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Dan Sumner: Yes, but only when there has been an emergency declaration by the Governor. The CEO has not found an immediate danger to the public, health safety, and welfare under 287, except when there is an overarching declaration by the Governor. For example, in September 2017, there was an action item and a finding by the CEO with regard to Hurricane Irma in response to Governor Scott's Executive Order 17-235. But to answer your question, never without a governor signing an emergency.

Marc Dunbar: If you could, offline, can you do me a favor? Can you send the prior memos that provided the emergency declaration to look at them?<sup>2</sup> Because when I read it, I then went to look at our statute and our plan of operations. I'm concerned about a couple of the statements that are in the memo as being inconsistent with my reading of the statute. I don't see anywhere in the statute or in the plan of operations the unilateral authority for the CEO to make the declarations that he has made here. I don't think anyone here is disagreeing that we are under an emergency. As I've been on this board, the words in the statute and the words in the plan of operation are what should govern us or we throw them out. And so, the agency head, when you look at the statute and the plan of operation as it relates to the delegation to the Executive Director/CEO, as agency head, I'm reading sub. 9 now: "after the agency had all procedural matters related to a procurement protest pursuant to 627-351,6c, as it relates to all the other agency declarations, the Board is the agency head." So, from a consistency standpoint, I want to make sure we are doing things that are consistent with the statute. I don't believe that there is any statute that has afforded the CEO the ability to make a declaration of emergency. That is the Governor's job. And then what does the Board react to it, which is, I'm sure, this agenda item. I would ask that we pull out a couple of our prior documents and review the minutes. I don't think the memo is consistent with statute, and I'm concerned about the memo. The memo will not be the basis for my vote. And if the memo is the basis for the vote, I would encourage everyone to reject this item because I don't think this it follows the statutory steps.

Dan Sumner: May I respond to that please? Under Citizens Statute 627.351-6E, it says, "The Executive Director of the corporation is the agency head under 287.057, except for the resolution of bid protests for which the Board would serve as the agency head."

Marc Dunbar: Dan, I agree with you. I'm reading the same section. That is a sub, sub-paragraph related only to procurement and not for the purpose of the operation of the corporation. You have in front of us a unilateral declaration for the purpose of the operation of the corporation as a whole. As it relates to procurement – and 287.057 doesn't even deal with the issue that is in front of us as it relates to the Executive Order. Maybe the issue is more semantics. I just don't think that the CEO, frankly, I don't think the Chairman of the Board, on their own, can declare there is an emergency. That is the Governor's job and we react to it. That statement is two sub-paragraphs under sub-E and not its own sub-section.

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<sup>2</sup> Hurricane Irma Action Item, Hurricane Dorian Preparedness (No Action Item) Submitted March 30, 2020

























