

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 331 Firesafety

**SPONSOR(S):** Weinstein

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 534

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	11 Y, 0 N	Thompson	Williamson
2) K-20 Competitiveness Subcommittee	11 Y, 0 N	Graf	Ahearn
3) Rulemaking & Regulation Subcommittee	14 Y, 0 N	Rubottom	Rubottom
4) Government Operations Appropriations Subcommittee	12 Y, 0 N	Fox	Topp
5) State Affairs Committee			

### SUMMARY ANALYSIS

The bill clarifies the role of the State Fire Marshal in firesafety inspections of Florida's educational facilities and streamlines the inspection and enforcement practices at the state and local levels. Specifically, the bill:

- Aligns laws governing the State Fire Marshal with educational laws governing firesafety inspections on educational property;
- Abolishes the classification of the special state firesafety inspector, leaves intact the classification of firesafety inspector, and provides for a contingent grandfathering of existing special state firesafety inspectors;
- Requires uniform firesafety standards and an alternate system to be governed by firesafety inspectors certified by the State Fire Marshal;
- Reduces the number of mandatory annual inspections at educational facilities from two to one, and provides for the inspection report to be distributed at the local level only;
- Clarifies the firesafety inspection process for charter schools and for public colleges;
- Requires all public education boards to use only certified firesafety inspectors and other inspectors who have been certified by the State Fire Marshal in monitoring compliance with the Florida Building Code, the Florida Fire Prevention Code, and the State Requirements for Educational Facilities; and
- Requires a public education board to submit for approval the site plan for new construction to the local entity providing fire-protection services to the facility, and outlines the compliance process.

The bill has no fiscal impact on state expenditures. However, reducing redundant firesafety inspections of Florida's education facilities will reduce related expenditures due to duplicative inspections for state and local governments. The Department of Education estimates an approximate cost savings of \$515,210 for the 67 school districts and 28 colleges within the state.

The bill provides an effective date of July 1, 2011.

See DRAFTING ISSUES.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Division of State Fire Marshal

The law designates the Chief Financial Officer as the State Fire Marshal.<sup>1</sup> The State Fire Marshal operates through the Division of State Fire Marshal within the Florida Department of Financial Services (DFS) to implement and enforce state law on fire prevention and control. Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; develops firesafety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College.<sup>2</sup> Current law authorizes the State Fire Marshal to adopt by rule the Fire Prevention Code, which contains or references all firesafety laws and rules regarding public and private buildings.<sup>3</sup>

The Division of State Fire Marshal consists of four bureaus: Fire and Arson Investigations, Forensic Fire and Explosives Analysis, Fire Prevention, and Fire Standards and Training.<sup>4</sup> The Florida State Fire College, part of the Bureau of Fire Standards and Training, trains over 6,000 students per year in a wide variety of certification and training programs.<sup>5</sup> The Inspections Section within the Bureau of Fire Prevention conducts inspections of more than 14,000 state-owned buildings and facilities.<sup>6</sup> The Florida Fire Incident Reporting Section collects over 1,800,000 fire and emergency reports each year. These reports are combined with the reports from other states in the National Fire Incident Reporting System for use by the fire services in analysis and trends. The Florida reports are also used to form the basis for the State Fire Marshal's Annual Report.<sup>7</sup>

##### Firesafety Inspections of Florida's Educational and Ancillary Facilities

The State Fire Marshal must develop firesafety criteria for educational facilities in cooperation with the Florida Building Commission and the Department of Education.<sup>8</sup> All public schools, colleges, and universities are required to be inspected once every year by both the fire inspector for each school board and the local fire official.<sup>9</sup> Unless otherwise specified, under current law, a "board" is defined as:

[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. The term "board" does not include the State Board of Education or the Board of Governors.<sup>10</sup>

##### Annual Report on Firesafety

The State Fire Marshal must produce a statewide annual report documenting the status of each board's firesafety program, including the improvement or lack thereof. This involves an annual compilation of district inspection reports of educational and ancillary facilities into one format for distribution to the

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<sup>1</sup> Section 633.01(1), F.S.

<sup>2</sup> Section 633.01, F.S.

<sup>3</sup> Sections 633.0215(1), F.S.

<sup>4</sup> Florida Department of Financial Services, *State Fire Marshal*, available at, <http://www.myfloridacfo.com/sitePages/agency/sections/FireMarshal.aspx> (last visited March 24, 2011).

<sup>5</sup> Florida Department of Financial Services, *Welcome to the Florida Division of State Fire Marshal*, available at, <http://www.myfloridacfo.com/sfm/index.htm> (last visited March 24, 2011).

<sup>6</sup> Florida Department of Financial Services, *Bureau of Fire Prevention-Inspections Section*, available at, [http://www.myfloridacfo.com/sfm/bfpr/bfpr-insp\\_index.htm](http://www.myfloridacfo.com/sfm/bfpr/bfpr-insp_index.htm) (last visited March 24, 2011).

<sup>7</sup> Florida Department of Financial Services, *Welcome to the Florida Division of State Fire Marshal*, available at, <http://www.myfloridacfo.com/sfm/index.htm> (last visited March 24, 2011).

<sup>8</sup> Section 1013.37(1)(c), F.S.

<sup>9</sup> Section 1013.12(2)(a), (3)(b), and (5); *see also* rule 69A-58.004(1), F.A.C.

<sup>10</sup> Section 1013.01(3), F.S.

substantive committees of the state House of Representatives and Senate having jurisdiction over education, the Commissioner of Education or his or her successor, the State Board of Education, the Board of Governors, and the Governor.<sup>11</sup>

The State Fire Marshal must adopt and administer rules regarding health and safety standards for educational and ancillary properties. If a county does not employ or appoint a fire official for firesafety inspections of educational properties, the State Fire Marshal assumes the duties of the local fire official.<sup>12</sup>

### **Firesafety Inspectors**

Current law allows two different types of firesafety inspectors to conduct firesafety inspections: firesafety inspectors and special state firesafety inspectors. A “firesafety inspector” is defined as:

[A]n individual officially assigned the duties of conducting firesafety inspections of buildings and facilities on a recurring or regular basis on behalf of the state or any county, municipality, or special district with firesafety responsibilities.<sup>13</sup>

A “special state firesafety inspector” is defined as:

[A]n individual officially assigned to the duties of conducting firesafety inspections required by law on behalf of or by an agency of the state having authority for inspections other than the Division of State Fire Marshal.<sup>14</sup>

A 2010 survey by the Florida State College at Jacksonville found a total of 44 special state firesafety inspectors employed in the 67 school districts and 26 institutions within the Florida College System.<sup>15</sup> The special state firesafety inspectors are required to complete 120 hours of specific training, 80 hours less than the training required for firesafety inspectors.<sup>16</sup> Every firesafety inspector or special state firesafety inspector certificate is valid for a period of 3 years from the date of issuance.<sup>17</sup>

### **Charter Schools**

Charter schools are public schools that operate under a performance contract or charter with a sponsor. A charter school may be formed by creating a new school or converting an existing public school to charter status.<sup>18</sup> The charter delineates unique requirements that the school must comply with in order to maintain charter status.<sup>19</sup> A charter school must be inspected annually and meet the requirements of the Florida Fire Prevention Code. In addition, charter schools, with the exception of conversion charter schools, are not required to comply, but may choose to comply, with the State Requirements for Educational Facilities of the Florida Building Code.<sup>20</sup>

## **Effect of Proposed Changes**

### **State Fire Marshal**

The bill revises the powers and duties of the State Fire Marshal by requiring the State Fire Marshal to consult with the Department of Education regarding the adoption of rules on safety and health standards at educational and ancillary facilities. If a county does not employ or appoint a firesafety inspector certified by the State Fire Marshal, the bill provides that the State Fire Marshal will assume the duties of the local county, municipality, or independent special fire control district to conduct firesafety inspections of educational and ancillary facilities.

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<sup>11</sup> Section 1013.12(8), F.S.

<sup>12</sup> Section 633.01(7), F.S.

<sup>13</sup> Section 633.021(24), F.S.

<sup>14</sup> Section 633.021(24), F.S.

<sup>15</sup> E-mail, Florida State College at Jacksonville (Feb. 9, 2011).

<sup>16</sup> Section 633.081(2)(g) and (3), F.S.

<sup>17</sup> Section 633.081(5), F.S.

<sup>18</sup> Section 1002.33(1), F.S.

<sup>19</sup> Section 1002.33(9), F.S.

<sup>20</sup> Section 1002.33(18) (a) and (b), F.S.

## **Firesafety Inspectors**

The bill abolishes the classification of “special state firesafety inspector” as of July 1, 2013. All special state firesafety inspector certifications will expire by midnight, June 30, 2013. However, current special state firesafety inspectors may be certified as firesafety inspectors if the following conditions are met:

- The inspector has at least five years of experience as a special state firesafety inspector as of July 1, 2011, and passes the firesafety inspection examination prior to July 1, 2013;
- The inspector does not have five years of experience as a special state firesafety inspector as of July 1, 2011, but takes an additional 80 hours of courses and passes the firesafety inspection examination; or
- The inspector has at least five years of experience as a special state firesafety inspector, fails the firesafety inspection examination, but takes 80 additional hours of courses, and then retakes and passes the firesafety inspection examination.

The bill prohibits a special state firesafety inspector who does not pass the firesafety inspection examination by July 1, 2013, from conducting firesafety inspections of educational and ancillary facilities.

The bill defines “firesafety inspector” as a person certified by the State Fire Marshal to conduct firesafety inspections of buildings and facilities on a recurring or regular basis.

## **Firesafety Inspections by District School Boards**

The bill requires a district school board to appoint certified firesafety inspectors to conduct annual inspections of educational and ancillary facilities. Inspections must begin no sooner than one year after a certificate of occupancy is issued. The district school board must submit a copy of the report to the county, municipality, or independent special fire control district providing fire protection services within ten business days after the inspection, unless immediate corrective action is required owing to life-threatening deficiencies identified during a firesafety inspection. The district school board, or any other entity authorized to conduct the firesafety inspection, must certify to the State Fire Marshal that the annual inspection has been completed. The bill requires the district school board to take immediate action to correct the deficiencies identified in the firesafety inspection report, or suspend use of the educational or ancillary facility until the deficiencies are corrected.

## **Inspections of Educational Property by Other Public Agencies**

An annual firesafety inspection must be conducted on educational and ancillary facilities operated by a school board or public college. Such inspections may begin no sooner than one year after a building certificate of occupancy is issued, and annually thereafter. If the firesafety inspection identifies any life-threatening deficiencies, the county, municipality, or independent special fire control district, in conjunction with the board-appointed fire official must require the board to take immediate to correct the deficiencies, or suspend use of the educational or ancillary facility until the deficiencies are corrected.

## **Inspection of Charter Schools Not Located on Board Owned or Leased Property**

The bill authorizes a safety or sanitation inspection of educational and ancillary facilities at any time by an authorized state or local agency. The agency that is authorized by law to conduct such inspections must submit a copy of the inspection report to the charter school sponsor.

A firesafety inspection must be conducted on educational facilities that are not owned or leased by the district school board or a public college in accordance with the standards adopted by the State Fire Marshal.

The inspecting authority is required, upon request, to provide a copy of the firesafety report to the board in the district in which the charter school facility is located. The inspecting authority must include a plan of action to correct each deficiency that is identified in the firesafety inspection. If any life-threatening deficiencies are identified, the inspecting authority must require the charter school to take immediate action to correct the deficiencies, or suspend use of the educational or ancillary facility until the deficiencies are corrected. If the charter school fails to take corrective action within the period

designated in the corrective action plan, the county, municipality, or independent special fire control district must immediately report the deficiency to the State Fire Marshal and the charter school sponsor.

The bill provides the State Fire Marshal enforcement authority over charter school educational and ancillary facilities.

### **Inspections of Public Postsecondary Education Facilities**

The bill requires firesafety inspections of public college facilities, including charter schools located on board-owned or board-leased facilities or otherwise operated by public college boards to comply with the Florida Fire Prevention Code, as adopted by the State Fire Marshal. Local amendments to the provisions of the code relating to inspection of such facilities are prohibited. Each public college facility must be inspected annually by a firesafety inspector certified by the State Fire Marshal.<sup>21</sup> The certified firesafety inspector must provide a plan of action to the college to correct each deficiency identified during the firesafety inspection. The bill requires the college to provide a copy of the firesafety inspection report to the county, municipality, or independent special fire control district in which the facility is located.

Firesafety inspections of state universities must comply with the Florida Fire Prevention Code. If a school board,<sup>22</sup> public college board or charter school fails to correct deficiencies identified by the certified firesafety inspector, the inspecting authority must immediately report the deficiency to the State Fire Marshal.

The bill deletes the requirement for the State Fire Marshal to publish an annual report on firesafety. This report is based on a compilation of firesafety inspection reports received from local entities for each educational and ancillary facility and submitted to the Florida Legislature, Governor, Commissioner of Education, State Board of Education, and the Board of Governors.

### **Approval of New Construction and Site Plans**

The bill requires each board, as defined under current law,<sup>23</sup> to provide for a periodic inspection of proposed educational and ancillary facilities to ensure that the construction complies with the Florida Building Code and the Florida Fire Prevention Code, in addition to the State Requirements for Educational Facilities. Firesafety inspectors certified by the State Fire Marshal must enforce the Florida Fire Prevention Code.

The bill requires local boards to submit for approval to local county, municipality, or independent special fire control district providing fire-protection services to a facility, site plans for new facilities, and describes the process for compliance and informal appeal. The boards must also submit to the local entity, the site plan for each new addition that exceeds 2,500 square feet.

The reviews of site plans and inspections must be conducted by certified building code inspectors,<sup>24</sup> fire officials, or firesafety inspectors.

The bill makes clear that such site plans are not subject to local amendments. The site plans will be deemed approved unless the local county, municipality, or independent special fire control district submits to the board-appointed fire official, deficiencies citing the Florida Fire Prevention Code within fifteen days after receipt of the site plan. The fire official must incorporate the identified deficiencies in his or her review and subsequent inspections.

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<sup>21</sup> Section 633.081, F.S., provides training and certification requirements for State Fire Marshal-certified firesafety inspector.

<sup>22</sup> The provisions for school board have been included under the section on Inspections of Public Postsecondary Education Facilities in the bill.

<sup>23</sup> Section 1013.01(3), F.S., defines the term "board" as 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. The term "board" does not include the State Board of Education or the Board of Governors.

<sup>24</sup> Section 468.603(2), F.S., defines building code inspector.

The State Fire Marshal reserves the final administrative authority to resolve disputes between the local county, municipality, or independent special fire control district, and the fire official pertaining to the requirements or application of the Florida Fire Prevention Code.

Before the commencement of any new construction, renovation, or remodeling, the bill requires that the board must approve the construction documents for compliance with the Florida Building Code and the Florida Fire Prevention Code. The board is required to contract with a State Fire Marshal-certified firesafety inspector to ensure compliance with all firesafety codes. The bill prohibits issuing the certificate of occupancy until the board certifies that the building or structure complies with all applicable statutes and rules. The board must document and maintain as part of the construction record file, the method of compliance that it chooses. Finally, the bill requires that the board must, upon request, provide to the local county, municipality, or independent special fire control district, reasonable access to all construction documents.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 633.01, F.S., to revise the rulemaking authority and responsibilities of the State Fire Marshal; to provide that if a county does not employ or appoint a certified firesafety inspector, the State Fire Marshal is to perform firesafety inspections of educational property.

**Section 2.** Amends s. 633.021, F.S., to clarify the definition of "firesafety inspector" to include certification under s. 633.081, F.S.

**Section 3.** Amends s. 633.081, F.S., to revise requirements and procedures for inspections of buildings and equipment; to abolish special state firesafety inspector classifications and certifications; and to provide criteria, procedures, and requirements for special state firesafety inspectors to be certified as firesafety inspectors.

**Section 4.** Amends s. 1013.12, F.S., to revise procedures and requirements for certain standards and inspection of educational property; to provide procedures, criteria, and requirements for inspections of charter schools; to provide reporting requirements; to revise requirements for inspections of public postsecondary education facilities; and to delete a provision requiring that the State Fire Marshal publish an annual report.

**Section 5.** Amends s. 1013.371, F.S., to revise firesafety inspection requirements for educational institution boards to conform to the Florida Building Code and the Florida Fire Prevention Code; and to revise certain code enforcement authority of such boards certified pursuant to chapter 633, F.S.

**Section 6.** Amends s. 1013.38, F.S., to require educational institution boards to submit certain facility site plans to a local county, municipality, or independent special fire control district for review; to authorize such entities to review site plans for compliance with certain provisions of the Florida Fire Prevention Code; to specify that site plans are not subject to local ordinances or local amendments to the Florida Fire Prevention Code; to provide criteria for approving site plans and correcting firesafety compliance deficiencies; to provide for referral of disputes to the State Fire Marshal; to authorize public education boards to use firesafety inspectors for compliance with the Florida Building Code and the Florida Fire Prevention Code; and to impose additional requirements for such boards relating to construction, renovation, or remodeling of educational facilities.

**Section 7.** Provides an effective date of July 1, 2011.

## 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:

Currently, the State Requirements for Educational Facilities and the State Fire Marshal rules require two separate or one joint annual fire inspections to be performed by both a local authorized agency as well as the board for each board-owned or leased building. The bill authorizes an annual inspection of educational and ancillary facilities by county, municipal, or special fire control districts, thereby reducing the number of mandatory annual inspections to one every year.<sup>25</sup>

Deleting the existing requirement for the Florida Division of State Fire Marshal to prepare an annual report based on the compilation of inspection reports received from each board for all educational and ancillary facilities will likely result in cost savings for the State. The Florida Department of Education estimates approximately \$515,210 in cost savings to the school districts and colleges based on an unofficial survey of the 67 school districts and 28 colleges within the Florida College System conducted by the department.<sup>26</sup>

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

Special state firesafety inspectors, who fail the firesafety inspection examination, must meet the training and certification requirements provided in the bill. The bill prohibits special state firesafety inspectors who do not have at least five years of experience by July 1, 2011, and who do not pass the firesafety inspection examination by July 1, 2013, from conducting firesafety inspections.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

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<sup>25</sup> Florida Department of Education, Analysis of HB 331 (Feb. 17, 2011); *see also* rule 69A-58.004(1), F.A.C.; Chapter 5, State Requirements for Educational Facilities, incorporated by reference in rule 6A-2.0010, F.A.C., State Requirements for Educational Facilities (SREF).

<sup>26</sup> Florida Department of Education, Analysis of HB 331 (Feb. 17, 2011).

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill requires the State Fire Marshal to consult with the Florida Department of Education (DOE) regarding the adoption of rules pertaining to safety and health standards at educational facilities. Consequently, the DOE rules related to education facilities<sup>27</sup> and the State Fire Marshal rules for education facilities<sup>28</sup> adopted pursuant to Chapter 120, F.S., may need amending.

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

The bill makes references to "public college". As directed by s. 21 of ch. 2010-70, Laws of Florida, a reviser's bill (HB 7111) was prepared to substitute the term "Florida College System Institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in Florida K-20 Education Code. The term "public college" was also included in the reviser's bill.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

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<sup>27</sup> Rule 6A-2.0010, F.A.C., State Requirements for Educational Facilities (SREF).

<sup>28</sup> Rule Chapter 69A-58, F.A.C., Firesafety in Education Facilities.