

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 610

SPONSOR: Senator Miller

SUBJECT: Fire Hydrant Inspection

DATE: April 7, 2003

REVISED: 04/09/03 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CP</u>	<u>Favorable</u>
2.	<u>Knudson</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/2 amendments</u>
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

The bill requires the owner of a private fire hydrant to ensure that the hydrant's installation complies with National Fire Protection Association Standard 24 (Standard for the Installation of Private Fire Service Mains and Their Appurtenances) The hydrant owner must also ensure that the inspection and maintenance of the hydrant is in compliance with National Fire Protection Association Standard 25 (Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems). If requested by a fire official, a hydrant owner must be able to produce a valid maintenance contract for the hydrant with a plumbing, utility, or fire protection contractor. Failure to do so creates a requirement upon the hydrant owner to contract with the local government fire-control authority to inspect and service the hydrant annually. A person violating this law is subject to a noncriminal violation, punishable by a fine not to exceed \$100 for the first offense and not to exceed \$250 for the second offense.

This bill creates a new section of Florida law and will take effect on July 1, 2003.

## II. Present Situation:

The Florida Fire Prevention Code was adopted by the State Fire Marshal and became effective on January 1, 2002. The base documents for this Code are two national codes developed by the National Fire Protection Association (NFPA). Two provisions within the code are NFPA 24 (Installation of private fire service mains) and NFPA 25 (Inspection, testing and maintenance of water based fire protection systems).

NFPA 24, sub-section 4-3.6 states:

To ensure proper functioning, wet barrel hydrants shall be tested at least annually, and dry barrel hydrants tested semi-annually in the early spring and fall, in accordance with the requirements of the authority having jurisdiction.

NFPA 25, sub-section 4-3.2 states:

Hydrants shall be tested annually to ensure proper functioning. Each hydrant shall be opened fully and water flowed until all foreign material has cleared. Flow shall be maintained for not less than one minute.

Section 633.052, F.S., states that a county or municipality which has created a code enforcement board or a special master system may enforce firesafety code violation as provided in ch. 162, F.S. If no board or special master system exists, the county or municipality is authorized to enact ordinances relating to firesafety codes, which shall provide a maximum civil penalty not to exceed \$500.

A spokesperson for the Bureau of Fire Protection, under the State Fire Marshal, indicates that in each area or jurisdiction that has fire safety responsibilities, (i.e., a fire department, whether municipal, county, or volunteer) the authority for enforcement of fire safety standards is designated by the local government to the local fire chiefs of the municipal, county or special district fire departments. In areas that do not have fire safety responsibilities, the authority to enforce fire safety standards is with those persons designated by the local government. (s. 633.121, F.S.) However, in 2002 the State Fire Marshal indicated that 31 of Florida's 67 counties had coverage "gap," in that some portion of the county did not have any person (or entity) designated as that area's fire control authority. A spokesperson from the Florida Fire Marshals and Inspectors Association stated that statewide, there is inconsistent inspection and maintenance of private fire hydrant and fire protection systems.

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

The bill requires the owner of a private fire hydrant to ensure that the hydrant's installation complies with National Fire Protection Association Standard 24 (Standard for the Installation of Private Fire Service Mains and Their Appurtenances). The hydrant owner must also ensure that the inspection and maintenance of the hydrant is in compliance with National Fire Protection Association Standard 25 (Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems).

If requested by a fire official, a hydrant owner must be able to produce a valid maintenance contract for the hydrant with a plumbing, utility, or fire protection contractor. Failure to do so creates a requirement upon the hydrant owner to contract with the local government fire-control authority to inspect and service the hydrant annually.

A person violating the newly created section is subject to a noncriminal violation, punishable by a fine not to exceed \$100 for the first offense and not to exceed \$250 for the second offense.

The act will take effect on July 1, 2003

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

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

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

The bill mandates that privately owned fire hydrants must be inspected annually and conform to the requirements of the Florida Fire Prevention Code. Thus, there should be a positive impact on the safety of the citizens of Florida. Additionally, privately owned hydrants that work properly should help prevent fire caused damage to private property, thus creating a positive economic impact. The bill requires owners of fire hydrants to contract for their repair and maintenance, thus there will be an out of pocket expense for such owners. Additionally, any fines levied for not complying with the law could also cost the owners of fire hydrants.

## C. Government Sector Impact:

The bill is likely to require local government fire control authorities to conduct more annual inspections and increase the number of hydrants that must be serviced. The Bureau of Fire Prevention estimates this cost of testing a fire hydrant in accordance with the requirements of NFPA 25 at \$50 to \$75 per hydrant. Such services will be governed by contracts between the local government and the owner of the fire hydrant.

Representatives from the Bureau of Fire Prevention state that in locations without a local fire control authority, the State Fire Marshal may be called for direct enforcement of the fire safety provision standards. Also, there likely will be a need to publicize the new requirements contained in the bill, which also could have a financial impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

There is a potential ambiguity in the bill regarding the installation of fire hydrants. The bill mandates that the owner of a fire hydrant “must ensure that the hydrant is installed in compliance with the provisions of NFPAS 24.” Two questions arise. First, does this provision apply to hydrants already in existence at the time the bill takes effect. If so, does this mean that hydrants that do not conform with NFPAS 24 must be re-installed or retro-fitted in order to comply with the law?

A second potential ambiguity exists with regard to the fine mandated by subsection (2). The bill states that a person who violates the section is guilty of a non-criminal violation punishable by a fine. A key issue here is what constitutes a violation of the subsection. There are multiple ways in which a person could potentially be in violation of the statute. The statute mandates that the installation and maintenance of the hydrant be in accordance with NFPAS 24 and 25. The statute also requires the owner of a hydrant to have a maintenance contract for the hydrant. Finally, failure to have the maintenance contract requires the owner of the hydrant to contract with the local government fire authority. One reading of the bill is that there could be multiple fines levied for these violations. Another possibility is that only one violation occurs if the owner fails to produce a maintenance contract to a fire official. Finally, it may also be that the fine is not levied unless the hydrant owner fails to contract with the local fire authority for the inspection and testing of the hydrant.

**VIII. Amendments:**

# 1 by Banking and Insurance:

States that a privately owned fire hydrant must be *tested* in accordance with National Fire Protection Association Standard 24, subsection 4-3.6. The previous bill language indicated that the hydrant had to be *installed* in compliance with all of NFPA Standard 24. The amendment clarifies that this bill requires privately owned hydrants to be tested, and not re-installed or retro-fitted.

#2 by Banking and Insurance:

States that the act does not create liability for a local government fire control authority, its personnel, or the governing body of the fire control authority.