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.)

Prepared By: Banking and Insurance Committee

BILL:	SB 1808
SPONSOR:	Senator Constantine
SUBJECT:	Privately Owned Fire Hydrants
DATE:	March 8, 2006 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Deffenbaugh	BI	**Favorable**
2.			CA	
3.				
4.				
5.				
6.				

I. Summary:

Senate Bill 1808 requires the owner of a private fire hydrant to ensure the hydrant is inspected, tested, and maintained in accordance with the Florida Fire Prevention Code. If an inspection reveals that a privately owned hydrant is not functioning properly, the results of the inspection must be immediately reported to the appropriate local authorities having jurisdiction. The owner of a private hydrant must ensure that any necessary repair or replacement of a hydrant is made within 30 days of the inspection and must maintain records of the repair or replacement. Failure to comply with these requirements constitutes a second degree misdemeanor, punishable by up to 60 days of imprisonment and a $500 fine.

This bill amends the following sections of the Florida Statutes: 633.065

II. Present Situation:

Florida Fire Prevention Code

The provisions of The Florida Fire Prevention Code (Code) were adopted by the State Fire Marshal and became effective on January 1, 2002, as mandated by 633.0215, F.S. The Code is deemed adopted by each municipality, county, and special district with fire safety responsibility in Florida and such entities are charged with enforcing its requirements, pursuant to s. 633.025, F.S. The base documents for the Code are two national codes developed by the National Fire Protection Association (NFPA). 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).

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, subsection 7.1 provides the testing and maintenance requirements for various types of fire hydrants. As a general rule, hydrants are to be inspected and tested annually. NFPA 25, sub-section 7.3.2 states that all fire hydrants shall be tested annually to ensure proper functioning. The hydrant must be opened fully and waterflowed for at least one minute until all foreign material has cleared. After operation, the hydrant must be observed for proper drainage from the barrel, which should take less than 60 minutes.

Enforcement of the Florida Fire Prevention Code
Section 633.052(2), F.S., states that a county or municipality which has created a code enforcement board or a special master system may enforce fire prevention code violations as provided in ch. 162, F.S. If no board or special master system exists, the county or municipality is authorized to enact ordinances relating to firesafety codes, which shall provide a maximum civil penalty not to exceed $500.

A spokesperson for the Bureau of Fire Protection, under the Division of Fire Marshal (Department of Financial Services), 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 (s. 633.121, F.S.). The representative of the Bureau states that local municipalities and other entities are fulfilling the firesafety code requirement of inspecting publicly owned fire hydrants, but statewide, there is inconsistent inspection and maintenance by the private owners of private fire hydrant and fire protection systems.

III. Effect of Proposed Changes:

Section 1. Creates subsection (3) of s. 633.065, F.S. The subsection requires that each fire hydrant be tested in accordance with National Fire Protection Standard 24, subsection 4-3.6, and inspected and maintained in compliance with National Fire Protection Association Standard 25. (See Present Situation for a summary of required testing procedures). The owner of a fire hydrant is responsible for performing the required testing, inspecting or maintenance of the hydrant.

If the inspection of a hydrant determines that a privately owned fire hydrant is nonfunctioning, the following must occur:

- The inspection results must be reported immediately to the local authorities having jurisdiction.
- The owner of the private fire hydrant must repair or replace the hydrant within 30 days of the inspection and maintain records of the repair or replacement.

The bill clarifies an ambiguity under the Code as to who is required to test, inspect and maintain a fire hydrant. Under the Code, the “property owner” is responsible. In situations where different parties own the hydrant and the land the hydrant is on, it is unclear whether this means the owner

of the hydrant or the owner of the real property. The bill clarifies that it is the owner of the hydrant that is responsible. In situations where ownership of the hydrant is in question, however, an ambiguity may still remain.

Penalties for noncompliance are in accordance with s. 633.171, F.S., which states that a violation is punishable as a second degree misdemeanor punishable by up to 60 days imprisonment and a $500 fine.

The provisions of the bill are deemed adopted by each municipality, county and special district that has fire safety responsibilities.

Section 2. The act is effective July 1, 2006.

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:

The owner of a private fire hydrant would be required to ensure the fire hydrant is installed, maintained and inspected properly. The fiscal impact is indeterminate since the private sector should already be ensuring that fire hydrants are functioning properly.

Privately-owned hydrants are typically located in private subdivisions (on private roads), large apartment complexes, and major commercial facilities (malls, large strip-shopping centers, health facilities, office complexes, etc.). However, a state-wide tally of such privately-owned fire hydrants is not maintained by any government entity. The State Fire Marshal's Office suggested that local water departments may maintain such information in their local water atlas for their respective jurisdictions. However, it is unlikely that this information could be compiled without reading the entire atlas and individually "counting" the hydrants.

With the assistance of the Florida Fire Chief's Association (FFCA) and the Underground Utility Contractors of Florida, Inc., staff conducted a 2005 survey of fire chiefs and underground utility contractors throughout the state to ascertain whether a "hydrant count" is available for each respective jurisdiction.

Forty-two of the approximately 600 fire chiefs responded to the FFCA's survey. They identified 59,651 publicly-owned (actual and estimated number), and 5,819 privately-owned (actual and estimated number) fire hydrants in their respective districts. The Underground Utility Contractors of Florida estimate that:

- the Tampa Bay region has over 10,000 privately-owned fire hydrants;
- Escambia County has between 500 and 1,000 privately-owned fire hydrants;
- Volusia County has an estimated 400 publicly-owned fire hydrants; and
- Altamonte Springs has an estimated 701 privately-owned fire hydrants.

As to the cost to inspect an individual hydrant, the State Fire Marshal's Office estimates it to be $50 to $75. However, a representative from the Underground Utility Contractors of Florida, Inc., estimates that annual inspections will cost $200 to $500 per hydrant. Some cities provide annual testing and maintenance of private hydrants for a nominal fee, with at least two cities providing this service at no cost. With the exception of one city, these estimates or actual costs do not include any costs associated with fixing defective hydrants.

C. Government Sector Impact:

As a consequence of this bill, local government fire control authorities may conduct more annual inspections and servicing of fire hydrants. Such services would be pursuant to contracts with owners of private fire hydrants.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.