

# **A Case Study of Florida's Emergency Management Since Hurricane Andrew**

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## **STATE INITIATIVE CASE STUDIES**

The following case study is the third of an expected twelve developed as part of an investigation into the reassessment of state roles in disaster mitigation and management which was funded under the National Science Foundation grant #CMS-9629871. The intent of the study is to use case studies to understand why states have taken the initiative to develop in-state programs, to determine how other states can be encouraged to follow suit, and to determine an appropriate role of the federal government to support state initiatives. When the case studies are completed, a theoretical model of the initiation process presented in the research proposal will be tested.

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## **A CASE STUDY OF FLORIDA'S EMERGENCY MANAGEMENT SINCE HURRICANE ANDREW**

### **TOPIC: FLORIDA COMPREHENSIVE EMERGENCY MANAGEMENT**

Following Hurricane Andrew, which made landfall on the morning of August 25, 1992, questions arose in the state capital concerning whether Florida in conjunction with federal and local agencies had optimally prepared and then responded to one of the most destructive natural disasters in the history of the United States. Just three weeks after the onset of Andrew on September 11th, Governor Chiles issued Executive Order 92-242 establishing the Governor's Disaster Planning and Response Review Committee under the chairmanship of former state senate president Philip D. Lewis to evaluate existing "state and local statutes, plans and programs for natural and man-made disasters, and to make recommendations for improvements to the Governor and the State Legislature" (Chiles,

1992: 2). According to the executive order, the "Lewis Committee" was mandated to submit its report of recommendations not later than January 15, 1993, six weeks prior to the start of the regular 1993 legislative session. How the governor and ultimately the legislature dealt with this matter is the subject of this case study.

This study centers on the issuance of the governor's executive order and the development and passage of legislation based on the recommendations of the Lewis Committee. In the regular 1993 legislative session, two separate bills were introduced, enrolled, and enacted which incorporated the vast majority of recommendations advocated by the Lewis Committee. These were House Bill No. 911, later enacted as Chapter 93-211, Laws of Florida, and Senate Bill No. 1858, later enacted as Chapter 93-128.

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## **APPROACH**

The analysis of the governor's Executive Order 92-242, House Bill No. 911 and Senate Bill No. 1858 begins with a description of Florida's political landscape to place the case study in context. It includes a discussion of those characteristics which have influenced gubernatorial and legislative action including the development of the emergency management function within a state agency reporting directly to the governor and unsuccessful attempts in previous legislative sessions to improve the state's emergency management capabilities. This is followed by an account of the events after Hurricane Andrew leading up to the creation of the Lewis Committee and the actions leading to enactment of Chapters 93-211 and 93-128, highlighted by a list of factors which supported their enactment and a list of factors which argued for their defeat. Finally, in a postscript, a progress report is provided, describing the degree to which the recommendations of the Lewis Committee have been implemented.

## **THE POLITICAL ENVIRONMENT**

### **Population Growth**

Since first settled, Florida has attracted a majority of its inhabitants to its vast coastline. In recent years, the coastal population in Florida has grown from just under 7.7 million in 1980 to just over 10.5 million in 1993, an increase in 37 percent (IIPLR, 1995). The 1993 coastal population represents 78 percent of the state's total population. According to IIPLR (1995), there were more people at risk in Florida from hurricanes in 1993 when Andrew hit than in any other state in the nation.

Increased population concentrations or population density can cause congestion on streets and highways. In the event of hurricane warnings, the larger concentrations of people "can have a profound effect on the efficiency and safety of evacuations" when inhabitants are ordered away from the coast to avoid both winds and storm surges (IIPLR, 1995: 9).

In 1993, Florida not only had the most people at risk from hurricanes, it also had the most coastal property exposed to wind storms. While the population had increased by 37 percent over the fourteen year period between 1980 and 1993, the value of insured coastal property exposures has increased more dramatically. In 1980, the value of insured residential property was approximately \$178 billion and in 1993 \$418 billion, an increase of 135 percent. During the same time period, insured commercial property increased from \$155 billion in 1980 to \$453 billion or 192 percent. In the area struck by Hurricane Andrew and neighboring counties (Dade, Broward and Palm Beach) in southeast Florida, \$370 billion of total insured property (42 percent of the state's total) was exposed in 1993 to potential wind damage.

### **A Taxpayer's Haven**

In 1876, at the end of the Republican reconstruction period in Florida, perceived by white citizens as financially corrupt and profligate, the new Democratic governor George F. Drew, in his inaugural address, stated "That government will be most highly esteemed that gives the greatest protection to individual and industrial enterprises at the least possible expense to the tax-payer." Thus started a tradition of Florida as a promoter of free enterprise and a tax haven.

To attract and hold investment capital in Florida, the citizens in 1924 amended the state constitution to prohibit a state income tax and a state inheritance tax. Both historians (e.g., Dovell [1952]) and avowed promoters of Florida's growth (e.g., Stockbridge and Perry, [1926]) claim these amendments were instituted during the south Florida land boom as an overt appeal to wealthy citizens of other states.

There were several consequences to Florida's elimination of income and inheritance taxes. First, it not only attracted wealthy citizens, it also attracted the elderly and fiscal conservatives, two groups who opposed taxes but who did not necessarily reduce their demand for state services when they became Florida citizens. Second, it limited the services that could be provided by both state and local governments, thereby placing the state in a difficult position, unable to meet citizen demands for service and unable to generate enough additional tax revenues to increase services. MacManus (1991) believes, as in the past, "the central challenge to Florida's public sector will be to raise sufficient revenue to meet expenditure needs associated with continued growth" (p. 273).

### **Public Financing Mechanisms**

Public financing has been a controversial topic in Florida since territorial days when the territorial government obligated itself to the support of three banks by the issuance of "faith bonds" and the repudiation of these bonds when Florida became a state. As a lingering reminder of those days, the state still eschews the issuance of general obligation bonds to finance public endeavors and is loathe to expand the number of state services funded by general revenue.

When Florida was a territory and immigrants who purchased land in the territory required additional capital to cultivate their new lands, there was a long debate concerning whether Florida should issue bonds backed by the full faith and credit of the territory to support the development of private banks within the territory (Dovell, 1955). Until 1828, there were no officially chartered banks in Florida, and the territorial governors typically opposed any and all attempts of the legislature to permit them. Eventually the legislature overturned a governor's veto and began chartering banks. New banks, however, had trouble raising sufficient capital to meet the demand for loans, so they turned to the territory for assistance. In support of their requests, the territory next began issuing bonds to the sum of almost \$4 million in aid of three banks, the Bank of Pensacola, the Union Bank of Tallahassee, and the Southern Life Insurance and Trust Company of St. Augustine. Unfortunately, during the 1830's, banking was a risky business, and the three banks were unable to make sufficient payments to the territory so interest and principal on the bonds could be paid when they came due. As a result of the banks' defaults, the obligation to pay fell upon the territory.

In 1838, following the national Panic of 1837, opponents of territorial supported banks controlled the territorial government and had a majority elected to a convention to write a state constitution that would go into effect when Florida became a state. They included one long article (Article XIII) in the 1838 constitution entirely devoted to banks and other corporations. Provision 13 of Article XIII stated that the "General Assembly shall not pledge the faith and credit of the State to raise funds in aid of any corporation whatsoever." When Florida became a state, the legislature, in accordance with this provision, repudiated the territorial debt and, to this day, outstanding territorial bank bonds have not been redeemed.

After experiencing rising state debts caused by the issuance of reconstruction bonds following the Civil War, conservatives in state government decided to prohibit bonded indebtedness. In the 1885 state constitution, Article IX, Section 6, which remained in effect until 1969, the legislature could only issue state bonds "for the purpose of repelling invasion or suppressing insurrection, or for the purpose of redeeming or refunding bonds already issued, at a lower rate of interest." To surmount these constitutional limitations, the legislature, on a very few occasions, asked the voters to amend the constitution to approve the use of general obligation bonds for specific purposes. For example, in 1963, the voters authorized the sale of state bonds to construct buildings on universities and other schools and also permitted the issuance of bonds to purchase land for conservation purposes (Florida Senate, 1996).

In Florida's current constitution, which became law in 1969, Florida continued to restrict the issuance of general obligation bonds. The "full faith and credit of the state" may only be pledged to capital outlay projects after being authorized by law and then ratified by the electorate.

Without having the opportunity to raise funds through personal income taxes and also having a strong predilection against increasing general revenue obligations or issuing general obligation bonds, three of the most common sources of state revenue, Florida has

been forced to rely on revenue bonds (which identify explicit revenue to repay borrowing and do not require voter confirmation) and user taxes as its primary means of public financing or it has consented to increased local taxation and bonding for specific purposes. Starting in the 1920's, precedents have included earmarking the proceeds from automobile licenses and gasoline tax for highway construction and later to finance the Highway Patrol, school construction and other government needs, earmarking a portion of the proceeds from the sale of reclaimed land to redeem Drainage District bonds, and the enactment of a cigarette tax to improve state institutions (Florida Senate, 1996).

After the state income and inheritance taxes were constitutionally abolished, the legislature also began permitting the local governments to issue revenue bonds or raise taxes to support economic endeavors which would accrue to their benefit (Stockbridge and Perry, 1926). In 1925, counties were permitted to issue bonds for the construction of public cold storage warehouses so oranges and other fruit could be stored and sold year round in northern cities. Also in 1925, counties and municipalities were permitted to raise property taxes to create and support publicity campaigns to attract new residents and businesses.

Finally, in 1971, the legislature submitted and the voters ratified an amendment to the state constitution to tax the income of corporations (Florida Senate, 1996).

### **Plural Executives**

In 1885, a state constitutional convention was called to revise the 1868 reconstruction constitution. Among the issues considered for revision was the power of appointment granted to the governor. Many felt that reconstruction governors had abused and that future governors could abuse that power. Consequently, to eliminate the temptation, in the executive article of the new constitution, the governor was stripped of much power. The new constitution provided for "the popular election of six other magistrates endowed with executive power: secretary of state, attorney general, comptroller, treasurer, superintendent of public instruction, and commissioner of agriculture" (Dovell, 1952: 653).

Since 1885, and surviving a constitutional rewrite in 1968, the division of executive functions has remained, and the state has been jointly run by the governor and the six member cabinet (D'Alemberte, 1991). Rosenthal (1990), in his comparative evaluation of state governors and legislatures, concluded that "Florida's cabinet system probably imposes as severe a constitutional limitation on gubernatorial power as exists in the states" (p. 23)

Chapter 14 of the current *Florida Statutes* provides the general authorities for the governor. Sections 14.021 and 14.022 authorize the governor to promulgate and enforce emergency rules and regulations and to use emergency powers to quell violence. The state Division of Emergency Management (DEM), housed in the Department of Community Affairs (DCA), whose secretary reports directly to the governor, provides assistance to the governor in implementing these powers. The specific powers and

authorities of the emergency management division are set forth in Chapter 252, part 1 of the *Florida Statutes*, entitled the "State Emergency Management Act."

Executive Order 80-29, dated April 14, 1980, directed state departments, agencies, offices, and units of state and local government to develop and implement disaster preparedness plans in the event of natural and manmade disasters. The Division of Emergency Management was empowered to coordinate these activities and to direct all departments and agencies to perform specific functions in the state Comprehensive Emergency Management Plan (CEMP). When Hurricane Andrew struck, the state operated under the 1990 edition of the CEMP and had not yet developed a State Hazard Mitigation Plan.

As a measure of gubernatorial power, governors can and often have formed independent committees, commissions, or study groups by executive order to investigate matters which are administered under their supervision and then develop priorities and recommendations that can either be implemented in executive agencies or submitted to the legislature for action. For example, since 1967, when Governor Kirk formed the first committee to investigate environmental quality in Florida, many governors have taken an active role in promoting environmental issues. (See, for example, Governor's Conference on Environmental Quality, 1967 and Governor's Commission for a Sustainable South Florida, 1995.)

### **Florida's Legislature**

The state has a relatively weak governor and a relatively strong legislature, characterized by Francis (1991) as having a "a tradition of active policymaking" (p. 189) despite the fact that the legislature sits for only two months a year, barely enough time to consider, let alone debate, controversial issues. To manage its brief sessions, the legislature has adopted a number of customs. First, the speaker of the house and the president of the senate serve only one two-year term as heads of their chambers; consequently, they have only one shot to make their marks on the state. They are elected by the full bodies at organizing meetings prior to the start of the legislative terms and make all committee appointments (both majority and minority party) presumably to increase cooperation and to avoid contentious confrontations. Second, the power to make policy has traditionally resided among the senate and house committee chairs who are able to dominate their committee agendas and control committee staff who are tasked with the production of committee bills, bill analyses, and economic impact statements which accompany major bills. Third, to save legislative time, major bills are written and analyzed in the interims between sessions and can be prefiled before sessions. Much of the give and take inherent in the legislative bill writing and amendment process takes place when the legislature is not in session. Fourth, the senate and house procedural rules do not permit minority obstruction. Fifth, bills which have been argued prior to session typically are not heavily amended after being voted out of committee, and, if amended, are agreed to by the other house. As a consequence, conference committees are not normally required to ensure passage. Sixth, if committee bills remain controversial and agreement over main issues cannot be secured by both houses, the two houses will often create a commission to

investigate the controversy and prepare a recommendation by the next session. Seventh, special sessions are commonly called to deal with important unfinished or emergency business.

A critical element which makes the legislative system function effectively is the existence of full-time year-around staff assigned to all standing committees. Many of the committees have been able to attract and retain extremely competent staff, and thus committee bills reflect the expertise of these staff members.

One potential cause of bill derailment is sectional conflict where members of the two legislative bodies from different parts of the state may oppose legislation seen as favoring a specific geographical region. Historically, in the state senate, before the federal judiciary mandated apportionment according to a "one person, one vote" rule, the less populated north was able to rule the senate, leading to a situation where leaders in the senate, called "por choppers," diverted state funds to projects in their rural districts (Tebeau, 1971). As a legacy from this time, there are unmarked divisions between the northern, central, and southern parts of the state, and bills which are interpreted as benefiting only one region have a difficult time gaining sufficient support for passage.

## **PREVIOUS GUBERNATORIAL AND LEGISLATIVE ATTEMPTS TO ENHANCE THE CAPABILITIES OF THE STATE'S EMERGENCY MANAGEMENTFUNCTION AND DEVELOP PROGRAMS FOR HAZARD MITIGATION**

Florida began to address coastal management, disaster preparedness, and hazard mitigation systematically during the 1970's in response to a growing awareness that the state was highly vulnerable to coastal storms and to several federal government mandates (Florida Department of Community Affairs, 1981). Among the most important new federal laws were the Coastal Zone Management Act of 1972 (P.L. 92-583) which authorized the creation of state coastal management plans, the Flood Disaster Protection Act of 1973 (P.L. 93-234) which provided incentives for participation in the National Flood Insurance Program and sanctions for nonparticipation, the Disaster Relief Act of 1974 (P.L. 93-288) which required hazard mitigation for recipients of federal disaster assistance, and the implementation of Section 406 of the Disaster Relief Act in 1980 which made disaster assistance contingent on hazard mitigation planning (Federal Interagency Floodplain Management Task Force, 1992). Developed on its own initiative, the state first established the Setback Line and then the Coastal Construction Control Line which both prohibited construction seaward of their designations.

### **The Florida Department of Community Affairs, 1981**

By 1981, in response to an executive directive to investigate and make recommendations concerning state hazard mitigation policy, the Florida DCA (1981) concluded that the state needed a coordinated approach to hazard mitigation. Up to that time, hazard mitigation programs had been fragmented, emphasizing "either human resources problems or natural resource problems, but rarely both" (DCA,1981: 4). To overcome

past weakness in coordination, the DCA recommended that the state adopt Comprehensive Emergency Management or CEM. CEM divides management into “four distinct phases of activity: mitigation, preparedness, response, and recovery and identifies how federal, state, and local governments can address and coordinate their emergency and disaster efforts”(p. 11).

The final recommendation of the DCA was a proposed state hazard mitigation program to be managed by Bureau of Disaster Preparedness (now the Division of Emergency Management) within DCA. It contained three elements, 1) hurricane evacuation planning, 2) the development and maintenance of the Florida Comprehensive Emergency Management Plan, and 3) the development of administrative rules to define procedures which must be followed by local governments to produce uniformly developed local and state emergency management plans and a state plan review process.

### **Florida House of Representatives Select Committee on Growth Management, 1983**

In 1970, the legislature directed the governor to prepare a coastal zone management program for Florida. Eleven years later, in September 1981, the state’s coastal zone management program received federal approval. In the following year, the Florida House of Representatives formed a Select Committee on Growth Management to survey the program, to determine if it had met its original charter, to plan for the orderly development of the coast while protecting the state’s natural coastal resources. While no conclusions were drawn or recommendations offered, the Select Committee (1983) found that the state needed to strengthen coastal development management practices, improve the review process of local government comprehensive plans which require for all local governments lying in part or in whole in the coastal zone to prepare and adopt a coastal zone protection element, and improve hazard mitigation in coastal construction and development practices.

### **Florida Coastal Resources Citizens Advisory Committee, 1986**

Under the auspices of the Office of Coastal Management in the Department of Environmental Regulation, the Florida Coastal Resources Citizens Advisory Committee (1986) evaluated Florida’s coastal management policies and programs and offered several recommendations for executive and legislative action. Like previous studies, this committee found that there was a lack of coordination among programs monitoring shoreline protection and development in coastal storm and erosion high hazard areas and recommended the establishment of “a Comprehensive Beach Management Program to save our beaches through a combination of measures including beach preservation, erosion response, hurricane protection, and hazards management” (p. 1).

The advisory committee argued that “federal and state programs including flood insurance, transportation programs, sewage treatment facility funding, and disaster relief, have subsidized growth in sensitive coastal barrier areas” and should be modified to end the subsidization, thereby shifting the risk from hurricane damage from the public to those private individuals residing on the coast (p. 2). They also warned that current

construction and design practices were “inadequate to protect lives, property and natural resources in the event of major hurricanes and in recognition of long-term shoreline erosion” (p. 2). As a consequence of these observations, they specifically recommended that the state consider denying building permits in high erosion areas and that local governments establish special tax assessments for all beachfront development which would be placed in a reserve fund to help pay for post-disaster acquisition of damaged properties (p. 10).

### **The Governor’s Hurricane Conference 1987**

In response to massive evacuations along the west coast of Florida in 1985 in anticipation of Hurricane Elena, the Florida Emergency Preparedness Association (FEPA) (composed of local emergency managers) approached the Director of the state Division of Emergency Management Gordon Guthrie about holding a state conference highlighting the needs of first-line responders to a hurricane. He agreed and recommended that it be called the Governor’s Hurricane Conference. When the conference was held in 1987, it was sponsored by FEPA, the DCA, and the American Red Cross and offered 21 workshops.

Because of the success of the 1987 conference, there has been an annual conference every year where new information and training sessions have been provided to attendees instead of periodic conferences which had been called prior to then. In the years up to Hurricane Andrew, FEPA supported the enhancement of emergency management in the state and lobbied for its position.

### **Speaker's Task Force on Emergency Preparedness, 1990**

In July, 1989, the Florida Speaker of the House “appointed a Task Force on Emergency Preparedness to review the current system of emergency management in Florida” (Speaker’s Task Force On Emergency Preparedness, 1990: iii). The task force was made up of emergency management experts from throughout Florida and was chaired by Ms. Kate Hale, Director of Metro Dade County Emergency Management, and co-chaired by Mr. Gordon Guthrie, Director of the Division of Emergency Management. The task force worked under the auspices of the House Committee on Emergency Preparedness, Military & Veteran Affairs, whose chairman, Alzo J. Reddick served on the task force.

During the first meeting of the task force, held on August 21, 1989, Representative Reddick outlined the objectives of the task force as:

1. To address the need to revise the state’s current system of emergency management.
2. To identify barriers which impact the current system’s ability to respond to emergency situations.
3. To evaluate the current organizational structure of emergency management at the state and local levels.

4. To review existing funding mechanisms related to the emergency management system.
5. To identify strategies for increasing the involvement of the private sector and enhancing coordination between agencies relevant to this sector (Speaker' Task Force o Emergency Preparedness, 1990: iii).

In order to meet the objectives, the task force operated as four distinct subcommittees,

1. Evacuation and Sheltering
2. Communications, Operations and Coordination
3. Funding
4. Public Awareness and Education

who were tasked to develop recommendations which could serve as the basis for a comprehensive committee bill submitted in the 1990 regular legislative session. When the subcommittees reported their findings, they included 45 bulleted recommendations in their final report constituting a detailed set of prescriptions needed by the state to overcome existing weaknesses and to provide the state with an adequate coordinated response to emergency situations. Their work assumed greater public import after the subcommittees were formed in light of the fact that both Hurricane Hugo and the Loma Prieta earthquake occurred during deliberations and according to the task force “underscored our inability to handle such emergencies promptly and properly”(Speaker's Task Force on Emergency Preparedness, 1990: 1).

Key findings included:

1. there were insufficient shelter spaces for potential evacuees from coastal storms;
2. the population contained a large number of people with special needs, especially the elderly and the infirm in hospitals, mass residential facilities, and chronic care facilities;
3. potential shelters, schools and churches, were not suitably equipped or designed to act as emergency shelters;
4. the state lacked coordinated communications and plans, especially between state agencies and between state agencies and local governments;
5. many cities and counties had not established or maintained an emergency management agency;
6. state funding for emergency management was inadequate; only \$2.1 million of the Department of Emergency Management's budget for fiscal year 1989-1990 of a total of \$11.4 million came from general revenue; the remainder was provided from federal sources; therefore, the state needed a dedicated source of funds to guarantee any enhancement of state and local services since it could not rely on general revenues which were budgeted at \$1.9 million in the next fiscal year; and
7. the public was ill informed concerning disasters, how to prepare for disasters, how to respond to disasters, and how to mitigate disasters; a state educational effort was needed.

Key recommendations included:

1. development of hurricane evacuation plans including plans for the special needs population and the coordination of road construction so as to avoid blockage of evacuation routes during the hurricane season;
2. development of a comprehensive sheltering system with funding provided for the acquisition and construction of shelters;
3. identification of refuges of last resort which would be available for those unable to reach evacuation shelters;
4. revision of building codes to require hurricane shutters on multi-unit housing;
5. continued development of a statewide communications systems including the development of local networks;
6. the requirement that each county establish and maintain an emergency management agency and create a county emergency management plan;
7. strengthening coordination of federal, state, and local emergency management operations through enhanced planning required by state statute and funds provided by the state to assist local efforts;
8. establishment of a state Disaster Preparedness Trust Fund administered by the Department of Community Affairs to supplement federal funds in order to provide a grant program for the development of state services and local emergency preparedness, response, and relief;
9. funding the Trust Fund by either fees for transactions or activities in high-risk or vulnerable areas, an increase in the DOC stamp tax, an increase in the gasoline tax, a surcharge on 18-wheelers, an assessment on mobile homes, or a surcharge on homeowner's property insurance policies; and
10. creation and funding statutorily of a comprehensive public awareness and education program.

### **1990 Failed Legislative Initiative**

Under the sponsorship of Chairman Alzo Riddick, the House Committee on Emergency Preparedness, Military and Veterans Affairs introduced House Bill No. 3669 to overhaul the emergency management system in Florida. It included many of the recommendations of the Speaker's Task Force which required statutory changes or the creation of new statutes. In general, it revised the duties and responsibilities of the Division of Emergency Management, giving it greater control to plan and coordinate a state-wide system of emergency management; it mandated that counties establish and maintain an emergency management agency, appoint a director, and develop a county emergency plan in support of the state comprehensive emergency management plan; and it created the Emergency Management Assistance Trust Fund which would be funded by an annual \$2 per policy surcharge on every homeowner's and \$4 per policy surcharge on every commercial property insurance policy.

To guarantee that the programs and policies mandated in the bill would be carried out, the bill specified that funds deposited in the trust fund be allocated as follows:

1. a maximum of 60% to administer state and local emergency management programs, of which 20% would be used by the Division of Emergency Management and 80% would be allocated to create and maintain local emergency management capabilities and plans;
2. a maximum of 30% to provide for state relief assistance for nonfederally declared disasters;
3. a maximum of 5% to provide funding to state agencies for operating costs to carry out their disaster management responsibilities; and
4. a maximum of 5% to meet matching requirements imposed as a condition of receiving federal disaster relief assistance.

If enacted, all the state agencies would be mandated and receive the funds to carry out the recommendations of the Speaker's Task Force not specifically addressed in this proposed legislation.

House Bill No. 3669 did not fare well in the legislature. It was passed by the House. However, it died in the Senate Committee on Finance and Taxation, the acknowledged stumbling point being the creation of the trust fund. It was also believed by many in the Senate that hurricanes were a south Florida concern and should not be subsidized by property owners in other parts of the state. The insurance industry was also opposed because a surcharge was considered a bad precedent and it did not want private insurance rates to include what amounted to public taxes.

### **1991 and 1992 Failed Legislative Initiatives**

In 1991, the House Committee on Veterans, Military Affairs and Emergency Preparedness and Representative Elaine Bloom, Speaker pro tempore from Miami Beach, introduced House Bill No. 607, a bill similar to House Bill No. 3669 which failed in 1990. It suffered a similar fate. House Bill No. 607 died in the House Appropriations Committee where members apparently opposed the creation of a trust fund.

In 1992, a virtually identical bill to House Bill No. 3669 in 1990, House Bill No. 1023, sponsored by Representative Bloom and the House Committee on Veterans, Military Affairs and Emergency Preparedness, was introduced. It too failed to secure House approval. The bill died in the House Committee on Finance and Tax ostensibly because of the existence of the trust fund.

### **EVENTS AFTER HURRICANE ANDREW**

When Hurricane Andrew was approaching Florida and the advance element of the federal emergency response team deployed to the state emergency operations center in Tallahassee, it was evident that the state lacked sufficient space and resources to coordinate an operation to handle a disaster caused by a major hurricane like Andrew (FEMA, 1993). The existing federal response plan relied on the state to initiate requests for federal assistance after the President declared a major disaster; however, the state was not capable of providing adequate assessments of its damage and was unprepared to

make appropriate requests for assistance. In a post-disaster audit of FEMA's disaster management performance after Hurricane Andrew, the Inspector General (FEMA, 1993) noted state officials acknowledged that their initial assessment of requirements for Federal assistance were too low, and that at first they were resistant to the idea of a massive flood of Federal resources into south Florida."(p. 41). Other problems noted by the Inspector General included a failure on the part of the state to request certain federal services because the state was reluctant to incur its 25% cost share and the lack of awareness of certain services by both state and local officials.

What became evident in the first weeks after Andrew was that the FEMA and the overall federal response as well as the Florida response were uncoordinated, confused, and often inadequate (FEMA, 1993). Consequently, in a desire to discover why and to make recommendations for improvement, the Congress requested the National Academy of Public Administration to evaluate the federal emergency management system and FEMA (NAPA, 1993), FEMA requested its Inspector General to conduct a post-disaster audit (FEMA, 1993), and Governor Chiles issued an executive order (92-242) establishing the Governor's Disaster Planning and Response Review Committee "to evaluate current state and local statutes, plans and programs for natural and man-made disasters, and to make recommendations to the Governor and the State Legislature" not later than January 15, 1993. The national emergency management system was acknowledged as being broken, and both the federal government and the state wanted to know why and what should be done to improve it.

### **The Governor's Disaster Planning and Response Review Committee**

As constituted by the governor's executive order issued on September 11, 1992, the Governor's Disaster Planning and Response Committee was made up of 14 persons including Chairman Philip D. Lewis, former state senate president, two members of the state house from the Miami area including Representative Elaine Bloom who had sponsored recent unsuccessful legislation to improve emergency management in the state, two state senators from the Miami area, the Secretary of Community Affairs, two faculty members, and five local officials and members of the public from south Florida. To provide technical assistance and expertise, a 25-person technical advisory committee co-chaired by Kate Hale, Director of Metro-Dade County Office of Emergency Management and Bob Nave, Director, state Division of Emergency Management was created. Besides Kate Hale, who served as co-chair of the Speaker's Task Force on Emergency Preparedness in 1990, Dr. Jay Baker, Professor of Geography at Florida State University and an expert on hurricane evacuation, was the only member of this committee who also served on the Speaker's Task Force.

The "Lewis Committee," as it was called, met eight times between October and December, 1992, received oral testimony from over 45 persons, took written testimony and recommendations from over 100 persons and organizations, and from this information developed 94 specific recommendations which were delivered in its final report on January 15, 1993 (Governor's Disaster Planning and Response Review Committee, 1993). It specifically examined "preparedness before Hurricane Andrew and response and

recovery efforts during the first two weeks after landfall”so that it might isolate problems and suggest remedies whose implementation would “give Florida one of thebest emergency management systems in the United States (p. i). Recommendations were provided for activities which occurred “before the storm” and which occurred “after the storm. When recommendations required legislative action, they described statutory changes and/or funding necessary to implement them; otherwise, they advised how state agencies, local governments, and others should operate in the future. Of the 94 recommendations, 38 required legislative action.

In principle, the Lewis Committee promoted the implementation of four key solutions:

1. improved communications at, and among, all levels of government;
2. strengthened plans for evacuation, shelter, and post-disaster response and recovery;
3. enhanced intergovernmental coordination; and
4. improved training.

In addition, it pleaded for increased funding for emergency preparedness and recovery programs, proposing that the legislature establish an Emergency Management Preparedness and Assistance Trust Fund and a dedicated funding source (surcharges on property insurance policies) similar to what was proposed in House Bill No. 3669 in 1990.

Because the state had just experienced a major disaster and those on the Lewis Committee and its technical advisory committee had first-hand knowledge concerning the state’s emergency management strengths and weaknesses, the 94 recommendations were an expanded list of the recommendations first offered by the Speaker’s Task Force in 1990 but increased and refined to take into account actual experiences and technical advances since 1990. If all were implemented, there would be an enhanced Division of Emergency Management, an explicit chain of command, a knowledgeable public, plans developed for evacuation and sufficient shelter, including that for special needs persons, communications systems linking federal, state, and local governments and agencies, refuges of last resort, mandatory county plans for post-disaster response and recovery, a training program for state and local officials and emergency personnel, and the capability for working with the federal government and coordinating post-disaster programs including the collection of timely damage assessment data, the coordination of medical services, enhanced security, and effective volunteer coordination, and finally sufficient funds to meet the present and future state emergency management needs.

### **The 1993 Legislative Session**

When the legislature convened in March, the House Committee on Community Affairs and south Florida representatives including Elaine Bloom introduced House Bill No. 911 to implement the recommendations of the Lewis Committee. Originally all the actions requiring legislative action were included in the bill, including the creation of the Emergency Management, Preparedness, and Assistance Trust Fund which provided

funding through the imposition of a \$2 surcharge per homeowner's casualty insurance policy and a \$4 surcharge per commercial casualty insurance policy. To move the bill through the legislative process at a rapid rate, House Bill No. 911 had been written prior to the start of the session and committee hearings had begun in February.

During hearings, House Bill No. 911 was amended three times to clarify language and alter details; however, it eventually was passed by the House committees on Community Affairs, Finance and Taxation, and Appropriations and the full House virtually in tact. When it was sent to the Senate, companion Senate Bill No. 1858 was wending its way through Senate committees. After securing adoption of the bill with some technical amendments by the Senate committees on Community Affairs, Finance, Taxation, and Claims, and Appropriations, it was sent to the floor of the Senate for a vote by the full body. However, when on the floor, Senate supporters of the bill amended both House Bill No. 911 and Senate Bill No. 1858. At that time, they feared that opponents might again defeat the intended legislation because inclusion of the funding mechanism was opposed by Senators from the central and northern parts of the state. To at least get the substantive changes recommended by the Lewis Committee adopted, House Bill No. 911 was amended by removing all sections which referred to funding and Senate Bill No. 1858 was rewritten to include only the funding sections. Before a final vote could be taken by the Senate, several counties in the central and northern parts of the state were hit by a fierce winter storm on March 13 which convinced Senators in those areas that hurricane threats and emergency management were not just south Florida concerns. By April 1, both bills were overwhelmingly approved and sent to the House for ratification. The Senate versions of both bills were approved by the House on April 2 and later signed by the Governor.

### **Why Legislation Succeeded**

For three years since 1990, legislation attempting to improve the emergency management capability in Florida and to provide a dedicated source of funding to implement and sustain it had failed. Even after Hurricane Andrew, when the weaknesses of the existing system were exposed for all to see and Florida's post-disaster emergency management failures were on the front pages of the nation's newspapers, supporters still feared that legislation was not a certainty. What factors ensured the success in 1993?

Positive legislative action was the result of many factors, including:

1. the existence of a widely recognized problem that the emergency management system was inadequate to serve the needs of the state in the event of major natural and other disasters;
2. the support of the governor, many legislators, and the emergency management professionals in the state for comprehensive change and a dedicated source of funding;
3. the long-term development of a program of change which had fostered previous legislation, thereby establishing a foundation for the drafting of a new bill;

4. the use of a funding mechanism which did not increase taxes or divert general revenue funds from other programs; and
5. the occurrence of the winter storm of 1993 in the northern and central part of the state which convinced senators who had previously opposed the legislation that improved emergency management was a state and not just a south Florida issue.

The legislation also followed the recommendations of the Lewis Committee because the legislative rules and the short session mitigated against substantive amendments to the bills.

As stated before, the main factor which argued for the defeat of the legislation was the notion that hurricanes and therefore emergency management were south Florida regional concerns. When central and northern Florida senators held that view, they did not believe that their constituents should subsidize the south Floridians through state-funded programs and were able to defeat legislation which would mandate surcharges on policyholder's casualty insurance premiums throughout the state.

## **POSTSCRIPT**

The initial estimate by the legislative staff analysts of the House Committee on Community Affairs (1993) was that the surcharges on property insurance policies would contribute \$12.7 million annually to the Emergency Management, Preparedness, and Assistance Trust Fund. According to Senate Bill No. 1858, Chapter 93-128, Laws of Florida, to implement and sustain the legislative mandates to improve emergency management in the state, funds appropriated from the trust fund would be allocated by the Department of Community Affairs as follows:

- 60% to implement and administer state and local emergency management programs, including training, of which 20 percent shall be used by the division and 80 percent shall be allocated to local emergency management agencies and programs. Of this 80 percent, at least 80 percent shall be allocated to counties;
- 20% to provide for state relief assistance for non-federally declared disasters, including but not limited to, grants and below-interest rate loans to businesses for uninsured losses resulting from a disaster;
- 20% for grants and loans to state and regional agencies, local governments, and private organizations to implement projects that will further state and local management objectives. No more than 5 percent of any award may be used for administrative purposes.

Having sufficient funds to carry out the legislative mandates and executive agency recommended changes of the Lewis Committee, the Department of Community Affairs (DCA) (1993) prepared a progress report at the end of 1993, detailing how each of the 94 recommendations made by the Lewis Committee were being implemented and specified their current status. In February, 1995, the DCA (1995) issued a report summarizing state and local emergency management capabilities.

According to the 1993 DCA progress report, approximately 25 of the 94 recommendations had been accomplished, and all but three had been actively undertaken. Only two were noted as having no action started, and one, to broaden civil liability protection for good Samaritans, was noted as the only recommendation of 38 which the legislature failed to act on. The progress report showed that the state was actively implementing the Lewis Committee recommendations and would have most, if not all, in place shortly. In an attachment, the progress report also included a discussion concerning the development of the state's first hazard mitigation plan (409 Plan) required by the federal Stafford Act and how the Lewis Committee recommendations were being integrated into it.

By 1995, DCA (1995) reported that it had virtually completed the implementation of the Lewis Committee recommendations and the state should shift priorities to "refocus on mitigation...to reduce [Florida's] vulnerability to loss of life and property" (p. 3). Highlighting the four areas that the Lewis Committee sought to strengthen, the DCA (1995) noted that:

1. the Department of Emergency Management (DEM) "operates a very comprehensive and complex communications and warning system that ensures statewide coordination and control during emergencies. Improvements to the communications system now ensure reliable, efficient and effective communications by government to the citizens" (p 7);
2. the DCA had completed its revised Comprehensive Emergency Management Planning (CEMP) and submitted it to the legislature. "For the first time, the CEMP addresses an 'all-hazards approach for responding to and recovering from emergencies and has moved from separate planning contingencies for specific threats" (p. 11). The DCA has also developed and implemented a statewide strategy to reduce the deficit of suitable public shelter spaces and begun to develop a statewide evacuation and sheltering plan.
3. the state has developed and distributed the Statewide Mutual Aid Agreement to municipalities and counties "to enhance intergovernmental coordination" (p. 29). After execution, participating counties and municipalities "can use it to request resources, be reimbursed for resources requested of them, track their use, etc." (p.29). At the time of publication, the DEM had "received 122 submissions of the Agreements, of which 84 have been approved for sufficiency, and 38 are pending approval upon verification of additional information" (p.29). At the 1992 meeting of the Southern Governor's Association, Governor Chiles aided in the creation of the Southern Regional Emergency Management Assistance Compact whereby southern states would assist one another in the event of disasters; and
4. technical assistance, including training, has been aggressively pursued, and the state predicts that its initiatives will "result in a trained cadre of professionals at all levels of government, as well as volunteer organizations" (p. 39)

While the results of the two DCA reports look encouraging, Florida has not yet to experience another major disaster to test its readiness. Only time will tell how successfully the recommendations of the Lewis Committee have been implemented. One

disaster expert commented that "things have gone reasonably well in disasters since Andrew but they went reasonably well before Andrew too."

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