

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Infrastructure and Security

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BILL: SB 1440

INTRODUCER: Senator Farmer

SUBJECT: Public Swimming Pools

DATE: March 25, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	<b>Favorable</b>
2.			CA	
3.			RC	

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**I. Summary:**

SB 476 requires, by December 1, 2019, or an earlier date set by the county health department, that each public swimming pool have available a telephone with specified capabilities, and placement, visibility, or signage requirements for all public swimming pools.

The bill takes effect upon becoming law.

The fiscal impact to state and local revenues and expenditures is indeterminate but likely insignificant and capable of being absorbed within existing resources. The fiscal impact to owners or operators of public swimming pools is indeterminate. See the Fiscal Impact Statement heading for details.

**II. Present Situation:**

**Regulation of Public Swimming Pools**

Section 514.011(2), F.S., defines “public swimming pool” or “public pool” to mean “a watertight structure of concrete, masonry, or other approved materials which is located either indoors or outdoors, used for bathing or swimming by humans, and filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment used in connection therewith. A public swimming pool or public pool shall mean a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee and includes, but is not limited to, pools operated by or serving camps, churches, cities, counties, day care centers, group home facilities for eight or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type projects of five or more living units, such as apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks, and townhouses.”

Section 514.021, F.S., authorizes the Department of Health (DOH) to adopt and enforce rules to protect the health, safety, or welfare of persons by setting sanitation and safety standards<sup>1</sup> for public swimming pools (and public bathing places), which standards are limited to matters relating to source of water supply; microbiological, chemical, and physical quality of the water in the pool; method of water purification, treatment, and disinfection; lifesaving apparatus; and measures to ensure safety of bathers. However, the DOH may not by rule regulate the design, alteration, modification, or repair of public swimming pools, which rule has no impact on sanitation and safety of persons using such pools; or regulate the construction, erection, or demolition of such pools. Those functions are preempted to the Florida Building Commission.<sup>2</sup>

### ***Assignment of Authority to County Health Departments***

Section 514.025, F.S., directs the DOH to assign to county health departments *that are staffed with qualified engineering personnel* the functions of reviewing applications and plans for the construction, development, or modification of public swimming pools; of conducting inspections, and of issuing all permits. The DOH is responsible for such functions if a county health department determines that qualified staff are not available. County health departments *are* responsible for routine surveillance of water quality in all public swimming pools, including routine inspections, complaint investigations, enforcement procedures, and operating permits.

### ***Operating Permits Required***

Section 514.031, F.S., requires any person or public body desiring to operate a public swimming pool to file an application for an operating permit with the DOH containing specified information. If the DOH determines the pool is or may reasonably be expected to be operated in compliance with applicable law, the DOH is directed to grant the permit. Each permit must be renewed annually, and the permit must be posted in a conspicuous place.

### ***Public Swimming Pool Safety Features***

Section 514.0315, F.S., requires a public swimming pool to be equipped with an anti-entrapment system or device that complies with American Society of Mechanical Engineers/American National Standards Institute standard A112.19.8, or any successor standard.<sup>3, 4</sup>

If a public swimming pool was built before January 1, 1993, with a single main drain other than an unblockable drain, must be equipped with at least one of the following features that complies with any American Society of Mechanical Engineers, American National Standards Institute, American Society for Testing and Materials, or other applicable consumer product safety

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<sup>1</sup> See the DOH Rule Chapter 64E-9, Florida Administration Code, available at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=64E-9> (last visited March 22, 2019).

<sup>2</sup> Section 514.021(2), F.S.

<sup>3</sup> “This standard establishes materials, testing, and marking requirements for suction fittings that are designed to be totally submerged for use in swimming pools, wading pools, spas, and hot tubs, as well as other aquatic facilities.” See ANSI Webstore, *ANSI/ASME A112.19.8-2007*, available at <https://webstore.ansi.org/standards/asme/ansiasmea112192007> (last viewed March 22, 2019).

<sup>4</sup> With limited exception, the federal government is not involved in regulating swimming pools. The 2007 Virginia Graeme Baker Act requires pools to be equipped with anti-entrapment devices to keep swimmers, especially small children, from being caught in pool and spa drains. See National Conference of State Legislatures Legisbrief, *Keeping Recreational Water Facilities Safe*, Vol 23., No. 24, June 2015, available at <http://www.ncsl.org/LinkClick.aspx?fileticket=f0vZuHlkTt8%3D&tabid=29483&portalid=1> (last viewed March 22, 2019).

standard for such system or device and protects against evisceration and body-and-limb suction entrapment:

- A safety vacuum release system that ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected and that has been tested by an independent third party and found to conform to American Society of Mechanical Engineers/American National Standards Institute standard A112.19.17,<sup>5</sup> American Society for Testing and Materials standard F2387, or any successor standard.
- A suction-limiting vent system with a tamper-resistant atmospheric opening.
- A gravity drainage system that uses a collector tank.
- An automatic pump shut-off system.
- A device or system that disables the drain.

The determination and selection of a feature for a public swimming pool constructed before January 1, 1993, is at the sole discretion of the owner or operator, but a licensed contractor must install the feature.

Florida law does not currently address availability of a telephone for users of public swimming pools in case of an emergency.

### III. Effect of Proposed Changes:

The bill amends s. 514.0315, F.S., by creating subsection (4), providing that by December 1, 2019, or an earlier date determined by the county health department, each public swimming pool must have available a telephone for all public swimming pool users in case of an emergency. The telephone must:

- Be capable of directly dialing 911 or a central monitoring station in compliance with North American safety standards which is either ETL or UL listed,<sup>6</sup>
- Include dialing instructions,
- Be permanently mounted inside the pool premises or outside the premises, within 75 feet of the pool entrance, and
- Be visible from within the pool premises or, if the telephone is not visible from within the pool premises, a sign must be posted inside the premises indicating its location.

Owners and operators of existing public swimming pools that currently have telephones may need to make modifications to their facilities to ensure compliance with the above requirements upon their first sanitation and safety inspection on or after December 1, 2019 (or earlier date set

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<sup>5</sup> This standard “Establishes general requirements, dimensions and tolerances, materials, installation instructions, testing requirements, and markings and identification for SVRS devices. SVRS devices are intended to be utilized on pool, spa, hot tub, and/or therapy unit suction systems. SVRS devices covered under this Standard are designed to relieve high vacuum occurrences that cause human body or body part suction entrapment.” See ANSI Webstore, *ASME A112.19.17-2010*, available at <https://webstore.ansi.org/Standards/ASME/ASMEA11219172010> (last viewed March 22, 2019).

<sup>6</sup> The ETL and the UL marks indicate that the product has been independently tested by a nationally recognized testing laboratory and that the product has met the minimum requirements of widely accepted North American product safety standards. See Expertise: Product Safety Testing, *ETL vs. UL: The Difference is Service*, available at <http://www.flexmasterusa.com/Portals/2/ULvsETL.PDF> and Intertek, *ETL Listed Mark*, available at <http://www.intertek.com/marks/etl/> (last viewed March 22, 2019).

by the county health department) for renewal of the existing operating permit. Owners and operators of existing public swimming pools that do not have compliant telephones for pool users' emergency use will need to provide telephones that comply with the above requirements upon their first sanitation and safety inspection on or after December 1, 2019 (or earlier date set by the county health department) and renewal of the existing operating permit.

Owners and operators of swimming pools to be constructed and opened to the public who apply for an operating permit will be required, in order to receive an operating permit effective on or after December 31, 2019, to have available a telephone for all public swimming pool users in case of an emergency, which telephone meets the above-described requirements.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that a public swimming pool owner or operator has a telephone (with the specified capabilities) for pool users' emergency use, but that telephone fails to comply with the other requirements of the bill, owners and operators are expected to incur insignificant expenses to make modifications that accomplish compliance, such as posting dialing instructions or installing a directional sign.

To the extent that such owners or operators are required to provide a telephone with the specified capabilities and meet the placement, visibility, and signage requirements, such

owners or operators would initially incur expenses associated with purchase or lease of the telephone and compliance with the placement, visibility, and signage requirements. Thereafter, such owners and operators would be responsible for monthly billing for telephone service, likely at a commercial rate. The exact amount of any such monthly expense is, however, indeterminate, as it dependent upon the service provider's monthly fee.

**C. Government Sector Impact:**

Upon application for or renewal of an operating permit, sanitation and safety inspectors will be required to inspect for the presence of the required telephone and determine compliance with the placement, visibility, and signage requirements. These inspections would be conducted either by DOH inspectors or by county health department inspectors to which the DOH inspection function has been assigned as discussed above. These efforts would presumably add very little in the way of time or effort for an inspector to perform an inspection that is otherwise required for an operating permit. Increased inspection costs, if any, are indeterminate but likely insignificant and capable of being absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 514.0315.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.