

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 534

INTRODUCER: Senator Wise

SUBJECT: Firesafety

DATE: March 24, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Burgess</u>	<u>BI</u>	<b>Favorable</b>
2.	<u>Carrouth</u>	<u>Matthews</u>	<u>ED</u>	<b>Favorable</b>
3.	<u>Gizzi</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
4.	_____	_____	<u>HE</u>	_____
5.	_____	_____	<u>BC</u>	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill:

- Coordinates state fire marshal law with educational facilities law regarding firesafety inspections on educational property;
- Abolishes the classification of the special state firesafety inspector and leaves intact the classification of full firesafety inspector, and provides for a contingent grandfathering in of existing special state firesafety inspectors;
- Provides that uniform firesafety standards and an alternate system be governed by fire officials certified by the State Fire Marshal;
- Reduces the number of mandatory inspections at educational facilities from two to one annually, 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 postsecondary institutions;
- Requires all boards to use only certified fire officials and other inspectors in monitoring compliance with the Florida Building Code, the Florida Fire Prevention Code, and the State Requirements for Educational Facilities; and
- Requires public education boards 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 provisions in the bill represent a collaborative effort among school districts, community colleges, the Department of Education, and the State Fire Marshal to provide consistency, streamline practices, reduce cost, and ensure safety regarding firesafety inspections.

The bill substantially amends the following sections of the Florida Statutes: 633.01, 633.021, 633.081, 1013.12, 1013.371, and 1013.38.

## II. Present Situation:

### **Division of the State Fire Marshal (State Fire Marshal)**

State law on fire prevention and control is provided in Chapter 633, F.S. Section 633.01, F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal.<sup>1</sup> 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. Additionally, the State Fire Marshal adopts by rule the Florida Fire Prevention Code, which contains or references all firesafety laws and rules regarding public and private buildings.<sup>2</sup>

The Division of the State Fire Marshal (Division) consists of the following four bureaus: fire and arson investigations, fire standards and training, forensic fire and explosives analysis, and fire prevention. The Florida State Fire College, part of the Bureau of Fire Standards and Training, trains over 6,000 students per year. The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year. These reports are entered into a database to form the basis for the State Fire Marshal's annual report.<sup>3</sup>

### **Firesafety Inspections of Florida's Educational Facilities**

Chapter 1013, F.S., governs the safety requirements for educational facilities. Unless otherwise specified, the term "board" can indicate any public education board, including: 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.<sup>4</sup> Section 1013.37, F.S., requires the State Fire Marshal to develop firesafety criteria for educational facilities in conjunction with the Florida Building Commission and the Department of Education.<sup>5</sup> However, ch. 663, F.S., does not similarly provide for the cooperative development of standards.

Currently, public schools are required to be inspected by two separate authorities annually, some of which are conducted simultaneously.<sup>6</sup> Opponents of this practice argue that this is a

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<sup>1</sup> The agency head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of State Fire Marshal is located within the DFS.

<sup>2</sup> Section 633.01(1), F.S.

<sup>3</sup> State Fire Marshal website, available at <http://www.myfloridacfo.com/sfm/> (last visited Feb. 22, 2011).

<sup>4</sup> Section 1013.01(3), F.S.

<sup>5</sup> Section 1013.37(1)(c), F.S.

<sup>6</sup> Both the local fire official and the fire inspector for each school board are required to conduct these inspections. *See* Rule 69A-58.004(1), F.A.C.

duplicative effort and the State Fire Marshal states that these inspections have generated conflicting interpretations of code requirements and jurisdictional authority.<sup>7</sup>

Section 633.01, F.S., requires the State Fire Marshal to adopt and administer rules regarding health and safety standards for educational and ancillary facilities.<sup>8</sup> In addition, the State Fire Marshal also assumes the duties of the local fire official for counties that do not employ or appoint an official.

### **Special Fire Instructors**

Section 633.021, F.S., defines a “firesafety inspector” to be:

An 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....<sup>9</sup>

A “special state firesafety inspector” is defined as:

An 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>10</sup>

There are a small number of people that are employed as “Special Firesafety Inspectors” across the state. A recent survey by the Florida State College found a total of 44 Special Firesafety Inspectors employed in the 67 school districts and 28 community colleges.<sup>11</sup> The current training requirement for this type of inspector is only 120 hours, in contrast to the 200 hours of training required for full firesafety inspector status. For several years the Division has pushed to eliminate the “special firesafety inspector” license and require all firesafety inspectors to have a full “firesafety inspector” license.

### **Charter Schools**

Charter schools are public schools that operate under a performance contract or charter with a sponsor.<sup>12</sup> The charter school must comply with its charter to maintain its status.<sup>13</sup> There is disagreement as to which governmental agency is charged with conducting firesafety inspections of charter schools. Section 1002.33(18), F.S., requires charter schools to meet the same annual inspection requirements of the Florida Fire Prevention Code, unless the charter adopts the State

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<sup>7</sup> Department of Financial Services, *SB 534 Bill Analysis and Fiscal Impact Statement* (Feb. 14, 2011) (on file with the Banking and Insurance Committee).

<sup>8</sup> Section 633.01(7), F.S.

<sup>9</sup> Section 633.021(11), F.S.

<sup>10</sup> Section 633.021(24), F.S.

<sup>11</sup> Susan Lehr, Vice President of Government Relations, Florida State College, Jacksonville, *Education Facilities Firesafety Legislation: Q and A*. Many of these 44 special firesafety inspectors also hold a higher firesafety inspection license.

<sup>12</sup> See s. 1002.33(1), F.S., stating that “all charter schools in Florida are public schools.”

<sup>13</sup> See subsection (9) of s. 1002.33, F.S., CHARTER SCHOOL REQUIREMENTS.—

Requirements for Education Facilities pursuant to s. 1013.37, F.S.<sup>14</sup> Charter schools located off school district or community college property are subject to the requirements of the local jurisdiction.<sup>15</sup>

### **Annual Report on Firesafety**

Section 1013.12(8), F.S., requires the State Fire Marshal to produce a statewide annual report on school firesafety inspections of schools.<sup>16</sup> In conducting the annual report, the State Fire Marshal is required to interpret all of the reports that were submitted by the 67 school districts, 28 community colleges, and hundreds of local fire departments for each building at each educational site.<sup>17</sup> Opponents of the annual report requirement assert that diverging local reports formats have complicated the ability to organize them into a singular statewide report. As a result, they argue that the comprehensive statewide report is underutilized and provides minimal information to citizens.

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

#### **Additional Clarification of Duties of the State Fire Marshal**

The bill requires the State Fire Marshal to consult with the Department of Education regarding the adoption of rules pertaining to safety and health standards at educational facilities. If a county does not employ or appoint a certified firesafety inspector, the bill provides that the State Fire Marshal shall assume the duties of the county, municipality, or independent special fire control district, and conduct the firesafety inspection of educational property.

#### **Elimination of Special Firesafety Inspector**

As of July 1, 2013, the classification of “special state firesafety inspector” is abolished. Special state firesafety inspectors may, however, be grandfathered in as full firesafety inspectors provided that the following conditions are met:

- The inspector has at least five years of experience 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 but takes an additional 80 hours of courses and passes the examination; or
- The inspector has at least five years of experience, fails the examination, but takes 80 additional hours of courses, retakes, and passes the examination.

The bill redefines the term “firesafety inspector” as a person who is certified by the State Fire Marshal, pursuant to s. 633.081, F.S.

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<sup>14</sup> Section 1002.33(18)(a)-(b), F.S., *See also* Memorandum to Florida Fire Chiefs from Tom Gallagher, State Fire Marshal, *Charter School Inspections* (Nov. 25, 2003).

<sup>15</sup> Email and telephone correspondence with staff members from the Board of Governors (March 15, 2011).

<sup>16</sup> Section 1013.12(8), F.S.

<sup>17</sup> For more information visit MYFLORIDACFO.COM, DEPARTMENT OF FINANCIAL SERVICES, SCHOOL FIRESAFETY, available online at <http://www.myfloridacfo.com/sfm/sfmschoolsafety.htm> (last visited on February 22, 2011).

**Streamlining of Process**

The bill requires all administration and enforcement of uniform firesafety standards and the alternate evaluation system to be conducted by certified fire officials. Effective July 1, 2013, all firesafety inspectors are subject to the same certification process.

The bill also reduces the number of mandatory annual inspections from two to one and the report generated remains at the local level.

The bill deletes the requirement for the State Fire Marshal to compile each local report into one document for submission to the Legislature, the Governor, the Commissioner of Education, the State Board of Education, and the Board of Governors.

**School District Firesafety Inspections (Including Charter and Postsecondary Schools)**

The bill establishes parity for firesafety inspections for district schools, other public secondary schools (charter schools), and postsecondary institutions.

***Inspection of Property by District School Boards***

Boards<sup>18</sup> are responsible for appointing certified firesafety inspectors to conduct annual inspections of educational and ancillary plant property. The bill requires inspections to begin no sooner than one year after a building certificate of occupancy is issued. The applicable board must submit a copy of the report to the county, municipality, or independent special fire control district providing fire protection services within 10 business days after the inspection, unless immediate corrective action is required, due to life-threatening deficiencies. The entity conducting the firesafety inspection is required to certify to the State Fire Marshal that the annual inspection has occurred.

***Inspection of Educational Property by Other Public Agencies***

Annual firesafety inspections must be conducted of educational and ancillary plant property operated by a school board or community college. The bill requires inspections to begin no sooner than one year after a building certificate of occupancy is issued. Immediate corrective action is required by the county, municipality, or independent special fire control district in conjunction with the appointed fire official where life-threatening deficiencies are noted.

***Inspection of Charter Schools Not Located on Board-owned or Leased Property, or Otherwise Operated by a School Board***

The bill requires a firesafety inspection to be conducted each fiscal year of educational facilities not owned or leased by the board or a community college, in accordance with State Fire Marshal standards. The bill clarifies that the inspection report is to be submitted to the charter school sponsor. The inspector must include a corrective plan of action in the report, with prompt response for life-threatening deficiencies. If corrective action is not taken, 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 also expressly extends the State Fire Marshal's enforcement authority to charter school educational facilities and property.

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<sup>18</sup> Section 1013.01(3), F.S., defines the term *Board* to mean "a district school board, a community college board of trustees, a university board of trustees and the Board of Trustees for the School for the Deaf and Blind," unless otherwise specified.

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

The bill requires inspections of community college facilities, including charter schools located on board-owned or board-leased facilities or otherwise operated by community college boards, to comply with the Florida Fire Prevention Code, without exception via local amendment. Both an annual inspection by a certified inspector and a corrective plan of action are required. The community college must provide a copy of the report to the appropriate county, municipality, or independent special fire control district. Firesafety inspections of state universities must comply with the Florida Fire Prevention Code. If a school board, community college board, or charter school does not take corrective action, the bill requires the inspecting authority to immediately report the deficiency to the State Fire Marshal.

**Approval of New Construction/Site Plans**

Each board must provide for a periodic inspection of proposed educational or ancillary plants 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.

The bill requires local boards to submit for approval new facility site plans to the local county, municipality, or independent special fire control district, and outlines the process for compliance and informal appeal. Site plans must also be submitted for new facility additions that exceed 2,500 feet in size. The State Fire Marshal has final administrative authority to resolve disputes pertaining to the requirements or application of the Florida Fire Prevention Code.

This bill provides for an effective date of July 1, 2011.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Individuals that are currently classified as special state firesafety inspectors who do not have five years of experience or fail the firesafety inspection examination will have to

undergo the new training requirements provided in the bill to become certified as a general firesafety inspector.

Individuals that fail the course of study or firesafety inspection examination will not be permitted to perform firesafety inspections on or after July 1, 2013.

**C. Government Sector Impact:**

Deleting the annual state-level report requirement will save the Division of State Fire Marshal's office funds and resources that were formerly used to generate the report. The bill reduces the number of mandatory annual inspections from two to one, which will also save money and resources.<sup>19</sup>

The Department of Education (DOE) reports that the reduction of inspections from two to one annually would result in an annual cost savings of \$55,538 to the 28 colleges collectively. Thirty-six school districts responded to the DOE that savings would be realized in the amount of \$246,988. Extrapolating this to all 67 districts reflects a total annual cost savings of \$459,672 among the districts.<sup>20</sup>

The fiscal costs incurred for preparation and submission of the site plan for new construction are unknown; however, they are expected to be minimal.<sup>21</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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

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<sup>19</sup> Florida Department of Financial Services, *SB 534 Fiscal Analysis*, at 1 (Feb. 27, 2011) (on file with the Senate Committee on Community Affairs).

<sup>20</sup> Email correspondence from the Florida Department of Education, Office of Governmental Relations, March 15, 2011.

<sup>21</sup> Fiscal Analysis for previous legislation during the 2010 Legislative Session, *See Florida Department of Education, Senate Bill 1074 Fiscal Analysis*, at 4-5 (Jan. 7, 2010) (on file with the Senate Committee on Community Affairs).