

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 532

SPONSOR: Education Committee and Senator Silver

SUBJECT: Firesafety Standards

DATE: March 4, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>deMarsh-Mathues</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable</u>
3.	_____	_____	<u>AED</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Pursuant to chapter 633, F.S., the head of the Department of Insurance is designated as the State Fire Marshal and, as such, carries out the duties of fire prevention, protection, and control through the Division of State Fire Marshal (SFM). Under this bill, the State Fire Marshal's responsibilities include enforcement authority for educational and ancillary plants and facilities and adoption of the following:

- uniform firesafety standards for educational and ancillary plants and educational facilities;
- a firesafety evaluation system for use as an alternate inspection standard for existing facilities; and
- rules that prescribe other specific standards.

The standards and the firesafety evaluation system must be used for administration and enforcement by local fire officials. The bill also eliminates the following requirements:

- use of the State Board of Education's firesafety standards for public schools by the State Fire Marshal; and
- use of the Commissioner's inspection standards by local fire control authorities when inspecting facilities within their fire control district.

The bill specifies that one firesafety inspection of each educational or ancillary plant must be conducted annually by the county, municipality, or special fire control district in which the plant is located using the standards adopted by the SFM. The bill further provides the local fire official with two options if immediate life-threatening deficiencies are noted in an inspection. However,

these options are subject to review by the SFM who must act within 10 days to ensure that the deficiencies are corrected or withdraw the facility from use.

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 Fiscal Year 2002-03: \$410,894; for Fiscal Year 2003-04: \$312,582; and, for Fiscal Year 2004-05: \$318,909.

This bill substantially amends the following sections of the Florida Statutes: 235.06, 633.01, 633.022.

II. Present Situation:

Firesafety Standards: the Department of Insurance, and the State Board of Education

Pursuant to chapter 633, F.S., the head of the Department of Insurance is designated as the State Fire Marshal and, as such, carries out the duties of fire prevention, protection, and control through the Division of State Fire Marshal (SFM). That chapter sets forth the powers and duties of the SFM¹ and provides for inspection authority, sets forth certification requirements for firesafety inspectors, and provides grounds for disciplinary action.

The Department of Insurance must establish uniform firesafety standards that apply to all new, existing, and proposed state-owned and state-leased buildings and other buildings, including public schools. However, the department must use the firesafety standards adopted by the State Board of Education for public schools.

The SFM may adopt rules to implement the powers or duties of the department and the rules must:

- conform substantially with generally accepted firesafety standards;
- take into consideration the direct supervision of children in nonresidential child care facilities; and
- balance and temper the need for 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 of Insurance must adopt the Florida Fire Prevention Code and the Life Safety Code, and develop reasonably prudent uniform statewide standards for protecting life, safety, and property. While a local authority may not require more stringent uniform firesafety standards, the local authority may allow equivalent alternative standards for the building or structure in order to meet special situations arising from historic, geographic, or unusual conditions. This discretion is on a case-by-case basis and the alternative requirements must not result in a level of protection to life, safety, or property that is less stringent than the applicable uniform firesafety standards. There are other provisions related to sprinkler systems in certain

¹ S. 633.081, F.S..

buildings. All local authorities must enforce the uniform firesafety standards within their jurisdiction for the buildings specified in s. 633.022(1)(b), F.S.

Safety and Sanitation Standards and the Commissioner of Education

Section 235.26, F.S., requires the uniform statewide building code for planning and constructing public educational and ancillary plants of district school boards and community college district boards of trustees to include safety standards. However, the firesafety criteria must be established by the State Fire Marshal, the Florida Building Commission, and the Department of Education (Education Commissioner) and incorporated into the Florida Fire Prevention Code.

The law² provides for the adoption and administration of rules by the Commissioner for health and safety standards to be used by all public agencies when inspecting public educational and ancillary plants. Persons certified by the Division of State Fire Marshal must make annual firesafety inspections.

Each board³ must develop policies and procedures for stopping the use of a plant until unsafe and unsanitary conditions are corrected. The board must also provide for at least an annual inspection to determine compliance with the Commissioner's sanitation and casualty safety standards. 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 by law to conduct inspections. Inspecting agencies must use the Commissioner's standards rather than any other inspection standards required by statute or administrative rule, notwithstanding the provisions of chapter 633, F.S. 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 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.

Each firesafety inspection report must include a corrective plan for each deficiency and a schedule. If immediate life-threatening deficiencies are noted, the board must promptly correct the deficiencies or withdraw the plant from use until the deficiencies are corrected. If a board fails to take corrective action within a reasonable time, the inspecting agency may request the Commissioner to order:

- the correction of all deficiencies according to a schedule; or
- withdrawal of all or a portion of the educational or ancillary plant from use until the deficiencies are corrected.

² S. 235.06, F.S.

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

The schedule is determined jointly by the inspecting authority and the board and consideration must be given to the seriousness of the deficiencies and the ability of the board to obtain the necessary funds.

III. Effect of Proposed Changes:

Section 1. Amends s. 235.06, F.S., relating to safety standards and inspection of property, to require the State Fire Marshal (SFM) to adopt uniform firesafety standards for educational and ancillary plants and educational facilities. Under current law, the Commissioner of Education has that responsibility. The bill provides that the SFM also adopt a firesafety evaluation system to be used as an alternate inspection standard in existing facilities. These firesafety standards and the evaluation system must be administered and enforced by local fire officials. For purposes of firesafety inspections, these standards must also be used by local fire officials. With the exception of firesafety inspections, the district school board, a community college board of trustees, and the Board of Trustees for the Florida School for the Deaf and the Blind must continue to make an annual inspection of each educational and ancillary plant to determine compliance with sanitation and casualty standards.

Copies of firesafety inspection reports must be provided by the district school board to the SFM and the appropriate local fire inspection officials. This inspection report must contain a corrective action plan and schedule developed in consultation with the local fire control authority.

The bill specifies that one firesafety inspection of each educational or ancillary plant must be conducted annually by the county, municipality, or special fire control district in which the plant is located using the standards adopted by the SFM. The board is required to cooperate with these firesafety inspections. For each firesafety inspection report, the local fire officials and the board must include a corrective plan and schedule to address deficiencies. The local fire official has two options if immediate life-threatening deficiencies are noted in an inspection:

- take action to require the board to promptly correct the deficiencies; or
- withdraw the educational facility from use until corrections are made.

However, these options are subject to review by the SFM who must act within 10 days to ensure that the deficiencies are corrected or withdraw the facility from use. The bill eliminates the requirements for local fire control authorities to use the Commissioner of Education's standards when inspecting facilities within their fire control district. Should a district school board fail to take corrective action within the time designated in the plan of action to correct the firesafety deficiency noted, the local fire official must immediately report the deficiency to the SFM, who has enforcement authority for such educational and ancillary plants and facilities in the same manner that is provided for other buildings in chapter 633, F.S. (Fire Prevention and Control Law).

The bill mandates that the SFM adopt and administer rules that prescribe the following safety and health standards for occupants of educational and ancillary plants:

- designation of serious life-safety hazards, (for example, sprinkler, electrical, and alarm systems)
- the proper placement of functional smoke and heat detectors and accessible, unexpired fire extinguishers; and
- the maintenance of fire doors without doorstops or wedges improperly holding them open.

Section 2. Amends s. 633.01, F.S., relating to State Fire Marshal duties, to require the SFM to adopt and administer rules prescribing safety and health standards for occupants of educational and ancillary facilities under s. 633.022, F.S. (relating to uniform firesafety standards), s. 235.06, F.S. (relating to safety and sanitation standards and inspection of property), and s. 235.26, F.S., (the state uniform building code for public educational facilities construction). For any county that does not employ or appoint a local fire official, the SFM must assume the official's annual firesafety inspection duties. The SFM is also responsible for taking needed corrective action.

Section 3. Amends s. 633.022, F.S., providing for uniform firesafety standards, which eliminates the requirement for the Department of Insurance to use firesafety standards adopted by the State Board of Education for public schools.

Section 4. The bill provides an effective date of July 1, 2002.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Insurance, the bill has the following fiscal impact based on the need for 6 FTE (Fire Protection Specialists) to carry out public school inspections for regions in the state with the greatest need.

	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>
RECURRING EXPENSES:			
Salaries and Benefits (6 FTE)	\$252,038	253,092	259,419
Expenses	59,490	59,490	59,490
TOTAL	311,528	312,582	318,909
NONRECURRING EXPENSES			
Expenses	18,366		
OCO	9,000		
Vehicles (4)	72,000		
TOTAL	99,366	0	0
GRAND TOTAL	\$410,894	\$312,582	\$318,909

Based on the present level of inspections by local authorities, the department assumes that some school districts will contract with local fire officials or with independent fire inspection agencies. The State Fire Marshal would not provide the inspections in these cases. The department also notes that local governments that currently inspect public schools will not realize any increased fiscal impact. The department further indicated that at least 31 counties will need assistance from the State Fire Marshal which will involve rulemaking, travel, and negotiations related to corrective action plans. The Department of Education notes that municipal fire inspectors will be responsible for the additional responsibility of developing a corrective action plan.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Other legislation (SB 1584, SB 1586) related to the revisions of the Florida School Code provides rulemaking for the State Board of Education rather than the Commissioner.

VIII. Amendments:

None.