

# 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.)

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Prepared By: Education Committee

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BILL: SB 2546

INTRODUCER: Senator Sebesta

SUBJECT: Public Educational Facilities

DATE: April 21, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	<b>Pre-meeting</b>
2.	_____	_____	CA	_____
3.	_____	_____	BI	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This bill provides that specific architectural designs and plans are not within the jurisdiction of local fire officials. This applies to the construction of new public educational and ancillary plants and educational facilities or the modifications of existing plants and facilities. Upon request, a local fire official may resolve an ambiguity in the uniform fire safety standards for new construction or the modification of an existing facility and assistance must be provided at no cost to a district school board.

This bill substantially amends section 1013.12 of the Florida Statutes.

The effective date of the bill is July 1, 2006.

## II. Present Situation:

### **Firesafety Standards: Department of Financial Services**

Pursuant to chapter 633, F.S., the head of the Department of Financial Services is designated as the State Fire Marshal and, as such, carries out the duties of fire prevention, protection, and control through the Division of State Fire Marshal (SFM). That chapter sets forth the powers and duties of the SFM and provides for inspection authority, certification requirements for firesafety inspectors, and provides grounds for disciplinary action.<sup>1</sup>

The Department of Financial Services must establish uniform firesafety standards that apply to all new, existing, and proposed state-owned and state-leased buildings and other buildings,

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<sup>1</sup> s. 633.081, F.S.

including public schools.<sup>2</sup> However, all local fire officials must use the firesafety standards adopted by the SFM and the Department of Education when performing firesafety inspections of public educational and ancillary plants and educational facilities.<sup>3</sup>

The SFM may adopt rules to implement the powers or duties of the department and the rules must:

- Conform substantially with generally accepted firesafety standards;
- Take into consideration the direct supervision of children in nonresidential child care facilities; and
- Balance and temper the need for the State Fire Marshal to protect all Floridians from fire hazards with the social and economic inconveniences that may be caused or created by the rules.

The SFM must adopt by rule the Florida Fire Prevention Code and the Life Safety Code. The Department of Financial Services must develop reasonably prudent uniform statewide standards for protecting life, safety, and property.

### **Firesafety Standards: State Board of Education**

Section 1013.12, F.S., requires the State Board of Education to adopt and administer rules prescribing standards for the safety and health of occupants of educational and ancillary plants, as a part of the State Requirements for Educational Facilities or the Florida Building Code for construction under s. 1013.37, F.S. However, the SFM, in consultation with the Department of Education (DOE), must adopt uniform firesafety standards for educational and ancillary plants and educational facilities, as provided for in s. 633.022(1)(b), F.S., and a firesafety evaluation system for use as an alternate firesafety inspection standard for existing plants and facilities. Firesafety inspections of each educational and ancillary plant must be made annually by certified firesafety inspectors.<sup>4</sup> An additional inspection is required each year by the county, municipality, or special fire control district in which the plant is located using the standards adopted by the SFM.<sup>5</sup>

In accordance with the standards, each board must establish policies and procedures for a comprehensive program of safety and sanitation for the protection of occupants of public educational and ancillary plants.<sup>6</sup> This includes procedures for periodic inspections and for withdrawal of any educational and ancillary plant from use until unsafe or unsanitary conditions are corrected or removed.

Boards must also ensure that all new construction, renovation, remodeling, day labor, and maintenance projects conform to the appropriate sections of the Florida Building Code, Florida

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<sup>2</sup> s. 633.022(1)(b), F.S. Under s. 633.022(1), F.S., the SFM is the final administrative interpreting authority for these standards.

<sup>3</sup> s. 1013.12, F.S.

<sup>4</sup> Inspectors are certified by the SFM.

<sup>5</sup> s. 1013.12(2)(c), F.S.

<sup>6</sup> The term "board" means a district school board, a community college board of trustees, a university board of trustees, and the Board of Trustees for the Florida School for the Deaf and the Blind.

Fire Prevention Code, or, where applicable as authorized in other sections of law, other building codes, and life safety codes.<sup>7</sup> A board may provide compliance through the following:

- Providing review services, as a board or consortia, under the insurance risk management oversight through the use of board employees or consortia employees;<sup>8</sup>
- Reviewing construction documents using their own employees;<sup>9</sup>
- Submitting phase III construction documents for review to the department; and
- Contracting for plan review services directly with registered engineers and architects.

A board is also responsible for ensuring that all plans and plants meet the standards in the Florida Building Code and the Florida Fire Prevention Code and enforcing these codes within its jurisdiction. The supervision and inspection of work may be done by certified local building department inspectors or by certified building officials or inspectors who are employed by the board. If plans or facilities fail to meet the standards, they may not be approved.<sup>10</sup>

There has been a dispute involving the authority for firesafety standards for new educational facilities. The dispute occurred when the Department of Financial Services (DFS) proposed rules relating to codes and standards for educational facilities. In March 2005, the DFS proposed rules to update the firesafety codes and standards for educational facilities.<sup>11</sup> The proposed rules defined the term “authority having jurisdiction” to add to a reference to the SFM’s duties under s. 1013.12(2)(b), F.S.<sup>12</sup>

In addition, the proposed rules appear to revise the role of the boards to eliminate the boards’ role in inspections and plans for new buildings under s. 1013.38, F.S.<sup>13</sup> Further, the rule expands the scope of plan review to encompass new facilities.<sup>14</sup> Taken together, these proposed changes exacerbated a previous jurisdictional debate involving the DFS’s authority over firesafety requirements for new educational facilities.<sup>15</sup> The court noted that the provisions of chapter 1013, F.S., require the DOE and school districts to follow the firesafety standards established by DFS and the Florida Fire Prevention Code in planning for new construction of educational facilities.<sup>16</sup> Opponents of the proposed rules were concerned about whether the plan review and inspections would be conducted by the community colleges and school districts or by local fire officials.<sup>17</sup>

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<sup>7</sup> s. 1013.38, F.S.

<sup>8</sup> These individuals must be registered pursuant to chapters 471 (relating to engineers) and 481 (relating to architects), F.S., or part XII of chapter 468, F.S. (relating to building code administrators or inspectors).

<sup>9</sup> *Id.*

<sup>10</sup> s. 1013.371(2), F.S.

<sup>11</sup> *Florida Administrative Weekly*, Volume 31, Number 18, May 6, 2005.

<sup>12</sup> Existing rule 69A-58.003, F.A.C., defined this authority as the county, municipality, or special district having firesafety responsibility or where the context requires, the SFM

<sup>13</sup> Proposed Rule 69A-58.004, F.A.C., relating to firesafety inspections.

<sup>14</sup> Proposed Rule 69A-58.002, F.A.C., relating to educational plants and facilities under the jurisdiction of school boards and community colleges.

<sup>15</sup> *See Office of Fire Code Official of Collier County Fire Control and Rescue Districts v. Florida Department of Financial Services and District School Board of Collier County*, 869 So.2d 1233 (Fla. 2nd DCA 2004).

<sup>16</sup> *Id.* at 1236-1237.

<sup>17</sup> Memorandum, Florida Community Colleges Council of Presidents, May 27, 2005.

**III. Effect of Proposed Changes:**

This bill provides that specific architectural designs and plans are not within the jurisdiction of local fire officials. This applies to the construction of new public educational and ancillary plants and educational facilities or the modifications of existing plants and facilities. Upon request, a local fire official at no cost to a district school board may resolve an ambiguity in the uniform fire safety standards for new construction or the modification of an existing facility. This proposal is an attempt to resolve the concerns of the educational facilities personnel who opposed the proposed rule.

**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:**

None.

**C. Government Sector Impact:**

The bill allows local fire officials to resolve ambiguities in the uniform fire safety standards for certain facilities. Under the bill, a district school board may not be charged for this assistance. The cost for local fire officials to perform this function is unknown.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

None.

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

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