

STORAGE NAME: h0553s1.lgva.doc

DATE: February 12, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS**

BILL #: CS/HB 553

RELATING TO: Fire Hydrants

SPONSOR(S): Committee on Local Government & Veterans Affairs; Representative Henriquez and others

TIED BILL(S):

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

- (1) STATE ADMINISTRATION (SGC) YEAS 4 NAYS 1
- (2) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 8 NAYS 0
- (3) FISCAL POLICY & RESOURCES (FRC)
- (4) COUNCIL FOR SMARTER GOVERNMENT
- (5)

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

This bill provides that a person or business, which owns a private fire hydrant, must contract with the local government fire control authority that serves the property where the fire hydrant is located for inspection and servicing of the fire hydrant or may contract with a qualified licensed contractor to perform the required inspections. This must be done on an annual basis. This bill further provides that a person who violates this provision is guilty of a non-criminal violation, punishable by a fine not to exceed \$100 for a first offense or \$250 for each subsequent offense.

Current law requires the State Fire Marshal to adopt the Florida Fire Prevention Code. That code contains provisions requiring any person or business which has a private fire hydrant to obtain an annual inspection, and provides for a fine of up to \$500 for failure to obtain such an inspection. Therefore, the bill simply has the effect of taking those provisions, which are currently in rule (per the adoption of the State Fire Prevention Code by the State Fire Marshal), and placing them in statute.

This bill does not appear to have a fiscal impact upon state or local governments.

II. 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"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Florida Fire Prevention Code was adopted by the State Fire Marshal and became effective on January 1, 2002. The base documents for this Code are two national codes developed by the National Fire Protection Association (NFPA).¹ Two provisions within the code are NFPA 24 (Installation of private fire service mains) and NFPA 25 (Inspection, testing and maintenance of water based fire protection systems).²

NFPA 24, sub-section 4-3.6 states:

To ensure proper functioning, wet barrel hydrants shall be tested at least annually, and dry barrel hydrants tested semi-annually in the early spring and fall, in accordance with the requirements of the authority having jurisdiction.

NFPA 25, sub-section 4-3.2 states:

Hydrants shall be tested annually to ensure proper functioning. Each hydrant shall be opened fully and water flowed until all foreign material has cleared. Flow shall be maintained for not less than one minute.

Failure to have the required testing done may result in the issuance of a citation or action before local code enforcement boards, and a fine of up to \$500.³

A spokesman for the Bureau of Fire Protection, under the State Fire Marshal, indicates that in each area or jurisdiction that has fire safety responsibilities, (i.e., a fire department, whether municipal, county, or volunteer) the authority for enforcement of fire safety standards is designated by the local government to the local fire chiefs of the municipal, county or special district fire departments. In areas that do not have fire safety responsibilities, the authority to enforce fire safety standards is with those persons designated by the local government.⁴ However, the State Fire Marshall has

¹ Section 633.0215, F.S., requires the adoption of the Florida Fire Prevention Code. NFPA 1 and NFPA 101 are the base documents for this code. Rules 4A-60.003 through 4A-60.005 adopt those documents, including NFPA 24 and 25.

² A 1-23-02 memo from Jim Goodloe (Bureau Chief, Bureau of Fire prevention, Division of State Fire Marshal, Department of Insurance) to Jose Diaz-Aguellas, Director of Policy Analysis and Intergovernmental Relations, Department of Insurance.

³ s. 633.052(2)(a), F.S.

⁴ A 1-23-02 memo from Jim Goodloe (Bureau Chief, Bureau of Fire prevention, Division of State Fire Marshal, Department of Insurance) to Jose Diaz-Aguellas, Director of Policy Analysis and Intergovernmental Relations, Department of Insurance.

indicated that 31 of Florida's 67 counties have a coverage "gap," in that some portion of the county does not have any person (or entity) designated as that area's fire control authority.⁵

C. EFFECT OF PROPOSED CHANGES:

This bill provides that a person or business, which owns a private fire hydrant, must contract with the local government fire control authority that serves the property where the fire hydrant is located for inspection and servicing of the fire hydrant or may contract with a qualified licensed contractor to perform the required inspections. This must be done on an annual basis. This bill further provides that a person who violates this provision is guilty of a non-criminal violation, punishable by a fine not to exceed \$100 for a first offense or \$250 for each subsequent offense.

D. SECTION-BY-SECTION ANALYSIS:

Section 1:

Subsection 1): Provides that a person or business who owns a private fire hydrant must ensure that the fire hydrant is installed in compliance with standards approved by the State Fire Marshal. Provides that the owner may contract with a qualified licensed contractor to perform required inspections. Provides that if the owner does not produce a valid maintenance contract that the owner must contract with the local government fire control authority.

Subsection 2): Provides that a person who violates this provision is guilty of a non-criminal violation, punishable by a fine not to exceed \$100 for a first offense or \$250 for each subsequent offense.

Section 2:

This act takes effect on July 1, 2002.

III. 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.

⁵ A 1-25-02 memo from Jim Goodloe (Bureau Chief, Bureau of Fire prevention, Division of State Fire Marshal, Department of Insurance) to staff of House Committee on State Administration.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill is silent as to whether a local government, or its designated fire control authority (the fire department) may charge for these inspections. Phone conversations with one fire department (Leon County) indicate that they would do these inspections at no charge, as part of their fire protection responsibilities. At any rate, since such inspections are already required under current law, and presumably most private fire hydrant owners are already complying and having the inspection done by the local fire control authority, it must be concluded that this bill does *not* have a significant fiscal impact on local government.

IV. 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.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The State Fire Marshall has indicated that 31 of Florida's 67 counties have a coverage "gap," in that some portion of the county does not have any person (or entity) designated as that area's fire control authority. To address this problem, an amendment could be drafted allowing a plumbing contractor licensed pursuant to ch. 489, F.S.; an underground utility and excavation contractor licensed under ch. 489, F.S.; or a fire protection contractor licensed under ch. 633, F.S., to perform the inspection.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 12, 2002, the Committee on Local Government & Veterans Affairs considered HB 553, adopted one strike-everything amendment, and passed the bill as a committee substitute. The committee substitute differs from the original filed House bill in that it incorporates a previous amendment that allows qualified licensed contractors to perform the required inspections on privately-held fire hydrants. It also includes some technical clarifications.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

Gip Arthur

Staff Director:

J. Marleen Ahearn, Ph.D., J.D.

AS REVISED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Kevin Doyle

Staff Director:

Joan Highsmith-Smith