

# 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.)

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Prepared By: Community Affairs Committee

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BILL: CS/SB 748

SPONSOR: Community Affairs Committee, Senators Miller and Constantine

SUBJECT: Privately-Owned Fire Hydrants

DATE: March 28, 2005

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/1 amendment</u>
2.	<u>Vickers</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This committee substitute (CS) requires persons owning a private fire hydrant to ensure the hydrant is tested and maintained in accordance with the Florida Fire Prevention Code. If an inspection determines that a privately owned hydrant is not functioning, the results of that inspection must be reported immediately to the local authorities having jurisdiction. The owner of a private hydrant must ensure any repair or replacement of a hydrant is made within 30 days of the inspection and must maintain records of the repair or replacement. The CS provides that a violation of this provision constitutes a second degree misdemeanor, punishable by a fine of up to \$500.

This CS creates an unspecified section of Florida Law.

## II. Present Situation:

The provisions of the Florida Fire Prevention Code (Code) were adopted by the State Fire Marshal and became effective on January 1, 2002, pursuant to s. 633.025, 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. 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.

Section 633.052, 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 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 (s. 633.121, F.S.). A representative from the Florida Fire Marshals Office states that while local municipalities and water systems are fulfilling the firesafety code requirement of inspecting publicly owned fire hydrants, 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** of the CS requires each fire hydrant to 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, the edition currently adopted by the State Fire Marshal. These are the current requirements in Florida under the Florida Fire Prevention Code (Code).

The CS clarifies that the owner of a hydrant is responsible for its testing, inspection, and maintenance. Under the Code, the “property owner” is responsible for the testing, inspection and maintenance of the fire hydrant. In situations where different parties own the hydrant and the land the hydrant is located on, it is unclear whether this means the owner of the hydrant or the owner of the real property that the hydrant is on. This provision clarifies that it is the owner of the hydrant that is responsible.

If an inspection determines that a privately owned hydrant is not functioning, the results of that inspection must be reported immediately to the local authorities having jurisdiction. The CS also requires that the owner of a private hydrant must ensure 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.

The requirements of the CS are to be deemed adopted by each municipality, county, and special district that has fire safety responsibilities. This is done in accordance with s. 633.025(1), F.S., which requires that the provisions of the Florida Fire Prevention Code are deemed adopted by the various local authorities with fire safety responsibilities.

Penalties for noncompliance with the provisions of the CS are to be in accordance with s. 633.171, F.S., which specifies the penalties for violations of the Florida Fire Prevention Code or orders rendered requiring compliance with the Code or to cease and desist.

**Section 2** provides the CS will take effect July 1, 2005.

#### **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:

Persons owning 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 complying with many provisions of this CS.

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.). Unfortunately, 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 surveyed 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. 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:

The fiscal impact of the CS on local governments will likely be minimal.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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