

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1212

SPONSOR: Senator Bronson

SUBJECT: Residential Child Care Facility Swimming Pools

DATE: March 29, 1999 REVISED: 3/30/99 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Liem</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/1 amendment</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

Senate Bill 1212 amends the law relating to regulation of swimming pools to exempt pools serving residential child care facilities from supervision and regulation under that law.

This bill substantially amends sections 514.011 and 514.0115, Florida Statutes, 1998 Supplement.

## II. Present Situation:

Chapter 514, Florida Statutes, deals with standards for public swimming and bathing facilities. Pools regulated under chapter 514, F.S. must be constructed and operated to meet the minimum health and safety standards of Rule 64E-9, Florida Administrative Code (F.A.C.). This includes standards for size, shape, depth, safety equipment, safety markings, filtration, water flow rate and proper disinfection of the pools. The Department of Health permits and inspects pools at group home facilities with at least 8 clients at least twice a year to ensure they are operated and maintained in a safe manner. At present, pools at group home facilities that house 8 or fewer clients are exempt from the requirements of this law. A variance procedure exists in chapter 64E-9, F.A.C., for individuals who feel that the requirements of the rule impose a hardship.

There are significant differences between a private pool and a pool built to public pool standards. Public pools are designed by licensed engineers to meet the health and safety standards of ch. 64E-9, F.A.C. The engineer's pool plans are reviewed by the health department's engineering personnel to ensure compliance with the code. Once the pool is completed, it is inspected by the design engineer and by the health department engineering staff before the pool can be used.

Private pools must be constructed by a contractor licensed pursuant to ch. 489, F.S. and must meet local county construction codes. There are no state health or safety requirements for private pools. The Department of Health cites common health and safety problems of private pools as follows:

Properly sized and designed disinfection (chlorine) feeders are often not provided and disinfectant is often hand fed into the pool after a problem is noted, exposing swimmers to disease and the pool worker to hazardous materials.

Backyard pool pumps, filters, and disinfection systems are designed to function for the bathing load of an average size family.

Pool safety markings such as depth markers, step edge markers and slope break markers are not required on private pools. As a result, there have been several recent cases where divers died or were permanently injured (head and neck injuries resulting in paralysis) by improper diving bowl design. The Department of Health reports nine such deaths between 1995 and 1998 in Florida pools.

Public pools are inspected at least twice a year to insure that the pool is operated in a safe and sanitary manner. The department educates the pool owner as to the proper method of maintaining the pool to keep it in compliance with minimum health and safety standards.

The Department of Children and Families reports that there are 248 licensed residential child-caring agencies in Florida, serving 1206 children. Of these agencies, 100 have 8 or fewer clients, and are therefore exempt from semi-annual inspections by local county health departments.

Chapter 409 F. S. includes provisions related to residential agencies for children. Section 409.175, F.S., provides for licensure of family foster homes, residential child-caring agencies, and child-placing agencies. Section 409.176, F.S., provides for an exemption from licensure under s. 409.175, F.S., for residential child-caring agencies and family foster homes. To qualify for the exemption under s. 409.176(5)(a), these agencies must be “a religious organization that does not directly receive state or federal funds or is a family foster home that is associated with such an organization and does not directly receive state or federal funds” and be registered with an association that is certified by a Florida statewide child care organization which was in existence on January 1, 1984, and which publishes and certifies compliance with standards similar to those under s. 409.175, F.S. Because of the grandfathering limitations in s. 409.176, F.S., the Florida Association of Christian Child Caring Agencies, Inc., is the only such accrediting organization. According to the association, many group homes either purchase or have donated homes which already have private pools. If the home has more than 8 clients, it becomes subject to regulation as a public pool. There is no provision to grandfather these pools. It is virtually impossible to retrofit these pools to meet public pool standards, without demolishing the pool and building another. The association believes that this is costly and unnecessary, as association pools are in compliance with sanitation and safety requirements. The association has 8 member residential child-caring agencies whose pools face demolition under existing law because they were originally constructed to private pool standards and later, through donations, became residential child-caring agencies.

### **III. Effect of Proposed Changes:**

The bill amends subsection 514.011(2), F.S., 1998 Supplement, to state that a pool serving a residential child care facility that is for the exclusive use of the facility’s residents and that is not open to the public is not a public pool.

The bill amends subsection 514.0115, F.S., 1998 Supplement, to exempt from supervision or regulation any pool serving a residential child care facility that is for the exclusive use of the facility's residents and that is not open to the public.

The effective date of the bill is upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Subsections 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

The Department of Health notes that owners or operators of affected child care facilities will save the annual \$75 permit fee for each pool. Residential child care facilities constructing new pools would save approximately \$3,500 per pool in construction costs (the average private pool costs approximately \$3,500 less than an equivalent pool built to the current residential care pool standards).

##### **C. Government Sector Impact:**

Local county health departments will lose the \$75 annual fee currently charged for inspections of pools owned by these facilities for a total fiscal impact of \$1,425 statewide.

#### **VI. Technical Deficiencies:**

The Department of Health notes that the definition of residential child care facilities may also apply to other facilities such as family day care, in which children stay less than 24 hours.

The bill refers to “residential child care facilities”, but s. 409.176, F.S. regulates residential child-caring agencies.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Health Aging and Long-Term Care:

The amendment narrows the scope of the exemption from regulation and supervision to only those child caring agencies which are exempt from licensure under s. 409.176, F.S.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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