

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 397 w/CS Elevators

SPONSOR(S): Kallinger

TIED BILLS: **IDEN./SIM. BILLS:** SB 518, SB 574

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Business Regulation</u>	<u>31 Y, 1 N w/CS</u>	<u>Livingston</u>	<u>Liepshutz</u>
2) <u>Local Government & Veterans' Affairs</u>	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill states, in order to provide emergency access, elevators must be keyed so as to allow all elevators within each of the seven state emergency response regions to be opened with one master elevator key. The bill exempts "independent special districts" and "airports" that have 24 hour emergency response services from the master key requirements.

The master key provision applies to all buildings where construction has begun after June 30, 2003 and substantially renovated buildings of 6 stories or more after June 30, 2003. The bill requires retrofitting for existing buildings of 6 stories or more by July 1, 2006.

The bill provides a master key may be issued to fire authorities only, and prohibits issuance to any other emergency responder. Master keys must be marked "DO NOT DUPLICATE," and may not be issued to, or duplicated for issuance to, anyone other than authorized fire personnel.

The bill states the local fire marshal may allow "substitute emergency measures that will provide reasonable emergency elevator access" in the instance the master key provision is "technically impossible" to comply with.

The bill provides the Division of State Fire Marshal shall enforce these provisions.

There is not expected to be a significant fiscal impact on state or local government.

The bill has an effective date of July 1, 2003.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0397a.br.doc

DATE: April 2, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

1. Reduce government - The elevator switches required by the bill are elevator equipment currently regulated by the DBPR. Uniformity of elevator key switches is not currently required or regulated in state law or pursuant to the Florida Building Code. The bill creates additional responsibilities for the State Fire Marshal's office to monitor, investigate, and penalize local fire department personnel for violations of the provisions of the bill.

B. EFFECT OF PROPOSED CHANGES:

Elevators

Chapter 399, F.S., provides that the Department of Business and Professional Regulation (DBPR) is responsible for the administration and operation of laws and rules relating to the inspection of elevators. Before the chapter was amended in the 2000 and 2001 Legislative Sessions, DBPR performed elevator inspection services as required by law. These inspection services have now been privatized. Additionally, local governments that assume elevator inspection duties are allowed to hire private inspectors to conduct inspections.

Section 399.03, F.S., governs the design, installation and alteration of elevators. Subsection (1) states the elevators may not be erected, constructed, installed, or altered within buildings or structures unless a permit has been obtained from the DBPR before the work is commenced. Subsection (5) requires that new elevator installations must be performed by a person to whom a license to install or service an elevator has been issued. After installation, the licensed person, firm, or company must certify compliance with the applicable sections of the Code.

The 2001 Florida Legislature directed the commission to "research the issue of requiring all primary elevators in buildings with more than five levels to operate with a universal key, thereby allowing access and operation by emergency personnel."

The commission established an Elevator Emergency Access Ad Hoc Committee to identify and research issues related to the universal key concept for primary elevators and to draft recommendations. The issues researched included security, implementation costs, standardized key, and lock box issues. Statewide, regional, and local jurisdiction level universal access were also evaluated.

The commission recommended providing universal emergency access to all primary elevators with fire fighters' service in buildings above three levels or with twenty-five feet in travel distance above the designated level by requiring lock boxes dedicated to each elevator containing the elevator key as the method of universal emergency access. The commission further recommended lock boxes are required for new construction as well as in existing buildings. New buildings should be in compliance within six months of implementation of a system with the costs of lock box installation paid by the property owner. The commission recommended removal of the key(s) located in the lock box by any unauthorized

person should be subject to a misdemeanor of the second degree.

The recommendations further stated the Department of Insurance, Division of State Fire Marshal [now the Chief Financial Officer], should be granted authority to adopt any rule necessary to interpret, implement, and make specific the provisions of this section. Enforcement of elevator emergency access requirements should be referenced in chapters 633, Fire Prevention and Control, and chapter 553, Building Construction Standards (Florida Building Code).

Uniformity of elevator key switches is not currently prescribed or regulated in state law. The switch or switches required by the bill are elevator equipment currently regulated by DBPR.

Effect of Proposed Changes

The bill is designed to address the concept of universal emergency access to elevators. The master key provision applies to all buildings where construction has begun after June 30, 2003 and substantially renovated buildings of 6 stories or more after June 30, 2003. The bill requires retrofitting for existing buildings of 6 stories or more by July 1, 2006. The bill exempts "independent special districts" and "airports" that have 24 hour emergency response services from the master key requirements.

Of seven master keys one would have to be able to access elevators in facilities located in one of the seven state emergency response regions. The bill requires that master keys may only be issued to fire departments. It prohibits a person from duplicating a master key and prohibits that person from providing a duplicated master key to anyone other than fire department personnel.

The bill states the local fire marshal may allow substitute emergency measures that will provide reasonable emergency elevator access in the instance the master key provision is technically impossible to comply with.

The bill provides the Division of State Fire Marshal shall enforce this section.

C. SECTION DIRECTORY:

Section 1. Creates language to provide for a master key to allow emergency access to elevators by fire fighter personnel.

Section 2. Effective date - July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None anticipated.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

NA

2. Expenditures:

NA

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The DBPR notes that elevator manufacturers and existing building owners will be subject to cost of design, installation, and retrofitting of elevator key switches to operate on a uniform master key.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The requirement for a master key emergency access to elevators program to be implemented by fire departments could require cities and counties to use some resources in order to implement the provisions of this bill. As a result, the bill could constitute a mandate as defined in Article VII, Section 18(a) of the Florida Constitution:

No county or municipality shall be bound by any general law requiring such County or municipality to spend funds or to take an action requiring the expenditure of funds unless the Legislature has determined that such law fulfills important state interest and unless; funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; the Legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989 ...the law requiring such expenditure is approved by two-thirds of the membership of each house of the Legislature...

Article VII, Section 18(d) of the Florida Constitution, exempts laws having insignificant fiscal impacts from the requirements of the section. For purposes of legislative application of Article VII, Section 18 of the Florida Constitution, the term "insignificant" has been defined as a matter of legislative policy as an amount not greater than the average statewide population for the applicable fiscal year times ten cents.

The bill does not provide an additional revenue source or an appropriation to fund compliance with its terms. However, under the bill, the overall fiscal impact on counties and municipalities should be insignificant. As a result, the bill is exempt from the provisions of Article VII, Section 18 of the Florida Constitution.

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

NA

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill's requirements are imposed on construction that has commenced after June 30, 2003. This requirement may be burdensome if a construction permit has already been issued. This burden may be minimized if the bill referred to the issuance of a permit rather than beginning of construction.

The DBPR observes that the bill assigns enforcement authority to the Division of State Fire marshal. Current enforcement of provisions under chapter 399 FS, the Florida Elevator Safety Act, and related

rules, may result in conflict of jurisdiction or the creation of overlapping responsibility of the two agencies.

The DBPR further observes:

1. The terms "provide emergency access" and "to be opened" could be construed to mean only simple physical access, rather than ability to operate the elevator unit in fire service mode.
2. Requiring all key switches to be keyed alike may include fans, lights, and other items not related to fire service operation, and may restrict building owners, inspectors and mechanics from needed access to certain keys. (See 3 below.)
3. Restricted access to keys may prevent elevator inspectors and mechanics from access to fire service operation keys, which they need in order to perform periodic tests required by current law (which also assures that the fire service mode operates properly when emergency responders need it). Also, it appears building owners may be restricted from access to keys to their elevators.
4. Enforcement authority assigned to the Division of State Fire Marshal in the bill may not be in harmony with current DBPR (Division of Hotels & Restaurants, Bureau of Elevator Safety) enforcement authority under Chapter 399 and associated rules. The key switches affected by the bill are currently equipment regulated by DBPR.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The CS removes language of the original bill relating to the Florida Building Code. The language addressed changes to and updates of the Code by the Florida Building Commission. Language was also removed from the bill relating to product approval evaluations.

The CS changed the title of the bill to an act relating to emergency elevator access.