

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Banking and Insurance Committee

BILL: SB 1074

INTRODUCER: Senator Wise

SUBJECT: Firesafety

DATE: March 10, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Messer	Burgess	BI	Favorable
2.			ED	
3.			CA	
4.			HE	
5.			WPSC	
6.				

I. Summary:

This bill requires the State Fire Marshal, in consultation with the Department of Education, to develop firesafety standards for public schools and colleges. It further requires that the State Fire Marshal conduct inspections of public schools in areas of the state where the local government does not employ or contract with a certified firesafety inspector. It clarifies the responsibilities for school fire code and facility inspections so that there will no longer be varying interpretations of the law. The bill deletes the requirement for an annual statewide firesafety report. Additionally, the bill adds a requirement for schools to submit to their local fire control district a site plan for each new facility or facility addition that exceeds 2,500 square feet.

This bill substantially amends the following sections of the Florida Statutes: 633.01, 633.021, 633.081, 1013.12, 1013.371, and 1013.38.

II. Present Situation:

Pursuant to ch. 633, F.S., the Chief Financial Officer (CFO) is designated as the State Fire Marshal and, as such, carries out the duties of fire prevention, protection and control through the Division of the State Fire Marshal (division).¹ Under ch. 633, F.S., the division is authorized to regulate, train and certify fire service personnel; investigate the causes of fires; enforce arson laws; regulate the installation of fire equipment; conduct firesafety inspections of state property; develop firesafety standards; provide facilities for the analysis of fire debris; and operate the Florida State Fire College.

¹ The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of State Fire Marshal is located within the DFS.

The division has four bureaus: fire and arson investigations, standards and training, forensic fire and explosive analysis, and fire prevention. The fire and arson bureau is the law enforcement branch of the division and in 2009 received 3,295 requests for investigation, of which 1,785 were determined to be incendiary.² Bureau agents made 557 arrests on active cases, and of those arrests, 70 percent resulted in convictions. In the current fiscal year, the Florida State Fire College has already trained 4823 firefighters, administered 5825 exams, and received above satisfactory ratings by 94 percent of supervisors of firefighters receiving FSFC training. In fiscal year 2008-2009, the Bureau of Fire Prevention conducted 7,287 high hazard inspections, 7,224 recurring inspections, 1,927 construction inspections; reviewed 797 construction plans; issued 2,279 licenses to regulated industries; and inspected 4,327 boilers in various business and assembly occupancies.³

Firesafety Inspections of Florida's Educational Facilities

Chapter 1013, F.S., governs the safety requirements for educational facilities. This chapter requires the Department of Education (DOE) to consult with the division on the development of firesafety standards for public educational facilities. However, the statutes that govern the division's office do not require that the division consult with the DOE when developing these standards. Currently, public schools are required to be inspected by two separate authorities⁴ annually, which is a duplication of services. During these duplicative inspections, conflicts arise about interpretation of code requirements and jurisdictional authority.

There is little, if any, added safety benefit from requiring two separate inspections. Hospitals, nursing homes, and day care facilities are all inspected for firesafety standards only once per year and by only one agency. Further, there has never been a death in a Florida school resulting from fire. Evidence of the duplicative nature of these inspections is shown by the fact that some of the inspections are conducted simultaneously by both jurisdictions, resembling a single inspection.

Large school districts may employ several local firesafety inspectors while rural districts may participate in a consortium and share one inspector.

Special Fire Instructors

Across the state, there is a small number of people who are employed as "Special" Firesafety Inspectors. A recent survey showed a total of 44 "Special Firesafety Inspectors" employed in the 69 school districts and 28 community colleges, which are treated as school districts.⁵ The current training for this "special" level of inspector is only 120 hours instead of the 200 hours of training required to be a "firesafety inspector." For several years there has been a push by the division to eliminate the "special firesafety inspector" license and require all firesafety inspectors to have a full "firesafety inspector" license.

² Report from the Division of the State Fire Marshal; this report is on file with the Senate Committee on Banking and Insurance.

³ *Id.*

⁴ Both the local fire official and the fire inspector for each school board are required to conduct these inspections.

⁵ Source: survey from Susan Lehr, Vice President Government Relations, Florida State College at Jacksonville. This survey is on file with the Senate Committee on Banking and Insurance. It should also be noted that many of these 44 special firesafety inspectors also hold a higher firesafety inspection license.

Charter Schools

Charter schools are public schools that operate under a performance contract or “charter” with the local school board.⁶ The charter sets forth unique regulations and rules that the charter school must comply with in order to keep its charter status. Because of the uniqueness of charter schools there is currently some confusion as to which agency is charged with conducting firesafety inspections of charter schools.

Annual Report on Firesafety

A policy level statewide annual report on firesafety inspections of schools is produced each year by the division. It requires the division to interpret all reports submitted by 67 School Districts, 28 Community Colleges, and hundreds of local fire departments for each building at each educational site. The local reports are in different formats, which makes it difficult to compile the reports into a comprehensive statewide report. As a result, the comprehensive statewide report is underutilized and provides minimal information to citizens regarding the school attended by their children. Additionally, these reports often have errors and are not being used by the legislature or the Governor’s Office.

III. Effect of Proposed Changes:

Section 1: amends subsection (7) of s. 633.01, F.S., to require the division to work in consultation with the Department of Education to develop firesafety standards for public schools and colleges. It further requires that the division conduct inspections of public schools in areas of the state where the local government does not employ or contract with a certified firesafety inspector.

This section also clarifies current law by removing the term “local fire official” from the statute. Current law is confusing because “local fire official” sometimes refers to the local fire department official and other times it means the school’s fire official. This language clarifies that anyone who inspects education facilities for firesafety must be certified by the division under s. 633.081.

Section 2: amends subsection (10) of s. 633.021, F.S., to clarify the definition of a firesafety inspector to include certification under s. 633.081, FS.

Section 3: amends s. 633.081, F.S., to provide clear authority for the division to conduct firesafety inspections of any building, at any reasonable time, when a cause to believe a violation exists.

This section also eliminates the classification of "Special Firesafety Inspector" effective on July 1, 2012, and eliminates the division’s ability to issue such certifications after June 30, 2010. This section provides direction for grandfathering a certification when the certificate holder meets certain criteria, such as work experience, coursework and passing a written examination. The current training requirement for a “special inspector” is 120 hours of training instead of the

⁶ <http://www.polk-fl.net/districtinfo/departments/schoolbased/schoolchoice/>.

200 hours required to be a full “firesafety inspector.” The bill further authorizes the division to develop advance training certifications for firesafety inspectors charged with fire code management responsibilities, and it requires the division and the Building Code Administrators and Inspectors Board to jointly recognize continuing education training hours.

Section 4: Section 1013.12, F.S., currently requires that firesafety standards for educational facilities be administered and enforced by local fire officials. This section removes the “local” requirement and further requires that such firesafety standards be administered and enforced by fire officials who are certified by the division.

This section also clarifies that all property owned or leased by a school board must be inspected within one year of occupancy and annually thereafter by a board appointed person certified by the division. The bill requires the submission of a copy of the firesafety inspection report to the authority that provides fire service to the facility (local county, municipality or independent special fire control district) within 10 business days after the inspection. If there is an immediate life-threatening deficiency, the report must be delivered immediately. This section also deletes the requirement that a duplicate annual inspection be conducted by the local fire department (local county, municipality or independent special fire control district), but makes clear these local authorities may inspect any educational facility within their borders if they so choose.

Subsection (5) is added to s. 1013.12, F.S., to identify who must inspect charter schools. The division has requested that this provision be placed into statute because there are currently disputes regarding who has authority to conduct firesafety inspections for charter schools. This section provides that each charter school that is not located on school board owned or leased property shall be inspected annually by the local fire authority. All inspections shall be based on the standards adopted by the division. If a charter school fails to take corrective action on a firesafety deficiency identified in the inspection report, the charter school’s failure to act shall be reported to the division which shall assume responsibility for enforcement.

The bill provides that firesafety inspections of public colleges shall be in accordance with the Florida Fire Prevention Code, and that procedures for inspections of such facilities shall not be subject to local amendments. The inspecting authority shall develop a plan of action to correct each deficiency identified in the inspection report and the local fire official providing protection to the site shall be provided with a copy of each inspection report.

Former subsection (6) is now subsection (7) and is amended to provide that if a school board, public college or charter school fails to take corrective action, the inspecting authority shall report the deficiency to the division, which has enforcement authority. Currently, it is the responsibility of the “local fire official” to report such deficiencies.

This section also eliminates the Annual School Report produced by the division. This change is a result of the assertions that these reports are inefficient, costly, and rarely serve a useful purpose.

Section 5: This section clarifies that educational facilities shall comply with the Florida Fire Prevention Code and the Florida Building Code, and that fire code compliance shall be verified by a person certified in accord with chapter 633. It provides that boards may utilize the services

of a county, municipality or independent special district provided such personnel are certified by the division.

Section 6: This section requires that a copy of the site plan for each new building or addition exceeding 2500 square feet shall be provided to the local fire authority for review. The local fire authority may review each site plan for compliance with Florida Fire Prevention Code relating to fire department access. The bill makes clear that such site plans are not subject to local amendments as provided for in s. 1013.371, F.S., and that these reviews shall be performed at no charge to the school board or public college. The bill provides that the site plan shall be deemed approved within 15 days of receipt unless the local fire authority submits in writing to the board appointed fire official the deficiencies, identified with reference to the Florida Fire Prevention Code. If there is disagreement between the board appointed inspector and the local county, municipality or independent special fire control district official, then either party may refer it to the division who has final authority.

The bill requires that before commencement of any new construction, renovation, or remodeling, the school board shall approve, or cause to be approved, construction documents for compliance with the Florida Building Code and the Florida Fire Prevention Code. Additionally, the school board shall ensure compliance with all firesafety codes by contracting with a firesafety inspector certified by the division under s. 633.081, F.S.

The bill requires the school board's approval before a certificate of occupancy may be issued.

Section 7: Provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Deleting the annual report will save the division's office funds and resources that were formerly used to generate the report.

This bill will also relieve local fire authorities from the required annual inspection of schools; doing so will save local fire authorities money and resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.