

HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

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| BILL #: | CS/CS/CS/HB 883 | FINAL HOUSE FLOOR ACTION: | |
| SPONSOR(S): | Regulatory Affairs Committee; Government Operations Appropriations Subcommittee; Insurance & Banking Subcommittee; Boyd (CS/CS/SB 1410) | 117 Y's | 0 N's |
| COMPANION BILLS: | | GOVERNOR'S ACTION: | Pending |

SUMMARY ANALYSIS

CS/CS/CS/HB 883 passed the House on May 3, 2013, as CS/CS/SB 1410. The Senate had previously passed the bill on May 2, 2013.

The bill reorganizes and modernizes chapter 633, F.S., governing the Division of State Fire Marshal (SFM) within the Department of Financial Services. In addition to deleting numerous provisions that are outdated or redundant, the bill makes several substantive policy changes. Most significant among these are more stringent requirements regarding criminal histories for firefighter certification. The bill effectively bars applicants with a prior felony conviction, a misdemeanor relating to perjury or false statements, or a dishonorable discharge, from ever gaining certification as a firefighter. These standards are enforced through expanded reporting requirements and enhanced tracking of felony convictions.

The bill also extends the certification period for firefighters and fire safety inspectors from three to four years, and it gives firefighters new options for retaining their certifications. The bill grants SFM authority to establish new certificates for specialized firefighting instruction, and it allows the agency to contract with third parties to administer examinations.

Among numerous other provisions, the bill:

- expands the authorization of independent special fire control districts to levy non-ad valorem assessments to provide emergency medical services and emergency transport services;
- enhances statutes criminalizing impersonation of firefighters and tampering with fire protection systems;
- amends protocols addressing firefighter workplaces with a high frequency of employee injuries;
- mandates that state-owned or leased buildings utilize the U.S. National Grid Coordinate System;
- reduces fees for downgrading fire equipment dealer's license to a lesser category; and
- creates a system for out-of-state fire equipment dealers to obtain independent inspections.

The bill will have an insignificant fiscal impact on state government expenditures.

Subject to the Governor's veto powers, the bill has an effective date of July 1, 2013.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background on Division of State Fire Marshal

Florida's Division of State Fire Marshal (SFM), located within the Department of Financial Services (DFS), is a state agency whose primary responsibility is to minimize the loss of life and property due to fire and to protect the public from threats of fire, arson, and other natural or man-made disasters and hazards. SFM is organized into four bureaus:

- The Bureau of Fire and Arson Investigations is the law enforcement branch of the division, which conducts fire, arson, and explosives investigations as well as investigating other associated crimes, such as insurance fraud and homicide.
- The Bureau of Fire Prevention inspects state-owned and state-leased buildings and develops the statewide Florida Fire Prevention Code. The bureau also evaluates new building and renovation construction plans to determine compliance with fire safety codes and licenses fire protection contractors, fireworks manufacturers and distributors, explosive storage locations, and construction mining sites. In addition, the bureau assists local governments in providing fire prevention services, and inspects boiler systems to determine compliance with state codes.
- The Bureau of Fire Standards and Training provides state certification and training for both paid and volunteer firefighters. The bureau operates the Florida State Fire College, regulates certified fire training centers, and develops curricula for the state fire college, training centers, and colleges that provide courses accepted for certification.
- The Bureau of Forensic Fire and Explosives Analysis provides forensic laboratory services. The laboratory supports fire, explosion, and arson investigations by providing forensic analysis of fire and explosives debris as well as forensic video analysis, photographic and digital imaging evidence.

Regulatory review and proposed reorganization of Chapter 633, F.S.

Upon taking office, Florida's Chief Financial Officer ordered each division within DFS to undergo a regulatory review. Upon a thorough examination of the statutes currently governing SFM and its regulatory authority, DFS determined that numerous provisions are redundant, obsolete, difficult for DFS to administer, or complicated for DFS or the public to interpret.

As a result of this effort and discussions with stakeholders, DFS developed this proposal to effect a comprehensive rewrite and reorganization of Chapter 633, F.S., entitled Fire Prevention and Control. The bill is intended to provide clarity for SFM as well as firefighters, fire service providers, fire equipment dealers, and contractors. However, as well as deleting numerous provisions that are outdated or redundant, the bill also makes several substantive policy changes:

- **Expands the authority of independent special fire control districts to levy non-ad valorem assessments to provide emergency medical and transport services.** The bill amends ss. 191.009 and 191.011, F.S., to expand the authority of independent special fire control districts to levy non-ad valorem assessments to provide emergency medical services and emergency transport services.

Currently, independent special fire control districts may levy non-ad valorem assessments to "construct, operate, and maintain district facilities and services." The assessments may only be levied on property that benefits from such services, and the rate of the assessments must be based on the specific benefit accruing to such benefitted property.

The bill expands the ability of independent special fire control districts to levy non-ad valorem assessments for emergency medical services and emergency transport services, and it expressly articulates a legislative determination that emergency medical services and emergency transport

services constitute a benefit to real property. The bill removes the requirement that the rate of the assessments be based on the specific benefit accruing to such property. However, the bill stipulates that if an independent special fire control district chooses to levy a non-ad valorem assessment for any of the abovementioned services, that district must cease charging an ad valorem tax for that particular service.

The bill does not impose any new non-ad valorem assessment on residents living in an independent special fire control district. Rather, the bill authorizes fire control districts to seek authorization of a special assessment for services in addition to those for which a special assessment is authorized by law. Section 191.009(2), F.S., requires that an independent special fire control district board receive elector approval via referendum before it levies any new non-ad valorem assessment within its district.

- **Creates more stringent requirements regarding criminal histories for firefighter certification.** The bill effectively bars applicants with a prior felony conviction, a misdemeanor relating to perjury or false statements, or a dishonorable discharge, from ever gaining certification as a firefighter. This is a change from current policy, which allows felony convicts to become certified after four years following the expiration of his or her felony sentence. The new language reflects the same standards DFS applies for other licensees such as insurance agents, adjusters, and bail bondsmen. These standards will be enforced through expanded reporting requirements and better tracking of felony convictions.
- **Expands reporting requirements.** To ensure that new standards barring criminal backgrounds are enforced, the bill expands reporting requirements to require that licensees must notify SFM in writing of any felony conviction or plea of guilty or nolo contendere. The bill also requires fire service providers to notify SFM of important status changes and to exercise due diligence to determine the validity of an applicant's certification application. The bill also requires licensees to notify SFM of any change of address. DFS states that these changes will improve the accuracy of SFM's database, which is impaired by current statutes that encourage but do not require important notifications regarding firefighter status changes to be reported to SFM.
- **Requires fire service personnel with suspected criminal histories to submit digital fingerprints.** DFS will compare records of convictions from the Comprehensive Case Information System of the Florida Association of Court Clerks and Comptrollers¹ against DFS's licensing database.² If the agency becomes aware of any matches, SFM will open a case to investigate the licensee. The bill provides new authority allowing the agency to require submission of fingerprints from licensees whom the agency suspects, after investigation, of being convicted of a felony.³ DFS believes this approach will allow the agency to remove bad actors without unduly burdening fire safety personnel.
- **Extends certification period for firefighters and fire safety inspectors to four years.** Consistent with many other state certifications, the bill standardizes the certification period for firefighters and fire safety inspectors as four years, up from the current three years. The bill also gives fire safety instructors four years, instead of three, to complete an increased number of required continuing education hours.
- **Gives firefighters more options for retaining certifications.** The bill allows firefighters to retain certifications by:
 - being active as a firefighter for six months in the previous four year period;

¹ Organized under s. 28.2405, F.S.

² Pursuant to s. 893.11, F.S., clerks of court are required to provide convictions database access to state agencies at no cost and also to provide agencies with certified copies of judgments upon request.

³ DFS has similar authority to fingerprint insurance licensees with suspected felony convictions under s. 626.601(5), F.S.

- maintaining a current valid fire safety instructor certificate and instructing at least 40 hours during the prior four years;
 - successfully completing a 40-hour refresher course; OR
 - retaking and passing the practical portion of the minimum standards exam within the six months before the four year certification period expires.
- **Creates new training options for fire safety personnel and allows for exams to be administered by contracting third parties.** The bill grants SFM rulemaking authority to establish additional certificates for specialized firefighting instruction such as hazardous materials and urban search and rescue. The bill also allows SFM the ability to contract with independent third parties to administer examinations, and it allows for direct payments from applicants to third party contractors conducting the exam.

The bill further provides for an electronic database to register training providers, and it requires providers to be registered to teach and have class curricula approved prior to their delivery. Such preapproval of providers and curricula ensures that students who register and attend such classes will receive credit from SFM.

- **Expands statutes criminalizing impersonation of firefighters and tampering with fire protection systems.** The bill strengthens the felony impersonation statute to cover impersonation of a volunteer firefighter and to mirror the language of statutes criminalizing impersonation of law enforcement officers. In addition, the bill expands the crime of rendering a fire extinguisher inoperable to cover disabling of fire protection systems.
- **Reduces fee for downgrading fire equipment dealer's license to a lesser category.** The bill consolidates all fees assessed by SFM into the same section, and it creates a new, reduced fee of \$10 for fire equipment dealers seeking to downgrade their license to a lesser category. Currently, such dealers must pay \$10 to upgrade their license to a higher category, but if they wish to downgrade they must pay a higher fee of \$150 to \$250 depending on the license sought.
- **Amends protocols addressing firefighter workplaces with a high frequency of employee injuries.** The bill allows fire safety providers to collaborate with SFM on adopting a corrective action program. Current statute requires SFM to develop the corrective action plan on its own. The agency believes such plans are better implemented when the affected fire safety provider participates in drafting the corrective action program. The bill further authorizes SFM to seek new administrative remedies, including cease and desist orders and administrative fines, against dangerous workplaces that fail to comply with their corrective action programs.
- **Mandates that state-owned or state-leased buildings be identified through the use of the U.S. National Grid Coordinate System.** The bill furthers an ongoing effort by SFM, as the coordinating agency for search and rescue under the State Comprehensive Emergency Management Plan, to adopt the U.S. National Grid in partnership with the Division of Emergency Management as the standard in Florida maps for both emergency and other operations.
- **Creates system for out-of-state fire equipment dealers to obtain independent inspections.** Current law requires SFM to inspect any fire equipment dealer that does business in Florida, and SFM now sends inspectors to dealers located outside the state, incurring significant travel costs in excess of the fee assessed by SFM for the inspection. The bill allows such dealers to obtain an independent inspection from a licensed inspector, or alternatively to pay all travel costs incurred by SFM for inspecting the facility.
- **Increases membership of the Firefighters Employment, Standards, and Training Advisory Council (FESTAC).** FESTAC is a statutory advisory council that recommends uniform standards governing the employment, health, safety, training, and educational aspects of Florida's fire and emergency services. The bill adds an additional member to be nominated by the Florida Forest

Service. The bill also clarifies language and codifies current practice relating to the council's organization, duties, travel, and expenses.

- **Mandates that the Florida Fire Code Advisory Council (FCAC) meet at least semiannually.** The bill codifies current practice, providing that FCAC may review proposed changes to the Florida Fire Prevention Code and uniform fire safety standards.
- **Amends the process for providing informal interpretations of the Florida Fire Prevention Code.** The SFM provides both formal and informal interpretations of the Florida Fire Prevention Code in response to requests for interpretations. The bill gives SFM five additional days to fulfill requests for informal interpretations. The bill further provides for requests for declaratory statements regarding the validity of interpretations to be answered with "yes" or "no" responses in order to expedite the interpretation process.

Administrative provisions of the bill

The bill also contains several elements that are more administrative than substantive in nature and are intended to make SFM's governing statutes easier to administer and interpret. These provisions include:

- Adopting delivery by e-mail to licensees as adequate notification, allowing SFM to save costs relating to postage, paper, and printing.
- Eliminating the need for annual rulemakings regulating line of duty death benefits for firefighters.
- Removing references to the Florida Life Safety Code, as the Life Safety Code is considered a part of the Florida Fire Prevention Code.
- Consolidating sections regarding SFM's investigative powers and clarifying that such powers extend to investigations of explosions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will have an insignificant fiscal impact on state government revenues. The DFS indicates that there may be a loss of \$300 in revenue to the Insurance Regulatory Trust Fund (IRTF) based on the new option to downgrade Fire Equipment Dealer Licenses. Only two Fire Equipment Dealers that would qualify as a downgrade in license have been recorded since December of 2011.

2. Expenditures:

The bill will allow for the SFM to adopt delivery by e-mail as adequate notification to licensees for any official communication by the division. This will reduce the expenditures related to postage and printing currently used by the department to notify licensees and produce an estimated annual savings of \$26,000.

The bill also eliminates the SFM's travel expenditures associated with inspections of out-of-state fire equipment dealers. Current law requires the SFM to send inspectors to dealers located outside the state, incurring significant travel expenditures in excess of the fee assessed by the SFM for the inspection. The bill eliminates these expenditures by allowing such dealers to obtain an independent inspection from a licensed inspector, or alternatively, to pay all travel expenditures incurred by the SFM for inspecting the facility.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.