

DOMESTIC SECURITY

HB 7145 — Seaport Security

by Domestic Security Committee and Rep. Adams and others (CS/CS/CS/SB 190 by Justice Appropriations Committee; Commerce and Consumer Services Committee; Criminal Justice Committee; and Senators Wise and Lynn)

This bill creates several new sections of Florida Statutes relating to seaport security and amends s. 311.12, F.S.

Section 311.111, F.S., is created to require seaport authorities and governing boards to designate security areas and access requirements on seaports. Designation categories include: Unrestricted Public Access Area, Restricted Public Access Area, Restricted Access Area, Secured Restricted Access Area, and an additional category of Temporary Designation which is established to allow flexibility in restricting port access during times of high terrorist threat. The bill provides criteria for each designation and requires that they be incorporated into each seaport's security plan.

Subsection (2) and paragraph (b) of subsection (4) of s. 311.12, F.S., are amended and paragraph (e) to subsection (3) and subsections (7) and (8) are added to s. 311.12, F.S., to provide:

- Each seaport identified in s. 311.09, F.S., beginning January 1, 2007 and continuing every 5 years thereafter, shall revise its seaport security plan based on the results of continual, quarterly risk assessments;
- Each seaport security plan shall be inspected for compliance and must be reviewed and approved by the Office of Drug Control and the Department of Law Enforcement based solely upon the standards set forth under the most current Maritime Transportation Security Act, 33 C.F.R. s. 105.305, and s. 311.12(1), F.S.;
- Any restricted access area with a potential occupancy of 50 or more persons, any cruise terminal, or any business operation located adjacent to an unrestricted public access area shall be protected according to specified terrorist threat mitigation standards;
- The Department of Law Enforcement shall inspect every seaport within the state to determine if all security measures adopted by the seaport are in compliance with specified standards. The department shall report its findings to the Domestic Security Oversight Council and the U.S. Coast Guard for review along with requests for necessary corrective action;
- A waiver process shall be established for an individual who is found to be unqualified for unescorted access under Florida Statute and is denied employment by a seaport;

- The Office of Drug Control and the executive director of the Department of Law Enforcement may modify or waive any seaport physical facility requirement upon a finding or other determination that the purposes of the standard have been reasonably met. The Domestic Security Oversight Council shall review waivers not granted within 90 days or jointly rejected by the office and the department;
- The unauthorized possession of a concealed weapon or operation, control, or possession of a vehicle in which a weapon is concealed or stored, while in a designated restricted area of a seaport, constitutes commission of a misdemeanor of the first degree; and
- A Seaport Security Advisory Council is created under the Office of Drug Control to review statewide seaport security standards for applicability and effectiveness. The council shall be appointed by the Governor and consist of representatives from the seaport industry and specified state agencies.

Section 311.121, F.S., is created to establish a training and certification program for seaport security officers. A candidate for certification as a seaport security officer must have received a Class D license as a security officer, have successfully completed certified training curriculum for a Class D license or been determined to have equivalent experience, and completed training or training equivalency to become a certified seaport security officer.

The Seaport Security Officer Qualification, Training, and Standards Coordinating Council is created under the Department of Law Enforcement in order to establish a seaport security officer training program. The council shall, by December 1, 2006, identify the qualifications, training, and standards for seaport security officer certification and recommend a training curriculum. The Department of Education shall develop the council's curriculum recommendations. The Department of Agriculture and Consumer Services shall provide seaport security officer certificates for issuance by licensed schools.

Section 311.122, F.S., is created to provide for the establishment of seaport law enforcement agencies. Each seaport is authorized to create a seaport law enforcement agency for its facility. Such agencies must meet all state standards under certified law enforcement guidelines. A minimum of 30 percent of the aggregate personnel must be state-certified law enforcement officers with additional seaport security training.

Section 311.123, F.S., is created to provide for the establishment of a maritime domain security awareness training program for all personnel employed within a seaport's boundaries.

Section 311.124, F.S., is created to grant any Class D or Class G seaport security officer, during the performance of his/her normal duties, the authority to detain a person who is believed to be trespassing in a seaport restricted area. Such detention must be based on probable cause and must be performed in a reasonable manner for a reasonable amount time pending the arrival of a law

enforcement officer. A seaport security officer performing such action shall not be criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

Section 817.021, F.S., is created to provide that a person, who willfully and knowingly provides false information in obtaining or attempting to obtain a seaport security identity card, commits a felony of the third degree.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 37-0; House 119-0

HB 7033 — Public Records/Security Systems Plans

by Governmental Operations Committee and Rep. Rivera (CS/SB 696 by Governmental Oversight and Productivity Committee and Domestic Security Committee)

This bill revises and reenacts s. 119.071, F.S., and s. 286.0113, F.S., which provide public records and public meetings disclosure exemptions for security systems plans. The exemptions protect certain records and information that could be used by individuals who are intent on performing terrorist acts. The bill removes a scheduled repeal of these sections under the Open Government Sunset Review Act.

Security systems plan information exempted from public disclosure under this bill includes records, photographs, audio and visual presentations, schematic diagrams, surveys, threat assessments, threat response plans, sheltering arrangements, and manuals for security personnel, emergency equipment, and security training.

That portion of a meeting that would reveal a security system plan or portion thereof is made confidential and exempt.

If approved by the Governor, these provisions take effect October 1, 2006.

Vote: Senate 40-0; House 119-0

HB 7023 — Public Records/Medical Facilities Information

by Governmental Operations Committee and Rep. Rivera (CS/SB 698 by Governmental Oversight and Productivity Committee and Domestic Security Committee)

This bill revises and reenacts s. 381.95, F.S., which provides a public records disclosure exemption for information concerning medical facilities and laboratories. The exemption protects information that is maintained by the Department of Health as a part of the state's plan to defend against terrorism. The bill removes a scheduled repeal of this section under the Open Government Sunset Review Act.

Medical facilities information exempted from public records disclosure under this bill includes information identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities, or laboratories.

If approved by the Governor, these provisions take effect October 1, 2006.

Vote: Senate 39-0; House 117-1

HB 7025 — Public Records/Hospital Emergency Management Plans

by Governmental Operations Committee and Rep. Rivera (CS/SB 700 by Governmental Oversight and Productivity Committee and Domestic Security Committee)

This bill revises and reenacts s. 395.1056, F.S., which provides a public records and a public meetings disclosure exemption for certain hospital comprehensive emergency management plan components. The exemption protects information that addresses a public or private hospital's response to terrorism. The bill removes a scheduled repeal of this section under the Open Government Sunset Review Act.

Hospital information exempted from public records disclosure under this bill includes security systems or plans; vulnerability analyses; emergency evacuation transportation; sheltering arrangements; post-disaster activities including provisions for emergency power, food and water; post-disaster transportation; supplies including drug caches; staffing; emergency equipment; and individual identification of residents, transfer of records, and methods of responding to family inquiries.

That portion of a meeting that would reveal information contained in a hospital's comprehensive emergency management plan in response to an act of terrorism is also exempt.

If approved by the Governor, these provisions take effect October 1, 2006.

Vote: Senate 40-0; House 119-0

EMERGENCY PREPAREDNESS

HB 47 — Hurricane Preparedness/Sales Tax Exemption

by Rep. Greenstein and others (CS/CS/CS/CS SB 24 by Ways and Means Committee; Government Efficiency Appropriations Committee; Commerce and Consumer Services Committee; Domestic Security Committee; and Senators Baker, Campbell, Atwater, Sebesta, Alexander, Diaz de la Portilla, Wise, Haridopolos, Wilson, Saunders, Lynn, Crist, and Aronberg)

This bill (Chapter 2006-7, L.O.F.) provides for a sales and use tax exemption for certain items used to prepare for and withstand a hurricane. The following items are exempt from sales and use tax collections during the period from May 21, 2006 through June 1, 2006:

- Any portable self-powered light source selling for \$20 or less;
- Any portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less;
- Any tarpaulin or other flexible waterproof sheeting selling for \$50 or less;
- Any ground anchor system or tie-down kit selling for \$50 or less;
- Any gas or diesel fuel tank selling for \$25 or less;
- Any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- Any cell phone battery selling for \$60 or less and any cell phone charger selling for \$40 or less;
- Any non electric food storage cooler selling for \$30 or less;
- Any portable generator used to provide light or communications or preserve food in the event of a power outage selling for \$1,000 or less;
- Any storm shutter device selling for \$200 or less (A storm shutter device is defined as materials and products manufactured, rated, and marketed specifically for the purpose of preventing window damage from storms);
- Any carbon monoxide detector selling for \$75 or less;
- Any blue ice selling for \$10 or less; and
- Any single product consisting of two or more of the above items, or other tax exempt items, selling for \$75 or less.

These provisions became law upon approval by the Governor on April 27, 2006.

Vote: Senate 35-0; House 117-1

HB 7121 — Disaster Preparedness Response

by Domestic Security Committee and Rep. Adams and others (CS/CS/SB 862 by Transportation and Economic Development Appropriations Committee; Domestic Security Committee; and Senators Diaz de la Portilla, Fasano, Wilson, Bullard, Atwater, and Klein)

Legislative Findings

The Legislature finds that there is a need to improve the state's preparedness and response capabilities for disasters. In making this finding, the Legislature identified areas of critical concern including: construction or hardening of emergency operations centers to meet survivability standards; providing permanent generator capacity at special needs shelters; construction or hardening of additional shelters for the general public including retrofitting existing structures to meet minimum public shelter standards; improving logistical staging and warehouse capacity for commodities, and planning for hurricane evacuations. To meet these needs, the Legislature appropriated \$151.7 million including:

- \$45 million for construction and hardening of emergency operations centers
- \$52.8 million for generators in special needs shelters
- \$15 million for expanding public shelter capacity
- \$29 million for evacuation mapping and planning projects
- \$6.5 million for logistics staging and warehousing improvements
- \$3.4 million for public education and hurricane preparedness information

Motor Fuel Dispensing Facilities

Section 526.143, F.S., is created, effective July 1, 2006, to require alternate generated power capacity at certain motor fuel dispensing facilities. Motor fuel terminal facilities and wholesalers must become capable of operating their fuel tanker loading racks on alternate generated power by June 1, 2007. After July 1, 2006 all newly constructed and substantially renovated motor fuel retail outlets must be pre-wired in order to operate on alternate generated power. In addition, motor fuel retail outlets that meet certain county size and fueling positions criteria, and located within one-half mile of an interstate highway or designated evacuation route, must be pre-wired to operate on alternate generated power by June 1, 2007.

Corporations and other entities owning 10 or more motor fuel retail outlets in a single county are required to keep and maintain at least 1 generator for every 10 outlets. In addition, corporations and other entities owning 10 or more outlets solely within a single domestic security region shall maintain written agreements, including reciprocal agreements, with similar entities outside the region for shared use of portable generators.

These generators and pre-wired requirements provide the ability to shuttle generators between motor fuel retail outlets in order to pump stored fuel while the electrical power grid and bulk fuel distribution systems recover back to normal capacity.

Florida Disaster Motor Fuel Supplier Program

Section 526.144, F.S., is created, effective July 1, 2006, to establish a voluntary network of emergency responders to provide fuel supplies and services to government agencies; medical institutions; critical infrastructure; and emergency, health care, repair, and law enforcement personnel as well as the general public. Only motor fuel retail outlets participating in the program may operate during declared curfew hours. In addition, outlets participating in the program may request priority on receiving fuel resupply. While such priority is not binding, emergency management officials shall consider such requests in determining appropriate response actions.

The regulation, siting, and placement of alternate power source capabilities at motor fuel dispensing facilities following a major disaster is preempted to the state. In conjunction with this provision, the Division of Emergency Management shall provide a set of standards for the regulation of retail establishments that are recognized as part of the state emergency management plan. The division must establish these standards in a report to the Governor, the President of the Senate, and the Speaker of the House no later than February 1, 2007. Pending establishment of these standards, regulation of retail establishments participating in state emergency operations response activities is preempted to the state until July 1, 2007. After July 1, 2007 retailers may choose to opt into the state emergency management plan standards and program or alternately comply with existing local regulations.

Price Gouging

Section 501.160, F.S., is amended, effective July 1, 2006, to provide that the prohibition on unconscionable pricing during a declared emergency is effective for an initial period not to exceed 60 days. Renewal shall be required to be specifically stated in any subsequent renewals of the Governor's declaration of a state of emergency.

Vertical Accessibility

Section 553.509, F.S., is amended to require a provision for alternate generated power capability for elevators in high-rise multi-family residential dwellings. Any owner of a residential multi-family dwelling or condominium, at least 75 feet high, with a public elevator, must have at least one elevator capable of operating on alternate generated power for a number of hours each day for 5 days after a disaster caused power outage. Owners of such buildings must also develop and maintain an emergency operations plan for the building.

Owners of affordable residential dwellings for persons age 62 and older, which are financed or insured by the U.S. Department of Housing and Urban Development, must develop an emergency evacuation plan if unable to comply with the alternate generated power requirement.

Division of Emergency Management Responsibilities

Section 252.35, F.S., is amended, effective July 1, 2006, to assign duties to the Division of Emergency Management.

The division shall conduct a public education campaign on emergency preparedness issues including the personal responsibility of individual citizens to be self-sufficient for up to 72 hours following a natural or manmade disaster. In order to conduct this campaign, the division and the Department of Education shall coordinate with the Agency For Persons with Disabilities.

By January 1, 2007, the division shall complete an inventory of portable generators owned by the state and local governments which are capable of operating during a major disaster. The division shall subsequently maintain this inventory list. In addition, the division shall make available to the public, a list of private entities which offer generators available for sale or lease.

Sheltering Persons with Pets

Section 252.3568, F.S., is created, effective July 1, 2006, to require that the Division of Emergency Management address strategies for the evacuation of persons with pets in the state comprehensive emergency management plan. The Department of Agriculture and Consumer Services is directed to assist the division in determining these strategies.

Special Needs Shelters

Section 252.355, F.S., is amended to include the term cognitive impairment in the list of persons qualifying for special needs shelter assistance. Home health agencies, hospices, nurse registries, and home health providers are added to the list of agencies assisting in the identification of persons in need of special needs shelter assistance. The Department of Community Affairs is designated as the lead agency responsible for community education and public outreach regarding special needs shelter registration.

Persons with special needs will now be allowed to bring their service animals into special needs shelters. Electric utility companies must increase notification of their residential customers about the special needs shelter program from 1 to 2 times per year.

Section 381.0303, F.S., is amended, effective July 1, 2006, to provide for the operation and closure of special needs shelters. The Department of Health is designated as the lead agency for the recruitment of special needs shelter health care practitioners. Local emergency management agencies are given responsibility for designating and operating the special needs shelters in

coordination with the local health department. Finally, the Secretary of Elderly Affairs is provided the authority to convene a multi-agency special needs discharge planning team to assist local agencies operating special needs shelters that are severely impacted by a disaster.

The Department of Health is provided direction for reimbursing hospitals, nursing homes, assisted living facilities, and community residential group homes that shelter special needs clients based on available funding. In addition, the responsibilities of the Special Needs Interagency Committee are amplified to include resolving problems relating to special needs shelters that are not addressed in the state comprehensive emergency medical plan.

Sections 400.492 and 400.497, F.S., are amended, effective July 1, 2006, to provide for home health agency services during an emergency. The bill requires home health agencies to provide staff for their clients who have been evacuated to special needs shelters. It also allows home health agencies to establish links to local emergency operations centers to facilitate continued service to their clients in a disaster area. Home health agencies are required to demonstrate a good faith effort in continuing to provide such service and develop a comprehensive emergency management plan, outlining how they plan serve their clients during an emergency. County health departments are given the responsibility to review these plans using Agency for Health Care Administration criteria.

Sections 400.506 and 400.610, F.S., are similarly amended for nurse registries and hospices, as well as sections 400.925, 400.934, and 400.935, F.S., for home medical equipment providers.

Nursing Homes and Assisted Living Facilities

Section 252.357, F.S., is created, effective July 1, 2006, to provide for the monitoring of nursing homes and assisted living facilities during a disaster.

Public Shelter Space

Section 252.385, F.S., is amended, effective July 1, 2006, to require the Division of Emergency Management to biennially prepare and submit a statewide emergency shelter plan to the Governor and Cabinet for approval. In addition, local emergency management agencies are required to ensure that designated facilities serving as public emergency evacuation shelters are ready to activate prior to a specific hurricane or disaster.

Licensed Health Care Facilities

Section 408.831, F.S., is amended, effective July 1, 2006, to allow licensed health care facilities to operate over their licensed capacity during an emergency. While in an overcapacity status, each provider must furnish or arrange for appropriate and safe care for all clients. Licensing provisions are also made for facilities that are damaged and become inactive while undergoing repair.

Prescription Medications

An unnumbered section of statute is created to provide for early refills of prescription medications in preparation for an impending hurricane.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise expressly provided in this act.

Vote: Senate 35-0; House 115-0

HB 737 — Tax Benefit/Catastrophic Emergencies

by Rep. Grant and others (CS/CS/SB 1018 by Community Affairs Committee; Domestic Security Committee; and Senator Bennett)

This bill amends s. 212.055, F.S., to provide for an additional authorized use of Local Government Infrastructure Surtax funds. Under this provision, surtax funds may be used for the purpose of improving privately owned facilities so that they qualify for use as public emergency shelters. Such improvements are limited to those necessary to bring a facility into compliance with current public emergency evacuation shelter standards. In return for the funding, the owner must agree to make the facility available for use as a shelter, at no cost to the local government, for a minimum period of 10 years.

This bill does not expand the Local Government Infrastructure Surtax. It simply authorizes an additional use of surtax funds by local government.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 35-0; House 116-0

HB 1435 — Emergency Management Division

by Rep. Harrell and others (CS/SB 1888 by Governmental Oversight and Productivity Committee and Senator Fasano)

Section 20.18, F.S., is created to establish the Division of Emergency Management as a separate budget entity. The division shall enter into a service agreement with the Department of Community Affairs for professional, technological, and administrative support but will not be subject to control, supervision, or direction by the department. The division director shall be appointed by and serve at the pleasure of the Governor.

This revision provides a direct link between the Governor and supervision of the state's emergency management system and disaster response effort.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 40-0; House 111-0

HB 1359 — Hazard Mitigation/Coasts/Hurricanes

by Rep. Benson and others (CS/CS/SB 2216 by General Government Appropriations Committee; Environmental Preservation Committee; and Senator Clary)

Section 161.085, F.S., is amended to clarify the authority of political subdivisions and municipalities have to install or authorize the installation of rigid coastal armoring structures during an emergency. The Department of Environmental Protection (DEP) may review such an action and if it determines that harm or interference is occurring to the protection of the beach-dune system, adjacent properties, public beach access, native coastal vegetation, or nesting marine turtles, the department may revoke the authority to install such system.

Section 163.3178, F.S., is amended to require the Division of Emergency Management to manage the update of regional hurricane evacuation studies. Such studies must be done in a consistent manner using the National Hurricane Center's methodology and storm surge model known as Sea, Lake and Overland Surges from Hurricanes (SLOSH).

The definition of a coastal high-hazard area is revised to incorporate the storm surge predictive accuracy of the SLOSH model. This new definition must be included in local governments' future land use maps and coastal management elements no later than July 1, 2008.

The bill provides a process whereby local governments shall adopt levels of service relating to the capacity of the road and highway infrastructure to ensure timely hurricane evacuation. Those local governments that have not established a level of service for out-of-county hurricane evacuation by July 1, 2008, shall have an evacuation level of service no greater than 16 hours for a category 5 storm event.

Section 163.336, F.S., is amended to allow DEP to favorably consider placing beach quality sand material on adjacent properties under the Coast Resort Area Redevelopment Pilot Project. To do so, a permittee must demonstrate every reasonable effort to use all material on site to enhance the beach and dune system and prepare a comprehensive plan for beach and dune nourishment for the adjoining area.

DEP and affected local governments shall provide an independent economic and environmental impact analysis of the pilot project and report to the Legislature's presiding officers by February 1, 2008.

Section 381.0065, F.S., is amended to require that issuance of an onsite sewage treatment and disposal system work permit by the Department of Health, seaward of the coastal construction control line, shall be contingent upon receipt of any required DEP permits.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 114-0