

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1409 Public Swimming Pools and Spas

SPONSOR(S): Health & Human Services Committee; Health & Human Services Access Subcommittee; Hudson and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1480

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	10 Y, 3 N, As CS	Batchelor	Schoolfield
2) Health & Human Services Committee	16 Y, 0 N, As CS	Batchelor	Gormley

SUMMARY ANALYSIS

The bill creates s. 514. 0315, F.S., relating to safety features for public swimming pools and spas.

The bill provides a one year extension for retrofitting of public pools and spas, on direct suction systems, to gravity drainage systems.

There is no fiscal impact on the state from this bill.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

Virginia Graeme Baker Pool and Spa Safety Act

In 2007, the Virginia Graeme Baker Pool and Spa Safety Act was passed by the U.S. Congress.¹ The act was named for the 7 year old granddaughter of the former Secretary of State who died due to suction entrapment in a spa drain. The act created federal requirements for suction entrapment avoidance in pools and spas. Specifically, a pool is required to have a compliant drain cover, and one of the following five devices that would prevent entrapment:

- Safety vacuum release system;
- Suction-limiting vent system;
- Gravity drainage system;
- Automatic pump shut off system;
- Drain disablement; or
- Another system approved by the U.S. Consumer Product Safety Commission (CPSC).²

DOH Rule and Statutory Authority

Public pools and spas are regulated in Florida by the Department of Health (DOH) pursuant to chapter 514, Florida Statutes. DOH has rulemaking authority to protect the health, safety and welfare of bathers in public pools and spas.³ By rule, DOH has required gravitational drainage systems with collector tanks since 1977 for public pools, and 1993 for public spas.⁴ DOH rule provides this one option, although, other options are permitted in federal law. In 2008, DOH promulgated rules and a timetable to require retrofitting to gravitational drainage systems and collector tanks for pools and spa pools not already fitted with such a system.⁵ The rule permits that all wading pools were to be retrofitted by 2009.⁶ All other public pools, excluding spa pools, are to be retrofitted by 2013.⁷ All spa pools must adhere to the following implementation schedule:

- Built before 1977, retrofit by July 1, 2010,
- Built between 1977 and 1986, retrofit by July 1, 2011,
- Built between 1986 and 1995, retrofit by July 1, 2012.⁸

It is estimated that there are around 37,000 pools in Florida, and approximately 6,000 still require collector tanks to be installed to bring them into compliance with 64E-9.007(10), F.A.C.⁹ DOH has a regulatory mechanism,¹⁰ which allows the department to grant pool owners who demonstrate that they cannot comply, a variance from the rule.

¹ 15 U.S.C. s. 8001.

² 15 U.S.C. s. 8004(c)(1)(A).

³ S. 514.021, F.S.

⁴ Department of Health HB 1409 Bill Analysis, Economic Statement and Fiscal Note, March 21, 2011. On file with Health and Human Services Access Subcommittee Staff.

⁵ Ch. 64E-9.007 F.A.C., Recirculation and Treatment System Requirements.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Email from Florida Pool Association on file with Health and Human Services Access Subcommittee staff, April 1, 2011.

¹⁰ Ch. 64E-9.016.

Exemptions

Section 514.0115, F.S., provides exemptions from chapter 514 Florida Statutes requirements for pools that are associated with hospitals, medical facilities, child caring agencies, private pools for instructional purposes and condominiums with no more than 32 units. For condominiums with 32 units or less, DOH has authority to regulate water quality. If there are more than 32 units, DOH inspects the pool annually for water quality and life saving equipment.¹¹

Effect of Proposed Changes

The bill creates s. 514.0315, F.S., related to required safety features for public swimming pools and spas, and provides public pool and spa owner/operators a one year extension for retrofitting to a gravity drainage system. The bill extends current time lines in DOH rule¹² to permit the following:

- All wading pools are to be retrofitted by May 24, 2011,
- All other public pools, excluding spa pools, are to be retrofitted by July 1, 2014,
- All spa pools must adhere to the following implementation schedule:
 - Built before 1977, retrofit by July 1, 2011,
 - Built between 1977 and 1986, retrofit by July 1, 2012,
 - Built between 1986 and 1995, retrofit by July 1, 2013.

B. SECTION DIRECTORY:

Section 1: Creates s. 514.0315, F.S., relating to safety features for public swimming pools and spas.

Section 2: 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:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

¹¹ s. 514.0115 (2) (b), F.S.

¹² Ch. 64E-9.007 F.A.C., Recirculation and Treatment System Requirements

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

B. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 5, 2011, the Health and Human Services Access Subcommittee adopted one amendment to House Bill 1409.

The amendment provides that an existing single drain public pool built before January 1, 1993, must be equipped with an anti-entrapment system or device.

The bill was reportedly favorably as a Committee Substitute. This analysis reflects the Committee Substitute.

On April 20, 2011, the Health and Human Services Committee adopted a strike all amendment to CS/HB 1409.

The strike all amendment provides a one year extension to current DOH Rule, 64E-9.007, F.A.C, for retrofitting public pools and spas.

The bill was reported favorably as a Committee Substitute. This analysis reflects the Committee Substitute.