



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government** – This bill does not increase the regulatory duties of the municipalities, counties, or special districts because according to s. 633.025, F.S., they are already required to enforce many of the bill's provisions. It authorizes misdemeanor criminal penalties for failure to comply with the local government's order to annually inspect the hydrant.

**Promote Personal Responsibility** – This bill reiterates the private fire hydrant owner's duty to have their hydrants inspected regularly per the National Fire Protection Association (NFPA) Standard 25 adopted by the Florida Fire Prevention Code (FFPC). Owners may face misdemeanor criminal liability for failing to comply with the provisions of this bill.

**Maintain Public Security** – This bill authorizes annual inspections for all fire hydrants in Florida. It strengthens a local government's ability to enforce these provisions so that no fire department will arrive at the scene of the fire to find a fire hydrant inoperable.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

The Division of State Fire Marshal (Division) is administratively located within the Department of Financial Services and the State Fire Marshal is the Chief Financial Officer. Currently, all public and private fire hydrants are subject to regulation under the Florida Fire Prevention Code. This code specifies that fire hydrants are to be inspected, tested, and maintained on an annual basis. The Division is also responsible for updating the FFPC every third year. The most recent update to the FFPC became effective January 1, 2005.

In the past, there have been problems with private fire hydrants not being properly tested, inspected, or maintained in accordance with the Florida Fire Protection Code. These problems have resulted in firefighters arriving at a blaze, only to find that the privately owned fire hydrant was non-functioning or that their hoses were not compatible with the hydrant. These problems could potentially lead to increased property losses and danger to firefighters. There have been some questions as to who is responsible for a private fire hydrant located on a public right-of-way.

Private hydrant ownership arises for a number of reasons: a property owner may install a hydrant for insurance purposes; the local fire authority or code may require the developer to install an adequate number of hydrants; a community association may inherit ownership of the hydrants installed by the developer; etc. Common locations for private fire hydrants: private water purveyor districts; mobile home/ RV parks; apartment complexes; resorts; subdivisions; and anywhere the property owner does not transfer ownership to the local government after the fire hydrants was installed. That transfer of ownership is negotiated with the local governmental entity.<sup>1</sup>

According to the Division, responsibility for the inspection and maintenance of the fire hydrant falls to the owner. The ownership of the hydrant, not the location, determines who has responsibility for it. Even if it is located on a public right-of-way, the owner should have it properly inspected and tested on an annual basis and properly maintained or repaired according to the standards adopted by the FFPC.

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<sup>1</sup> Private hydrant is mentioned in s. 553.895, F.S., but it is not defined; neither is a publicly owned fire hydrant defined in statute.

According to a Division official, the FFPC has adopted the national standards for fire hydrant testing, inspecting, and maintenance as developed by the National Fire Protection Association. The standards developed by the NFPA to cover fire hydrants are contained in NFPA publications: NFPA 24 (standard for the installation of private fire service mains and their appurtenances) and NFPA 25 (standard for the inspection, testing, and maintenance of water-based fire protection systems). Pursuant to its code and standards adoption authority in chapter 633, F.S., the Division adopted these editions into FFPC. The NFPA standards adopted by the FFPC are very specific and describe in detail all the testing, inspecting, and maintaining required for fire hydrants. These standards include annual testing of fire hydrants.

According to section 633.025(1), F.S., the FFPC and the Life Safety Code are the minimum firesafety standards for Florida, and “shall be deemed adopted by each municipality, county, and special district with firesafety responsibilities.” According to s. 633.025(2), F.S., “Pursuant to subsection (1), each municipality, county, and special district with firesafety responsibilities *shall enforce* the Florida Fire Prevention Code... as the minimum firesafety code required by this section.” (emphasis added). Each municipality, county, or special district (local government entity) may adopt by ordinance more stringent standards which they will then be responsible to enforce.

Therefore, the FFPC already includes minimum standards for testing, inspecting, and maintaining all fire hydrants in Florida and local governments currently have enforcement responsibility for these standards. The enforcement of the FFPC falls to the local authority having jurisdiction, usually the local fire official or fire chief. According to the Division, in some local government entities, the person responsible for enforcement is a *volunteer firefighter* and in others, this person would be paid. Therefore, it is up to these persons, paid or unpaid, to enforce the FFPC as it currently applies.

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.

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

This bill authorizes local governments to require annual testing of all fire hydrants. Consistent with the provisions of s. 633.025(1), F.S., it adopts NFPA 25 fire hydrant testing standard as the minimum standard for local governments. It does not mandate that local governments do the testing of private fire hydrants. After the annual inspection, it affirmatively requires private fire hydrant owners to repair or replace within 30 days any hydrant found to be non-functioning.

In the following provisions, this bill is consistent with the currently adopted version of the FFPC:

- It requires that all hydrant testing be in accordance with the provisions of NFPA Standard 25.
- It requires maintenance records to be preserved for any necessary repairs or replacements made.
- It requires non-functioning fire hydrants be reported immediately to the local authority having jurisdiction (i.e. – the local fire department).

This bill provides criminal penalties in accordance with s. 633.171, F.S. An owner of a fire hydrant who fails to comply with the provisions of the bill becomes liable for misdemeanor criminal violations. An owner could be liable for a second degree misdemeanor for failure to obey a fire hydrant inspection order or rule adopted by the Division of State Fire Marshal (such as, the FFPC). A person could be liable for a first degree misdemeanor if that person improperly inspected, tested, or maintained the hydrant and did it intentionally or willfully.

C. SECTION DIRECTORY:

**Section 1** authorizes local governments to require annual inspections for fire hydrants. It requires that these inspections meet a specified standard. It adopts the NFPA Standard 25 for local governments. It does not mandate that the local governments inspect, test, or maintain private fire hydrants. It requires private hydrant owners to repair or replace hydrants within 30 days. It requires private owners to keep records of any hydrant repair and replacement made. It requires owners to report non-functioning hydrants immediately to the local authority having jurisdiction for that hydrant.

**Section 2** amends s. 633.171(2)(c), F.S., to include fire hydrants and makes it a first degree misdemeanor to intentionally or willfully inspect, test, or maintain a fire hydrant improperly.

**Section 3** provides that the act will take effect July 1, 2005.

## 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:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The fiscal impact is indeterminate since the private sector should already be complying with many provisions of this bill.

According to a representative of an association of licensed plumbing contractors, charges for an annual inspection of a fire hydrant range from \$35 to \$200. That amount could vary depending upon how many hydrants were being inspected. Maintenance costs for a hydrant would depend upon what needs to be repaired.

A representative from an association of licensed fire suppression systems contractors indicated that building's fire hydrant(s) may be already included in the maintenance contract covering the fire suppression system. However, if not covered, the owner would incur a separate price for the inspection of their fire hydrant(s).

A representative of an association of licensed underground utility contractors said that contractors mainly carry out new installations and repairs to malfunctioning fire hydrants, but not annual testing or inspections. However, the cost to repair or replace a fire hydrant could vary quite significantly, from \$500 minimum to repair and up to \$2500 to replace. These costs include sending a crew to diagnose the problem, finding suitable parts with which to repair the hydrant, then returning to fix the hydrant.

D. FISCAL COMMENTS:

Complying with this bill will require expenditures for private fire hydrants that have not been previously inspected or regularly maintained. The owners will incur these costs. It is unknown how much it will cost owners to comply because that depends upon how much maintenance will be needed for these previously un-maintained hydrants. However, after all the repairs have been made to these fire hydrants, the annual maintenance costs could decrease and level off because these hydrants would now be annually inspected and repaired as needed.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill does not shift the burden for enforcement to the local government entities because they already have it. It does not require more stringent standards for testing, inspecting, or maintaining fire hydrants. Many of the provisions of this bill are currently required by the FFPC.

The bill authorizes local governments to require annual inspection for fire hydrants. Since the FFPC already requires inspections, this bill underscores the responsibility of private fire hydrant owners to have their hydrant(s) inspected annually.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On February 22, 2005, the Insurance Committee adopted a strike-all amendment. This bill analysis has been updated to reflect the incorporation of the strike-all amendment. The previous version of this bill required private fire hydrant owners to have continuing maintenance contracts for their hydrant(s). It authorized civil fines for non-compliance with the bill's provisions.