

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 Community Affairs Committee

BILL: CS/SB 1074

INTRODUCER: Community Affairs Committee and Senators Wise and Detert

SUBJECT: Firesafety

DATE: April 14, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Messer	Burgess	BI	Favorable
2.	Brown	Matthews	ED	Favorable
3.	Gizzi	Yeatman	CA	Fav/CS
4.			HE	
5.			WPSC	
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	<input checked="" type="checkbox"/>	Statement of Substantial Changes
B. AMENDMENTS.....	<input type="checkbox"/>	Technical amendments were recommended
	<input type="checkbox"/>	Amendments were recommended
	<input type="checkbox"/>	Significant amendments were recommended

I. Summary:

This Committee Substitute (CS):

- Coordinates state fire marshal law with educational facilities law regarding fire safety inspections on educational property;
- Abolishes the classification of the special state fire safety inspector and leaves intact the classification of full fire safety inspector, and provides for a contingent grandfathering in of existing special state fire safety inspectors;
- Authorizes the State Fire Marshal to establish an advanced firesafety training and certification program by rule and requires a reciprocity agreement regarding continuing education;
- Provides that uniform firesafety standards and an alternate system be governed by fire officials certified by the State Fire Marshal;
- Reduces the number of mandatory inspections at educational facilities from two to one annually, and provides for the inspection report to be distributed at the local level only;
- Clarifies the fire safety inspection process for charter schools and for public postsecondary institutions;

- Requires all boards to use only certified fire officials and other inspectors in monitoring compliance with the Florida Building Code, the Florida Fire Prevention Code, and the State Requirements for Educational Facilities; and
- Requires public education boards to submit for approval the site plan for new construction to the local entity providing fire-protection services to the facility and outlines compliance process.

The provisions in this CS represent a collaborative effort among school districts, public colleges, the Department of Education, and the State Fire Marshal to provide consistency, streamline practices, reduce cost, and ensure safety regarding fire safety inspections.

This CS 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:

Division of the State Fire Marshal (State Fire Marshal)

State law on fire prevention and control is provided in Chapter 633, F.S. Section 633.01, F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal.¹ Pursuant to this authority, the State Fire Marshal regulates, trains and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; develops firesafety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College. Additionally, the State Fire Marshal adopts by rule the Florida Fire Prevention Code, which contains or references all firesafety laws and rules regarding public and private buildings.²

The Division of the State Fire Marshal (Division) consists of the following four bureaus: fire and arson investigations, fire standards and training, forensic fire and explosives analysis, and fire prevention. The Florida State Fire College, part of the Bureau of Fire Standards and Training, trains over 6,000 students per year. The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year. These reports are entered into a database to form the basis for the State Fire Marshal's annual report.³

Firesafety Inspections of Florida's Educational Facilities

Chapter 1013, F.S., governs the safety requirements for educational facilities. Unless otherwise specified, the term "board" can indicate any public education board, including: a district school board, a community college board of trustees, a university board of trustees, and the Board of Trustees for the Florida School for the Deaf and the Blind.⁴ Section 1013.37, F.S., requires the State Fire Marshal to develop firesafety criteria for educational facilities in conjunction with the

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.

² s. 633.0215(1), F.S.

³ State Fire Marshal website: <http://www.myfloridacfo.com/sfm/>; last checked March 15, 2010.

⁴ s. 1013.01(3), F.S.

Florida Building Commission and the Department of Education.⁵ However, ch. 663, F.S., does not similarly provide for the cooperative development of standards.

Currently, public schools are required to be inspected by two separate authorities annually, some of which are conducted simultaneously.⁶ Opponents of this practice argue that this is a duplicated effort.⁷ It is stated that these inspections have generated conflicting interpretations of code requirements and jurisdictional authority.

Section 633.01, F.S., requires the State Fire Marshal to adopt and administer rules regarding health and safety standards for educational and ancillary facilities.⁸ In addition, the State Fire Marshal also assumes the duties of the local fire official for counties that do not employ or appoint an official.

Special Fire Instructors

Section 633.021, F.S., defines a “firesafety inspector” to be:

An individual officially assigned the duties of conducting firesafety inspections of buildings and facilities on a recurring or regular basis on behalf of the state or any county, municipality, or special district....⁹

A “special state firesafety inspector” is defined as:

An individual officially assigned to the duties of conducting firesafety inspections required by law on behalf of or by an agency of the state having authority for inspections other than the Division of State Fire Marshal.¹⁰

There are a small number of people that are employed as “Special Firesafety Inspectors” across the state. A recent survey by the Florida State College found a total of 44 Special Firesafety Inspectors employed in the 67 school districts and 28 community colleges.¹¹ The current training requirement for this type of inspector is only 120 hours, in contrast to the 200 hours of training required for full firesafety inspector status. For several years the Division has pushed to eliminate the “special firesafety inspector” license and require all firesafety inspectors to have a full “firesafety inspector” license.

Charter Schools

Charter Schools are public schools that operate under a performance contract or charter with the local school board.¹² The charter sets forth unique requirements that the school must comply with in order to maintain charter status.¹³ Subsection (18) of s. 1002.33, F.S., requires Charter

⁵ s. 1013.37(1)(c), F.S.

⁶ Rule 69A-58.004(1), F.A.C.

⁷ Both the local fire official and the fire inspector for each school board are required to conduct these inspections.

⁸ s. 633.01(7), F.S.

⁹ s. 633.021(10), F.S.

¹⁰ s. 633.021(23), F.S.

¹¹ Susan Lehr, Vice President of Government Relations, Florida State College, Jacksonville, *Education Facilities Fire Safety Legislation: Q and A*. Many of these 44 special firesafety inspectors also hold a higher firesafety inspection license.

¹² s. 1002.33, F.S., stating that “all charter schools in Florida are public schools.”

¹³ See subsection (9) of s. 1002.33, F.S., CHARTER SCHOOL REQUIREMENTS.—

Schools to meet the same annual inspection requirements of the Florida Fire Prevention Code, unless the charter adopts the State Requirements for Education Facilities pursuant to s. 1013.37, F.S.¹⁴ “Charter Schools located off school district or community college property follow the requirements of the local jurisdiction.”¹⁵ Because Charter Schools operate somewhat differently than other public schools, there is current confusion as to which governmental agency is charged with conducting firesafety inspections.

Annual Report on Firesafety

Section 1013.12(8), F.S., requires the State Fire Marshal to produce a statewide annual report on school firesafety inspections of schools.¹⁶ In conducting the annual report, the State Fire Marshal is required to interpret all of the reports that were submitted by the 67 school districts, 28 community colleges, and hundreds of local fire departments for each building at each educational site.¹⁷ Opponents of the annual report requirement assert that diverging local reports formats have complicated the ability to organize them into a singular statewide report. As a result, they argue that the state that the comprehensive statewide report is underutilized and provides minimal information to citizens.

III. Effect of Proposed Changes:

Additional Clarification of Duties of the State Fire Marshal

This CS requires the State Fire Marshal to consult with the Department of Education regarding the adoption of rules pertaining to safety and health standards at educational facilities. In the event that a county does not employ or appoint a certified firesafety inspector, the CS provides that the State Fire Marshal shall take the place of the local county, municipality, or independent special fire control district regarding firesafety inspections of educational property.

The State Fire Marshal is authorized to establish an advanced firesafety training and certification program by rule, for use by firesafety inspectors with fire code management responsibilities. If developed, the program must address minimum training, education and experience levels.

The State Fire Marshal is required to enter into a reciprocity agreement with the Florida Building Code Administrators and Inspectors Board to provide continuing education for building code certificate-holders and firesafety inspectors.

Elimination of Special Fire Safety Inspector

As of July 1, 2012, the classification of “special state firesafety inspector” is abolished. Special state firesafety inspectors, may, however, be grandfathered in, as full firesafety inspectors provided that the following conditions are met:

¹⁴ Section 1002.33(18)(a)-(b), F.S., *See also* Memorandum to Florida Fire Chiefs from Tom Gallagher, State Fire Marshal, *Charter School Inspections* (Nov. 25, 2003)(on file with the Senate Committee on Community Affairs).

¹⁵ Board of Governors, State University System, *Senate Bill 1074 Analysis* (March 12, 2010) (on file with the Senate Committee on Community Affairs).

¹⁶ Section 1013.12(8), F.S.

¹⁷ For more information visit MYFLORIDACFO.COM, DEPARTMENT OF FINANCIAL SERVICES, SCHOOL FIRE SAFETY, available online at <http://www.myfloridacfo.com/sfm/sfmschoolsafety.htm> (last visited on April 9, 2010).

- The inspector has at least five years of experience as of July 1, 2010, and passes the firesafety inspection examination prior to July 1, 2012;
- The inspector does not have five years of experience as a special state firesafety inspector but takes an additional 80 hours of courses and passes the examination; or
- The inspector has at least five years of experience, fails the examination, but takes 80 additional hours of courses, retakes, and passes the examination.

This CS redefines the term “firesafety inspector” as a person who is certified by the State Fire Marshal, pursuant to s. 633.081, F.S.

Streamlining of Process

The CS requires all administration and enforcement of uniform firesafety standards and the alternate evaluation system to be conducted by certified fire officials. Effective July 1, 2012, all firesafety inspectors are subject to the same certification process.

The CS also reduces the number of mandatory annual inspections from two to one and the report generated remains at the local level.

The CS deletes the requirement for the State Fire Marshal to compile each local report into one document for submission to the Legislature, the Governor, the Commissioner of Education, the State Board of Education, and the Board of Governors.

School District Fire Safety Inspections (Including Charter and Postsecondary Schools)

This CS establishes parity for firesafety inspections for district schools, other public secondary schools (charter schools), and postsecondary institutions.

Inspection of Property by District School Boards

Boards¹⁸ are responsible for appointing certified firesafety inspectors to conduct annual inspections on educational and ancillary plant property. The CS requires inspections to begin no sooner than one year after a building certificate of occupancy is issued. The applicable board must submit a copy of the report to the county, municipality, or independent special fire control district providing fire protection services within 10 business days after the inspection, unless immediate corrective action is required, due to life-threatening deficiencies. The entity conducting the fire safety inspection is required to certify to the State Fire Marshal that the annual inspection has occurred.

Inspection of Educational Property by Other Public Agencies

Annual firesafety inspections must be conducted on educational and ancillary plant property operated by a school board or public college. The CS requires inspections to begin no sooner than one year after a building certificate of occupancy is issued. Immediate corrective action is

¹⁸ Section 1013.01(3), F.S., defines the term *Board* to mean “ a district school board, a community college board of trustees, a university board of trustees and the Board of Trustees for the School for the Deaf and Blind”, unless otherwise specified.

required by the county, municipality, or independent special fire control district in conjunction with the appointed fire official where life-threatening deficiencies are noted.

Inspection of Charter Schools Not Located on Board-owned or Leased Property, or Otherwise Operated by a School Board

The CS creates a new subsection five in s. 1013.12, F.S., to require a firesafety inspection to be conducted each fiscal year on educational facilities not owned or leased by the board or a public college, in accordance with State Fire Marshal standards. The CS clarifies that the inspection report is to be submitted to the charter school sponsor. The inspector must include a corrective plan of action in the report, with prompt response for life-threatening deficiencies. If corrective action is not taken, the county, municipality, or independent special fire control district must immediately report the deficiency to the State Fire Marshal and the charter school sponsor. The CS also expressly extends the State Fire Marshal's enforcement authority to charter school educational facilities and property.

Inspections of Public Postsecondary Education Facilities

The CS requires inspections of public college facilities, including charter schools located on board-owned or board-leased facilities or otherwise operated by public college boards, to comply with the Florida Fire Prevention Code, without exception via local amendment. Both an annual inspection by a certified inspector and a corrective plan of action are required by this CS. The public college must provide a copy of the report to the appropriate county, municipality, or independent special fire control district. Firesafety inspections of state universities must comply with the Florida Fire Prevention Code. If a school board, public college board, or charter school does not take corrective action, the CS requires the inspecting authority to immediately report the deficiency to the State Fire Marshal.

Approval of New Construction/Site Plans

Each board must provide for periodic inspection of proposed educational plants to ensure that the construction complies with, in addition to the currently mandated State Requirements for Educational Facilities, the Florida Building Code and the Florida Fire Prevention Code.

This CS requires local boards to submit for approval new facility site plans to the local county, municipality, or independent special fire control district, and outlines the process for compliance and informal appeal. Site plans must also be submitted for new facility additions that exceed 2,500 feet in size. The State Fire Marshal has final administrative authority to resolve disputes pertaining to the requirements or application of the Florida Fire Prevention Code.

This CS provides for 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:

Individuals that are currently classified as special state fires safety inspectors who do not have five years or fail the firesafety inspection examination will have to undergo the new training requirements provided in this CS to become certified as a general fire safety inspector.

Individuals that fail the course of study or firesafety inspection examination will not be permitted to perform firesafety inspections on or after July 1, 2012.

C. Government Sector Impact:

Deleting the annual state-level report requirement will save the Division of State Fire Marshal's office funds and resources that were formerly used to generate the report. The CS reduces the number of mandatory annual inspections from two to one, which will also save money and resources.

The fiscal costs incurred for preparation and submission of the site plan for new construction are unknown; however, they are expected to be minimal.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁹ Florida Department of Education, *Senate Bill 1074 Analysis* at 4-5 (Jan. 7, 2010) (on file with the Senate Committee on Community Affairs).

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on April 14, 2010:

Provides that the State Fire Marshal *shall* inspect all buildings in which there is reasonable cause to believe that there is a violation under ch. 633 or s. 509.215, F.S., or any rule promulgated thereunder. The CS also makes technical amendments.

- B. **Amendments:**

None.