

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 615 w/CS Privately Owned Fire Hydrants; Inspections  
**SPONSOR(S):** Fields  
**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 636

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance	18 Y, 0 N w/CS	Tinney	Cooper
2) Local Government & Veterans Affairs			
3) Commerce & Local Affairs Approp. (Sub)			
4) Appropriations			
5)			

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### SUMMARY ANALYSIS

Persons who own a private fire hydrant are required by the bill to ensure that the hydrant is installed, maintained, and inspected properly. They are also required to produce, upon request, a valid and continuing maintenance contract for the hydrant. The fire department that has jurisdiction over the location where the private hydrant is located may enter into a contract to maintain the private hydrant. Penalties are provided by the bill if the private hydrant owner fails to maintain the hydrant as required by the bill.

The bill creates an undesignated section of Florida law.

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

**STORAGE NAME:** h0615a.in.doc  
**DATE:** March 11, 2004

## 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 type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input type="checkbox"/> |

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

**Reduce Government:** A person who owns a private fire hydrant is required by the bill to install, test, and maintain the hydrant in accordance with the State Fire Code. Similarly, the owner of a private hydrant is required to produce a continuing maintenance contract upon the request of a fire official.

**Expand Individual Freedom:** Currently, no state law specifically requires the owner of a private fire hydrant to provide for the periodic maintenance of the hydrant. Under the bill, private individuals who own a fire hydrant are required to enter into a maintenance contract with either a licensed plumbing contractor, an underground utility contractor, or a fire-suppression system contractor. If the private owner cannot provide a copy of the maintenance contract upon request, the local fire department may enter into a contract for the maintenance of the private hydrant.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

The Department of Financial Services (DFS) contains the Division of the State Fire Marshal; the state's Chief Financial Officer, a Cabinet member, serves as the State Fire Marshal.

The most recent Florida Fire Prevention Code was adopted by the State Fire Marshal and became effective January 1, 2002. The code is updated every third year.

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 that has created a code enforcement board or a special master system may enforce its firesafety code violation as provided in chapter 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. (See s. 633.121, F.S.)

In 2002, the State Fire Marshal indicated that 31 of Florida's 67 counties had a fire coverage "gap," i.e., some portion of the county did not have any person (or entity) designated as that area's fire control authority. Similarly, 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.

### **Changes Proposed by the Bill**

A person who owns a private fire hydrant is required to ensure the hydrant is tested in compliance with the provisions of NFPA Standard 24 (standard for the installation of private fire service mains and their appurtenances). The fire hydrant must be inspected and maintained in compliance with the provisions of NFPA Standard 25 (standard for the inspection, testing, and maintenance of water-based fire protection systems), the edition currently adopted by the State Fire Marshal pursuant to its code-and-standards adoption authority in chapter 633, F.S. Upon request of a fire official, private fire hydrant owners are required by the bill to produce a valid and continuing maintenance contract with either a plumbing contractor licensed under chapter 489, F.S., an underground utility contractor licensed under chapter 489, F.S., or, when the private hydrant is part of a fire suppression system, a fire protection contractor licensed under chapter 633, F.S.

If the owner of a private hydrant is unable to produce a valid maintenance contract upon the request of a local fire official, the local fire department may enter into a contract for the maintenance of the hydrant if a federal or state law or local ordinance does not prohibit the fire department from entering into such contracts.

Any owner of a private fire hydrant who fails to comply with the provisions of the bill commits a noncriminal violation and is subject to a fine not to exceed \$100 for the first offense. A fine not to exceed \$250 is authorized by the bill for subsequent offenses.

#### **C. SECTION DIRECTORY:**

**Section 1** provides that a person who owns a private fire hydrant must ensure the hydrant is tested in compliance with the provisions of NFPA Standard 24 (standard for the installation of private fire service mains and their appurtenances) and that the hydrant is inspected and maintained in compliance with the provisions of NFPA Standard 25 (standard for the inspection, testing, and maintenance of water-based fire protection systems). The State Fire Marshal, pursuant to its code-and-standards-adoption authority in chapter 633, F.S., has adopted these standards.

As required by the bill, upon request of a fire official, a private fire hydrant owner must produce a valid and continuing maintenance contract with either a plumbing contractor licensed under chapter 489, F.S., an underground utility contractor licensed under chapter 489, F.S., or, when the private hydrant is part of a fire suppression system, a fire protection contractor licensed under chapter 633, F.S.

If the hydrant owner fails to produce a valid maintenance contract, the local fire department is authorized by the bill to enter into a maintenance contract with the owner of the fire hydrant unless the fire department is prohibited by local ordinance or state or federal law from entering into such a contract. A person who violates this provision is guilty of a non-criminal violation, punishable by a fine not to exceed \$100 for a first offense or \$250 for each subsequent offense.

**Section 2** provides that the act will take effect July 1, 2004.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

If a private fire hydrant owner is unable to prove to local fire officials that he or she has contracted for the maintenance of the hydrant, the local fire department may contract with the hydrant owner for the maintenance of the hydrant. Presumably, local fire departments could charge for this service, thus providing a potential source of revenue to the local fire control entity.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill affects only fire hydrants that are privately owned. According to representatives of licensed plumbing contractors, charges for annual maintenance of hydrants range from a minimum of \$200 per site visit, and an estimated \$25 fee for each hydrant inspected.

Similarly, licensed contractors of fire suppression systems, which typically include multiple hydrants, charge for a site visit and up to \$35 per hydrant. Licensed underground utility contractors collect similar fees for maintenance and inspection of fire protection systems that include underground system components.

The bill specifies that a private fire hydrant owner who fails to comply with the maintenance and inspection provisions of the bill is subject to an initial fine not to exceed \$100 and subsequent fines not to exceed \$250.

### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

None.

##### 2. Other:

The January 12, 2004, edition of the *Tampa Tribune* contained an article entitled *Hydrant Safety Proposal Revived: Lawmaker Seeks to Make Inspections Mandatory*. According to Mike Salinero, the reporter/author of the article, in June 2001, the Chase Crossing apartment complex in the Town 'N Country area of Hillsborough County suffered a substantial fire. The article stated "[c]ounty firefighters had to use axes and wrenches to get rusted caps off fire hydrants at the blaze." The same article further notes that also in June 2001, a similar incident occurred at the Saddlebrook Resort in Pasco County.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

March 11, 2004, the Committee on Insurance adopted a strike-everything amendment to HB 615. This analysis reflects the changes made to the original bill by the amendment.

The changes clarify that a privately owned fire hydrant must be **tested**, rather than installed, in accordance with national fire safety regulations and state law. Provisions relating to maintenance of private fire hydrants are changed to authorize, rather than require, a local fire department to enter into a contract with the owner of a private fire hydrant for annual maintenance of the hydrant. A local fire department may enter into such a contract only if state and federal law and local ordinances do not prohibit such maintenance contracts.