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DATE: February 8, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FISCAL POLICY & RESOURCES
ANALYSIS**

BILL #: HB 443

RELATING TO: Firesafety standards for educational and ancillary plants and educational facilities

SPONSOR(S): Representative Barreiro

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) GENERAL EDUCATION YEAS 9 NAYS 0
- (2) FISCAL POLICY & RESOURCES YEAS 12 NAYS 0
- (3) COUNCIL FOR LIFELONG LEARNING
- (4)
- (5)

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I. SUMMARY:

HB 443 transfers the authority to adopt uniform firesafety standards for educational facilities from the Commissioner of Education to the State Fire Marshal. The State Fire Marshal must adopt and administer rules prescribing the standards for (1) the designation of serious life-safety hazards; (2) the proper placement of functional smoke and heat detectors and accessible, and unexpired fire extinguishers; and (3) the maintenance of fire doors without doorstops or wedges improperly holding them open. These standards must be used by all agencies and local fire authorities when they are inspecting educational facilities. A copy of all firesafety inspections conducted by the board employees must be submitted to the State Fire Marshal.

The bill specifies that one firesafety inspection of each educational or ancillary plant must be conducted each fiscal year by the county, municipality, or special fire control district in which the plant is located using the standards adopted by the State Fire Marshal. *A traveling amendment provides that if a county does not employ or appoint a local fire official, the State Fire Marshal must assume the duties of the local fire official with respect to firesafety inspections of educational property.*

In each firesafety inspection report, the local fire official in conjunction with the board must include a plan of action and a schedule for the correction of each deficiency. If immediate life-threatening deficiencies are noted, the local fire official must either take action to require the board to promptly correct the deficiencies or withdraw the educational facility from use until the deficiencies are corrected. If the board fails to take corrective action within the designated time, the local fire official must immediately report the deficiency to the State Fire Marshal. With respect to educational and ancillary plants and educational facilities, the bill grants enforcement authority to the State Fire Marshal.

According to the Department of Insurance, the most costly responsibility will be to conduct inspections in counties or municipalities without a local firesafety inspector. The total for salary and benefits for six (6) firesafety specialists, plus recurring and non-recurring expenses for *year one is \$162,393, year two \$288,066, and year three \$294,239.* Operating capital outlay for the first year of implementation is \$99,000.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

The term "board" means a district school board, a community college board of trustees, and the Board of Trustees for the Florida School for the Deaf and the Blind (s. 235.011(3), F.S.).

Firesafety Inspectors

Subsection 633.081(2), F.S., specifies that every firesafety inspection conducted pursuant to state or local firesafety requirements must be conducted by a person certified as having met the inspection training requirements set by the State Fire Marshal.

Safety of Educational Facilities

Section 235.06, F.S., requires the Commissioner of Education to adopt and administer rules prescribing standards for the safety and health of occupants of educational and ancillary plants.

Subsection 235.06(1), F.S., requires that firesafety inspections of each educational and ancillary plant be made annually by persons certified by the Division of State Fire Marshal as eligible to conduct firesafety inspections in public educational and ancillary plants. In each firesafety inspection report, the board must include a plan of action and a schedule for the correction of each deficiency. If the deficiencies noted in any inspection are of an immediate life-threatening nature, the board must either take action to promptly correct the deficiencies or withdraw the educational or ancillary plant from use until such time as the deficiencies are corrected.

Inspection of Educational Property By Other Public Agencies

Subsection 235.06(2), F.S., specifies that a safety or sanitation inspection of any educational or ancillary plant may be made at any time by the Department of Education or any other state or local agency authorized or required to conduct such inspections by either general or special law. Each agency conducting inspections must use the standards adopted by the Commissioner of Education in lieu of, and to the exclusion of, any other inspection standards prescribed either by statute or administrative rule. The agency must submit a copy of the inspection report to the board.

In addition to school board inspections, the applicable local fire control authority must also annually inspect educational facilities within its fire control district, using the standards adopted by the Commissioner of Education. Reports must be filed with the school board, and a copy must be on file with the local site administrator (s. 235.06(2)(b), F.S.).

Subsection 235.06(3), F.S., provides that if the *board* fails to take corrective action within a reasonable time, the agency making the inspection may request the commissioner to:

1. Order that appropriate action be taken to correct all deficiencies in accordance with a schedule determined jointly by the inspecting authority and the board; in developing the schedule, consideration must be given to the seriousness of the deficiencies and the ability of the board to obtain the necessary funds (s. 235.06(3)(a), F.S.); or
2. After 30 calendar days' notice to the *board*, order all or a portion of the educational or ancillary plant withdrawn from use until the deficiencies are corrected (s. 235.06(3)(b), F.S.).

Powers and Duties of State Fire Marshal

Subsection 633.01(1), F.S., provides that the head of the Department of Insurance must be designated as "State Fire Marshal." The State Fire Marshal has authority to adopt rules to implement the provisions of this chapter conferring powers or duties upon the department. The rules must:

1. Conform substantially with generally accepted standards of firesafety;
2. Take into consideration the direct supervision of children in nonresidential child care facilities; and
3. Balance and temper the need of 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 department must adopt the *Florida Fire Prevention Code and the Life Safety Code*.

Uniform Firesafety Standards

Subsection 633.022(1), F.S., specifies that the Department of Insurance (DOI) must establish uniform firesafety standards that apply to all new, existing, and proposed state-owned and state-leased buildings. All new, existing, and proposed hospitals, nursing homes, assisted living facilities, adult family-care homes, correctional facilities, public schools, transient public lodging establishments, public food service establishments, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, and self-service gasoline stations, of which standards the State Fire Marshal is the final administrative interpreting authority. With respect to public schools, the department must use firesafety standards that have been adopted by the State Board of Education.

Subsection 633.022(2), F.S., specifies that the DOI must develop uniform statewide standards that are reasonably prudent with respect to protecting life, safety, and property and that take into consideration the characteristics of the people using the buildings and structures and other hazards associated with the buildings and structures throughout the state.

In order to meet special situations arising from historic, geographic, or unusual conditions, a local authority may, on a case-by-case basis, authorize equivalent alternative standards for such building or structure; however, the alternative requirements must not result in a level of protection to life, safety, or property less stringent than the applicable uniform firesafety standards (s. 633.022(2), F.S.).

C. EFFECT OF PROPOSED CHANGES:

HB 443 transfers the authority to adopt uniform firesafety standards for educational facilities from the Commissioner of Education to the State Fire Marshal. The State Fire Marshal must adopt and administer rules prescribing the standards for (1) the designation of serious life-safety hazards; (2) the proper placement of functional smoke and heat detectors and accessible, and unexpired fire extinguishers; and (3) the maintenance of fire doors without doorstops or wedges improperly

holding them open. These standards must be used by all agencies and local fire authorities when they are inspecting educational facilities. A copy of all firesafety inspections conducted by the board employees must be submitted to the State Fire Marshal.

The bill specifies that one firesafety inspection of each educational or ancillary plant must be conducted each fiscal year by the county, municipality, or special fire control district in which the plant is located using the standards adopted by the State Fire Marshal. In any county that does not employ or appoint a local fire official, the State Fire Marshal must assume the duties of the local fire official with respect to firesafety inspections of educational property and may take the necessary corrective action. The board must cooperate with the inspecting authority when an inspection is made by a governmental entity.

In each firesafety inspection report, the local fire official in conjunction with the board must include a plan of action and a schedule for the correction of each deficiency. If immediate life-threatening deficiencies are noted, the local fire official must either take action to require the board to promptly correct the deficiencies or withdraw the educational facility from use until the deficiencies are corrected.

If the board fails to take corrective action within the designated time, the local fire official must immediately report the deficiency to the State Fire Marshal. With respect to educational and ancillary plants and educational facilities, the bill grants enforcement authority to the State Fire Marshal.

HB 443 makes changes to s. 633.01, F.S., powers and duties of the State Fire Marshal so that it conforms to the additional requirements in Chapter 235, F.S. The bill deletes from s. 633.022(1)(b), F.S., the provision that the department must use firesafety standards adopted by the State Board of Education.

According to the Department of Insurance (DOI), the bill provides improved accountability of public school firesafety by the local fire authority within the individual community. In addition, the DOI states HB 443 is very beneficial because it clears up the roles of the various fire enforcement agencies that may be involved with public schools. The bill specifies who has what level of authority in case of a failed inspection, and it clarifies the permitted remedies for failed inspections.

The DOI further states that the bill fails to outline how to achieve compliance when a case of life-threatening deficiency occurs, and the bill requires the fire official to "take action" yet fails to define what actions are proper or acceptable.

According to the DOE, the responsibility for fire inspectors to inspect schools already exists in s. 235.06(2)(b), F.S. The DOE further states that including the local fire inspectors in developing the plan for correction of deficiencies is an added responsibility.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 235.06, F.S., requiring the State Fire Marshal adopt uniform firesafety standards for educational and ancillary plants and educational facilities; providing for enforcement and administration of such standards by local fire officials; prescribing duties of local fire officials in providing a plan of action and a schedule for correction of deficiencies; and requiring the State Fire Marshal to adopt and administer rules prescribing standards for the designation of serious life-safety hazards.

Section 2: Amends s. 633.01, F.S., to make the necessary changes to conform to the additional requirements in s. 235.06, F.S.; and requiring the State Fire Marshal assume certain specified duties of the local fire official in counties that do not employ or appoint a local fire official.

Section 3: Amends s. 633.022, F.S, to delete the requirement that the department must use the firesafety standards adopted by the State Board of Education.

Section 4: Provides an effective date of July 1, 2002.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to the Department of Insurance, the fiscal impact of HB 443 for the next three (3) years is:

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Salary & Benefits for 6 FTE Fire Safety Specialists	\$123,465	\$246,936	\$253,109
Recurring Expense	\$ 20,562	\$ 41,130	\$ 41,130
Non-Recurring Expense	\$ 18,366		
Total	\$162,393	\$288,066	\$294,239

*Salary & Benefits for Year 1 is based on 6 FTE; 6 months.

Operating Capital Outlay \$ 99,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to the Department of Insurance, Treasury and Fire Marshal, the State Fire Marshal must assume responsibility for adopting, modifying, and implementing rules; establishing a database for the inspection reports generated during the board's inspections; and establishing procedures for taking action when the established plans of action have not been adhered to. Finally, the most

costly responsibility will be to conduct inspections in the counties or municipalities that do not have a local firesafety authority. A minimal number of "courtesy inspections" are conducted presently in facilities such as county jails, adult living facilities, and day care centers. Any increase in the number of these inspections would have a definitive impact on the ability of the Department of Insurance to meet its present statutory requirements for firesafety inspections.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill transfers rule-making authority to the State Fire Marshal from the Commissioner of Education.

C. OTHER COMMENTS:

An April 2001 survey revealed that of the 67 counties, at least 31 would require some public school inspections by the State Fire Marshal.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on General Education considered this bill on January 29, 2002, and reported the bill favorably with one amendment by a vote of 9 to 0. The amendment specifies that if the local jurisdiction does not have a local fire official to perform the firesafety inspections, the State Fire Marshal must assume the duties for the inspection. The amendment is traveling with the bill.

VI. SIGNATURES:

COMMITTEE ON GENERAL EDUCATION:

Prepared by:

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