

April 11, 2018 - Joint Meeting of the Board of County Commissioners and the School Board
Agenda Item #2

Subject

FEMA Reimbursement

Briefings

None

Contact and/or Presenter Information

Jan Brewer, Financial Management Department Director
Bob Smith, Public Safety Department Director

Action Requested

No action required.

Enabling/Regulating Authority

Background Discussion

Discussion to include:

1. Information received as to direction for reimbursements
2. Details of information on all FEMA reimbursements for the School Board as to submission
3. Discussion of specific County involvement in the process

County Attorney Review

Not Reviewed (No apparent legal issues)

Explanation of Other

Reviewing Attorney

N/A

Instructions to Board Records

None

Manatee County Government Administrative Center
Fourth Floor, Manatee Room
1:30 p.m. - April 11, 2018

Cost and Funds Source Account Number and Name
N/A

Amount and Frequency of Recurring Costs
N/A

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Policy change could affect hurricane shelter reimbursements for county, school district

Dave Berman, FLORIDA TODAY

Published 6:02 p.m. ET March 19, 2018 | Updated 8:16 a.m. ET March 20, 2018



(Photo: CRAIG BAILEY/FLORIDA TODAY FILE PHOTO)

A new interpretation of rules that Florida counties and school districts must follow in getting reimbursed for the cost of hurricane shelters threatens to affect millions of dollars in potential reimbursements to Brevard County and the Brevard School District.

For more than two decades, most counties and school districts in Florida submitted separate requests for reimbursement of their shelter costs to the Federal Emergency Management Agency and the Florida Division of Emergency Management.

School districts submitted for reimbursement of costs associated with shelters located in their schools, as well as the cost of school employees who worked in shelters. Counties submitted for reimbursement of costs of shelters located in county facilities, as well as for the cost of county employees who worked in shelters.

Now, though, the federal and state agencies have indicated the rule may have been misinterpreted, and that Florida's school districts would have to seek reimbursement from counties for the costs incurred in using schools as storm shelters and the cost of school staff working in shelters. Under this approach, after counties reimburse school districts, the counties could seek reimbursement of those costs from FEMA and the Florida Division of Emergency Management.

Immediately at stake is how the Brevard School District will be reimbursed for the \$1.75 million in costs it incurred for the storm shelters it opened during Hurricane Irma last September and for school staff working in shelters.

More: [6 months after Hurricane Irma, sewage issue lingers and we may see another major fish kill \(/story/news/local/environment/lagoon/2018/03/16/six-months-after-irma-sewage-issue-lingers/407085002/\)](#)

More: [Roofing businesses skyrocket after Irma: Avoiding the bad players \(/story/news/2018/03/17/roofing-businesses-skyrocket-after-irma-avoiding-bad-players/399174002/\)](#)

More: [Derelict boats, debris from Hurricane Irma continue to litter local waters \(/story/news/local/2018/03/12/derelict-boats-debris-hurricane-irma-continues-litter-local-waters/414793002/\)](#)

Brevard County Manager Frank Abbate told county commissioners that a change in how the rules are interpreted has the "potential for significant impact" to Brevard County, if the county would have to reimburse the school district the \$1.75 million, then wait for FEMA to consider reimbursing the county.

From: Dr. Greene cc: Don -
Chris -
Nick -
Bob Smith -
Shawn Swans
→ Wed DDM



Bobby Golns of Gordon Food Service delivers food for the shelter set up at Imperial Estates Elementary School in Titusville, as residents prepare for Hurricane Irma. (Photo: TIM SHORTT/FLORIDA TODAY FILE PHOTO)

County officials also fear that the school district might be required to repay more than \$2.38 million in previous FEMA sheltering cost reimbursements for Hurricane Matthew (2016), Tropical Storm Fay (2008), Hurricane Wilma (2005), Hurricane Charley (2004), Hurricane Frances (2004) and Hurricane Jeanne (2004).

"At some point, that could come back around in a big circle," Brevard County Emergency Management Director Kimberly Prosser said.

After hearing from Abbate and Prosser, county commissioners unanimously agreed to send letters to Gov. Rick Scott, Florida's two U.S. senators, U.S. Rep. Bill Posey and the six members of the Brevard delegation to the Florida Legislature, seeking to block the change in how the rule is interpreted.

"This is a scenario that will be repeated, to varying degrees and in substantial dollar amounts, across the state, creating a tremendous financial burden on county governments and school districts statewide," reads the letter, signed by Brevard County Commission Chair Rita Pritchett. "We respectfully request that you intervene, and direct the Florida Division of Emergency Management attorneys to ensure that this reinterpretation of Florida statutes does not occur."

Buy Photo



J.M. Brown, head custodian at Imperial Estates Elementary School in Titusville, cleans the floors before the school opens as a shelter for Hurricane Irma. (Photo: TIM SHORTT/FLORIDA TODAY, TIM SHORTT/FLORIDA TODAY FILE PHOTO)

The letter also asks "that the state be prepared to file appropriate legal arguments in support of the counties for any resulting legal action that may be taken against FEMA, if this does occur."

"Since 1995, Brevard and most other counties and their school districts have submitted separately" for reimbursement of sheltering costs, the letter reads. "Recently, we have received direction that the Florida Division of Emergency Management and FEMA have decided that this long-standing partnership approach is invalid, that the Florida Statute has been misinterpreted for decades, and that school districts are no longer eligible applicants to receive FEMA reimbursement for sheltering costs. This will require school districts to submit their sheltering costs to counties for payment, require counties to promptly pay those invoices, and only after payment to the school board will the counties be allowed to submit those costs to FEMA for reimbursement."

Abbate said the situation "has both short- and long-term potential impacts on the county's financial situation."



Signs point the way to the storm shelter at Manatee Elementary School in Viera as it was being used for that purpose during Hurricane Irma. (Photo: CRAIG BAILEY/FLORIDA TODAY FILE PHOTO)

In addition to the school district's costs totaling about \$1.75 million for school-based shelters and school staff during Irma, the county had costs of about \$1 million for shelters that were in non-school locations and for county staff working in shelters, Prosser said.

Prosser said there were 21 shelters open during Hurricane Irma — 14 in schools, five in county buildings and two in municipal buildings.

Both the county and the school district have submitted reimbursement requests to FEMA.

Prosser said getting reimbursement from FEMA is a time-consuming process, with the county and the school district also still waiting for reimbursement for storm shelter costs from Hurricane Matthew in October 2016.

Under the reimbursement plan for Hurricane Irma, FEMA could reimburse up to 100 percent of shelter costs. Prosser said.

The reimbursement plan for Hurricane Matthew called for 75 percent reimbursement from FEMA and 12.5 percent reimbursement from the state, with the county or school district picking up the other 12.5 percent of the cost.

The proposed change in the interpretation of the statute would mean counties alone — and not school districts — would be responsible for the local match, according to Florida Association of Counties Executive Director Virginia Delegal.

In an email to Florida's county attorneys about the possible change in the interpretation of the disaster reimbursement process, Delegal wrote: "Why this issue was raised is somewhat unclear, given the long-standing practice of school districts being eligible applicants in Florida" for reimbursement of shelter expenses.

In response to Delegal, Deputy Brevard County Attorney Shannon Wilson wrote that she disagrees with the change in the interpretation.

"In the state of Florida, given the school board and the county are independent entities, each with their own authority to tax, contract and take independent actions of each other in their daily operations; to say that only the county is an eligible applicant — and only after it has reimbursed the school board — would seem to make little sense," Wilson wrote.

Wilson said the county "would have no ability to control or question the school board's expenses. It would be in a position of paying the school board, submitting the school board's expenses and risk having Florida Division of Emergency Management/FEMA rejecting any or all of the school board's expenses, and being at risk for the entire amount of what the school board submitted."

Wilson contends that the best way to control and monitor any entity that "is authorized to seek reimburse, is to have that entity be in a position of being at risk of not obtaining reimbursement — scrutinizing their own expenses knowing, if they are not reasonable, it risks having expenses rejected. Additionally, a county would not be in a position to answer any inquiries regarding a submission of the school board."

Dave Berman is government editor at FLORIDA TODAY.

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Nicholas Azzara

From: Maul, Wesley <Wesley.Maul@em.myflorida.com>
Sent: Monday, April 02, 2018 12:12 PM
Subject: School Sheltering Eligibility Update

All:

As you already know, we have been working diligently to finalize guidance on school sheltering reimbursement.

The working group consisting of state and local partners met a few times, and their efforts were supplemented by an Association of Counties project that was formulated by county attorneys.

We presented the material to FEMA heads, a few of whom are former Floridians and were very understanding of the concerns. Thus, they initiated on our behalf a more formal review by FEMA HQ, Region, and JFO.

Below you will find the official response I received just moments ago from our Federal Coordinating Officer.

I also wanted to inform you that today the Division intends to go one step further and will be contracting for an independent analysis to be completed in the coming days.

Should you have any questions, please let me know.

Best
Wes

—

Wes,

We had meetings with HQ, OCC, and JFO staff on this issue last week and all are in agreement that the independent school districts do not have the legal responsibility to conduct hurricane evacuation sheltering services and therefore cannot apply directly to FEMA for reimbursement for such activities. Instead, any eligible costs incurred by the independent school district should be reimbursed through a mutual aid agreement with the county serving as the requesting entity and the independent school district as the providing entity. These mutual aid agreements may be entered post-incident based on a verbal agreement between the requesting and providing entities. However, before funding the requesting entity should document the agreement in writing. The agreement should also be consistent with past practices for mutual aid between the entities. I hope this is helpful. If you or your team would like to discuss further just let us know.

Allan Jarvis

Federal Coordinating Officer
FEMA-4337-DR-FL
FEMA-4341-DR-STOF
FEMA-3395-EM-FL

Sent from my iPhone