Changes

The bill provides that the travel expense reimbursement provisions under s. 112.061, F.S., do not apply to a state employee traveling on an EMAC mission when such expenses are reimbursed based on the amount agreed upon in an interstate mutual aid request for assistance.

¹⁵ Section 252.924(3), F.S.

¹⁶ Section 252.929, F.S.

¹⁷ Section 112.061(1), F.S.

¹⁸ Section 112.061(3), F.S. The funds appropriated to each state agency for travel by state employees must be limited to travel activities that are critical to each state agency's mission. Funds may not be used to pay for travel by state employees to foreign countries, other states, conferences, staff-training activities, or other administrative functions unless the agency head has approved in writing that such activities are critical to the agency's mission. This section does not apply to travel for law enforcement purposes, military purposes, emergency management activities, or public health activities. Section 46, ch. 2013-41, L.O.F.

¹⁹ Section 112.061(k)-(m), F.S.

²⁰ See s. 112.061(4), F.S.

²¹ Section 112.061(5)(a), F.S.

²² Section 112.061(6), F.S.

B. SECTION DIRECTORY:

- Section 1: Amends s. 252.921, relating to the short title of the Emergency Management Assistance Compact, to identify the statutory sections that govern the EMAC.
- Section 2: Creates s. s. 252.9335, F.S., relating to expense reimbursement under the EMAC, to provide that expense reimbursement provisions under s. 112.061, F.S., do not apply to an employee traveling under the EMAC when such expenses are reimbursed based on the amount agreed upon in an interstate mutual aid request for assistance.
- Section 3: Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Party states requesting the state's assistance in the form of staff and/or other resources in response to a manmade or natural disaster are obligated to reimburse the assisting state whether or not the requesting state receives federal funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 19, 2014, the Economic Development & Tourism Subcommittee adopted 2 amendments and reported the bill favorably.

Amendment 1 removes sections 1 and 2 of the bill authorizing a statewide registry of persons with special needs to be maintained by DEM.

Amendment 2 removes section 5 of the bill, requiring nurse registries to assist persons in need of assistance and sheltering during evacuations in registering with DEM, rather than the appropriate local emergency management agency.

The analysis has been updated to reflect the adopted amendments.