

**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.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 1122

INTRODUCER: Senator Pizzo

SUBJECT: Emergency Telecommunication Devices in Public Swimming Pools

DATE: February 6, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Ryon</u>	<u>CA</u>	<u>Favorable</u>
2.	_____	_____	<u>BI</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1122 provides a voluntary method for owners of public swimming pools to equip their pools with emergency telecommunications devices. Public swimming pool owners electing to do so must comply by December 31, 2020, or earlier if required by the local health department, and must meet certain location and signage requirements for the device. The bill provides that property containing a public swimming pool equipped with a device is eligible for certain adjustments or discounts to general liability insurance policy rates.

**II. Present Situation:**

**Public Swimming Pools**

Section 514.011(2), F.S., defines “public swimming pool” or “public pool” to mean:

“a watertight structure of concrete, masonry, or other approved materials which is located either indoors or outdoors, used for bathing or swimming by humans, and filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment used in connection therewith. A public swimming pool or public pool shall mean a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee and includes, but is not limited to, pools operated by or serving camps, churches, cities, counties, day care centers, group home facilities for eight or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type projects of five or more living units, such as apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks, and townhouses.”<sup>1</sup>

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<sup>1</sup> Section 514.011, F.S., defines “private pool” to mean a facility used only by an individual, family, or living unit members and their guests which does not serve any type of cooperative housing or joint tenancy of five or more living units.

## **Department of Health and Public Swimming Pools**

Section 514.021, F.S., authorizes the Department of Health (DOH) to adopt and enforce rules to protect the health, safety, or welfare of persons by setting sanitation and safety standards<sup>2</sup> for public swimming pools (and public bathing places). These standards are limited to matters relating to source of water supply; microbiological, chemical, and physical quality of the water in the pool; method of water purification, treatment, and disinfection; lifesaving apparatus; and measures to ensure safety of bathers. However, the DOH may not by rule regulate the design, alteration, modification, or repair of public swimming pools, which rule has no impact on sanitation and safety of persons using such pools; or regulate the construction, erection, or demolition of such pools. Those functions are preempted to the Florida Building Commission.<sup>3</sup>

## **DOH Assignment of County Health Departments**

Section 514.025, F.S., directs the DOH to assign to county health departments that are staffed with qualified engineering personnel the functions of reviewing applications and plans for the construction, development, or modification of public swimming pools; of conducting inspections; and of issuing all permits. The DOH is responsible for such functions if a county health department determines that qualified staff are not available. County health departments are responsible for routine surveillance of water quality in all public swimming pools, including routine inspections, complaint investigations, enforcement procedures, and operating permits.

## **Required Operating Permits for Public Swimming Pools**

Section 514.031, F.S., requires any person or public body desiring to operate a public swimming pool to file an application for an operating permit with the DOH containing specified information. If the DOH determines the pool is or may reasonably be expected to be operated in compliance with applicable law, the DOH is directed to grant the permit. Each permit must be renewed annually, and the permit must be posted in a conspicuous place. According to DOH, there are over 41,000 public swimming permits currently active in Florida.<sup>4</sup>

## **Public Swimming Pool Safety Features**

Section 514.0315, F.S., requires a public swimming pool to be equipped with an anti-entrapment system or device that complies with American Society of Mechanical Engineers/American National Standards Institute standard A112.19.8, or any successor standard.<sup>5,6</sup> Additional

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<sup>2</sup> See the DOH Rule Chapter 64E-9, Florida Administration Code, available at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=64E-9> (last visited Feb. 5, 2020).

<sup>3</sup> Section 514.021(2), F.S.

<sup>4</sup> Florida Department of Health, *SB 1122 Agency Bill Analysis* (Jan. 9, 2020) (on file with the Senate Committee on Community Affairs).

<sup>5</sup> “This standard establishes materials, testing, and marking requirements for suction fittings that are designed to be totally submerged for use in swimming pools, wading pools, spas, and hot tubs, as well as other aquatic facilities.” See ANSI Webstore, *ANSI/ASME A112.19.8-2007*, available at <https://webstore.ansi.org/standards/asme/ansiasmea112192007> (last visited Feb. 6, 2020).

<sup>6</sup> With limited exception, the federal government is not involved in regulating swimming pools. The 2007 Virginia Graeme Baker Act requires pools to be equipped with anti-entrapment devices to keep swimmers, especially small children, from

provisions in s. 514.0315, F.S., address safety requirements for public swimming pools built before 1993 that have single main drains.

Rule 64E-9.008, F.A.C., provides that all owners, managers, lifeguards, or swimming instructors in charge of, or working at, public swimming pools shall be responsible for the supervision and safety of the pool. The rule also specifies that all pools shall be equipped with the following safety equipment mounted in a conspicuous place and readily available for use:

- Safety drain outlet cover(s)/grate(s).
- A shepherd's hook not less than 16 feet in length.
- At least one 18-inch diameter lifesaving ring.

### **Enhanced 911**

The Federal Communications Commission requires wireless phone companies to implement Enhanced 911 (E911) service.<sup>7</sup> Enhanced 911 is a statewide emergency system that provides rapid access to first responders when a person dials “911” on her or his phone,<sup>8</sup> and reduces response times by law enforcement, fire departments, and emergency medical services.<sup>9</sup> The caller's phone number, geographic location, and jurisdictional first responder agency<sup>10</sup> appear on the 911 emergency operator's screen, as opposed to the basic 911 service where the caller has to tell the operator their phone number and location.<sup>11</sup> E911 “may also include details such as the floor, wing, room, or office of the caller to allow arriving first responders more quickly locate the source of the emergency.”<sup>12</sup> E911 is helpful when a caller cannot communicate with the operator. The operator automatically has the caller's location and phone number and can dispatch first responders to the proper location.<sup>13</sup>

E911 uses selective, alternate, and default routing methods to send 911 calls to the appropriate Public-Safety Answering Point (PSAP) based on the geographic location of the caller.<sup>14</sup> A PSAP is a dispatch center staffed by emergency operators that receive 911 calls and dispatches the appropriate first responder.<sup>15</sup> All PSAPs operate 24 hours a day, seven days a week,<sup>16</sup> and are

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being caught in pool and spa drains. See National Conference of State Legislatures Legisbrief, *Keeping Recreational Water Facilities Safe*, Vol 23., No. 24, June 2015, available at

<http://www.ncsl.org/LinkClick.aspx?fileticket=f0vZuHkTt8%3D&tabid=29483&portalid=1> (last visited Feb. 6, 2020).

<sup>7</sup> Federal Communications Commission, Fact Sheet, *FCC Wireless 911 Requirements*, available at

[https://transition.fcc.gov/pshs/services/911-services/enhanced911/archives/factsheet\\_requirements\\_012001.pdf](https://transition.fcc.gov/pshs/services/911-services/enhanced911/archives/factsheet_requirements_012001.pdf). (last visited Feb. 6, 2020).

<sup>8</sup> Section 365.175(2)(a), F.S.

<sup>9</sup> Florida Department of Management Services, *Florida Emergency Communications Number E911 State Plan*, available at [https://www.dms.myflorida.com/content/download/108633/610926/State\\_E911\\_PLAN\\_2017\\_post.pdf](https://www.dms.myflorida.com/content/download/108633/610926/State_E911_PLAN_2017_post.pdf). (last visited Feb. 6, 2020).

<sup>10</sup> *Id.*

<sup>11</sup> Intrado, *E911 Frequently Asked Questions*, <https://www.west.com/safety-services/enterprise-e911-solutions/what-is-e911-faqs/> (last visited Jan. 17, 2020).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Florida Department of Management Services, *supra* note 9.

<sup>15</sup> Section 365.172(3)(y), F.S.

<sup>16</sup> Rule 60FF-6.005(1)(a), F.A.C.

required to have staffing levels that ensure that at least 90 percent of calls are answered within 10 seconds.<sup>17</sup>

### **Public Swimming Pool Emergency Phones in other States**

While Florida has no requirements for public swimming pool emergency communication devices in state statute or rule, other states do. North Carolina's rules governing public swimming pools require that a telephone capable of directly dialing 911 or another emergency notification system shall be provided and accessible to all pool users.<sup>18</sup> The telephone must be permanently affixed to a location inside the pool enclosure or outside the enclosure within 75 feet of a bather entrance. Signage posted at the telephone must provide dialing instructions, address of the pool location, and the telephone number.

South Carolina's general construction requirements for all public swimming pools states that a toll free emergency notification device to notify emergency personnel must be provided within a 200-foot walking distance of the pool.<sup>19</sup> Only permanently mounted notification devices are acceptable. Mobile, voice over internet, or cordless telephones are not an acceptable alternative to permanently mounted emergency notification devices.

### **Insurance Rate Standards**

The rating requirements for property, casualty, and surety insurance are located in part I of ch. 627, F.S.,<sup>20</sup> which is entitled the "Rating Law," and applies to all property, casualty, and surety insurance. Section 627.062(1), F.S., specifies that the rates for all classes to which part I applies "shall not be excessive, inadequate, or unfairly discriminatory."

Section 627.062(2)(a), F.S., describes the filing process and time frames that must be followed by all insurers subject to its provisions. Generally, insurers may choose to submit their rate to the Office of Insurance Regulation (OIR) pursuant to either the "file and use" method or the "use and file" method. Section 627.062(f), F.S., provides that during its review process, the OIR can require an insurer to submit at the insurer's expense all information that the OIR deems necessary to evaluate the condition of the insurer and the reasonableness of the filing.

Certain categories or kinds of insurance and types of commercial lines risks are exempt from the filing and review requirements of s. 627.062(2)(a) and (f), F.S., including general liability insurance.<sup>21</sup> Consequently, general liability insurers are not required to submit premium credit or discount schedules to OIR for approval.

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<sup>17</sup> Rule 60FF-6.005(1)(b), F.A.C.

<sup>18</sup> See North Carolina Department of Health, *Rules Governing Public Swimming Pools: 15A NCAC 18A.2530*, available at <https://ehs.ncpublichealth.com/docs/rules/294306-9-2500.pdf> (last visited Feb. 6, 2020).

<sup>19</sup> See South Carolina Department of Health, *Regulation 61-51: Public Swimming Pools*, available at <https://www.scdhec.gov/sites/default/files/media/document/R.61-51.pdf#page=43> (last visited Feb. 6, 2020).

<sup>20</sup> Sections 627.011 - 627.381, F.S.

<sup>21</sup> Section 627.062(3)(d)(1)i., F.S.

### III. Effect of Proposed Changes:

**Section 1** creates s. 514.0316, F.S., to provide that a public swimming pool may be equipped with an emergency telecommunication device, continuously accessible to all public swimming pool users, that is capable of directly communicating with a public or private emergency notification service. If the owner of a public swimming pool elects to equip the pool with such a device, the owner must comply with all of the following requirements:

- The device must be permanently mounted inside the pool enclosure, or outside the enclosure but within 75 feet of a bather entrance, and include dialing instructions.
- The device must be visible from inside the pool enclosure or, if mounted outside the pool enclosure, a sign must be posted inside the enclosure indicating the location of the device.

Owners electing to equip a pool with a device must comply with the above provisions by the compliance date set by the local health department or December 31, 2020, whichever date is earlier.

Property containing a public swimming pool that is equipped with an emergency telecommunication device specified in the bill is eligible for any adjustments or discounts to general liability insurance policy rates under s. 627.062, F.S., on insurance rate standards which are associated with the reduction of drownings or the reduction of swimming pool accidents and drownings.

**Section 2** provides an effective date of July 1, 2020.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

**B. Private Sector Impact:**

Indeterminate.

**C. Government Sector Impact:**

An indeterminable number of public swimming pools may choose to install a telecommunication device and install signage for their pool. For those that do install a device, DOH county health departments will add a 48th inspection item to the twice per year site inspection to verify compliance with the new statute.<sup>22</sup> DOH estimates an indeterminate number of compliance actions that may be needed for recalcitrant pool owners that do not meet statute. If 10 percent of the over 41,000 pools need a compliance action, this would result in 4,100 hours of added compliance worktime for DOH staff.<sup>23</sup>

**VI. Technical Deficiencies:**

It appears that the line 41 reference to “paragraph (1)(a)” may have been intended to be “paragraph (1).”

**VII. Related Issues:**

Lines 41-43 create new provisions specific to general liability insurance policy rates within ch. 514, F.S., on Public Swimming and Bathing Facilities. To clarify and ensure completeness of insurance rating standards, this provision may be better placed within the Rate Standards section of the Rating Law under the Florida Insurance Code in s. 627.062, F.S.

**VIII. Statutes Affected:**

This bill creates section 514.0316 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

<sup>22</sup> Florida Department of Health, *SB 1122 Agency Bill Analysis* (Jan. 9, 2020) (on file with the Senate Committee on Community Affairs).

<sup>23</sup> *Id.*

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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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