

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 725 Permit Fees

**SPONSOR(S):** Local, Federal & Veterans Affairs Subcommittee; Williamson

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1144

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 1 N, As CS	Renner	Miller
2) Careers & Competition Subcommittee			
3) Government Accountability Committee			

### SUMMARY ANALYSIS

Part IV of ch. 553, F.S., is known as the "Florida Building Codes Act (Act)." The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public's health, safety, and welfare. Under current law, each county has the authority to enforce the Florida Building Code, issue building permits, and post each type of building permit application on its website.

The bill requires the governing body of a county and a municipality to post its building permit and inspection fee schedules on its website. The bill also requires that before making any adjustment to a fee schedule, a governing body of a local government must publish a building permit and inspection utilization report and post it on its website. The report must be updated annually on the website and be easily accessible to the public.

The bill has an indeterminate fiscal impact on local governments.

The bill provides an effective date of July 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Florida Building Codes Act

Part IV of ch. 553, F.S., is known as the “Florida Building Codes Act (Act).” The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public’s health, safety, and welfare.<sup>1</sup>

##### Fire Prevention Code

The State Fire Marshall must adopt, by rule, the Florida Fire Prevention Code (FFPC), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such fire safety laws and rules. A new edition is adopted every three years.<sup>2</sup>

##### Enforcement of the Florida Building Code

The board of county commissioners of each county is authorized to enforce the Building Code and the Fire Code and to issue building permits.<sup>3</sup> It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the appropriate board of county commissioners, or from such persons as may by resolution be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the board.<sup>4</sup>

The board of county commissioners of each county and the governing body of a municipality are authorized to provide a schedule of reasonable inspection fees<sup>5</sup> in order to defer the costs of inspection and enforcement of the Building Code and Fire Code.<sup>6</sup> A county that issues building permits must post each type of building permit application on its website. Completed applications must be submitted electronically to the county or local enforcement agency building department, which must provide accepted methods of electronic submission. However, payments, attachments, or drawings required as part of the permit application may be submitted in person in a nonelectronic format, at the discretion of the building official.<sup>7</sup>

##### Local Government Fees

It is unlawful for any person, firm, corporation, or governmental entity to construct, erect, alter, modify, repair, or demolish any building without first obtaining a permit from the appropriate enforcing agency

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<sup>1</sup> Section 553.72(1), F.S.

<sup>2</sup> Section 633.202(1), F.S.

<sup>3</sup> Sections 125.56(1) and 125.01(1)(bb), F.S.

<sup>4</sup> Section 125.56(4)(a), F.S.

<sup>5</sup> See, e.g., Broward County website on *Impact and Concurrency Fees*, available at

<http://www.broward.org/Planning/Development/FAQs/Pages/Impact-and-Concurrency-Fees.aspx> (accessed 12/27/2017).

<sup>6</sup> Sections 125.56(2) and 166.222, F.S.

<sup>7</sup> Section 125.56(4)(b), F.S.

or from such persons delegated the authority to issue permits, upon the payment of reasonable fees adopted by the enforcing agency.<sup>8</sup>

Except for construction regarding correctional and mental health facilities, elevators, storage facilities, educational institutions, and toll collection facilities, each local government and each legally constituted enforcement district with statutory authority must regulate building construction.<sup>9</sup> Local governments are authorized to provide a schedule of consistent reasonable fees to be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code.<sup>10</sup> The basis for the fee structure must relate to the level of service provided by the local government.<sup>11</sup> Fees charged must be consistently applied.<sup>12</sup>

Local enforcement agencies, independent special districts,<sup>13</sup> or dependent special districts<sup>14</sup> may not require additional fees, charges, or expenses for:

- Providing proof of licensure pursuant to ch. 489, F.S.;
- Recording or filing a license issued; and
- Providing, recording, or filing evidence of workers' compensation insurance coverage required by ch. 440, F.S.<sup>15</sup>

A "local enforcement agency" means the agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for the design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.<sup>16</sup>

### Effect of Proposed Changes

The bill requires the governing body of a county and a municipality to post its permit and inspection fee schedules on its website with a link to the building permit and inspection utilization report.

The bill also provides that before making any adjustment to a fee schedule, the governing body of a local government is required to publish a building permit and inspection utilization report and post it on the local government's website. The report must be updated annually on the website and easily accessible to the public. The report must include the following:

- Direct and indirect costs incurred by the local government to implement the Florida Building Code, including costs related to the review of:
  - Building plans;

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<sup>8</sup> Section 553.79(1), F.S.

<sup>9</sup> Section 553.80(1), F.S.

<sup>10</sup> The phrase "enforcing the Building Code" includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; and fire inspections associated with new construction. *See* s. 553.80(7)(a), F.S.

<sup>11</sup> Section 553.80(7), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Section 189.012(3), F.S., defines an "independent special district" as having a governing board comprised of members which are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality. Additionally, a district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

<sup>14</sup> A dependent special district has a governing board comprised of members which are identical in membership to, or all appointed by, or any removable at will by, the governing body of a single county or municipality, or the district budget may be affirmed or vetoed by the governing body of a single county or municipality. *See* s. 189.012(2), F.S. A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. *See 2017-2018 Local Gov't Formation Manual* at pg. 64, available at <http://www.myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911>

<sup>15</sup> Section 553.80(7)(d), F.S.

<sup>16</sup> Section 553.71(5), F.S.

- Building inspections;
- Building re-inspections;
- Building permit processing;
- Building code enforcement; and
- Building fire inspections.
- Number of building permits requested;
- Number of building permits issued;
- Number of building inspections and re-inspections conducted;
- Number of personnel employed by the local government to implement the Florida Building Code, issued by building permits, and conduct inspections;
- Salary related employee benefit costs incurred by the local government to implement the Florida Building Code, issue building permits, and conduct inspections;
- Revenue derived from fees pursuant to this section;
- Revenue derived from fines pursuant to this section;
- Investment earnings derived from the local government's investment of revenue derived from fees and fines pursuant to this section;
- Balances carried forward by the local government pursuant to this section; and
- Balances refunded by the local government pursuant to this section.

**B. SECTION DIRECTORY:**

- Section 1 Amends s. 125.56, F.S., requiring the governing body of a county to post its permit and inspection fee schedules and a link to an annual building permit and inspection report on its website.
- Section 2 Amends s. 166.222, F.S., requiring the governing body of a municipality to post its permit and inspection fee schedules and a link to an annual building permit and inspection report on its website.
- Section 3 Amends s. 553.80, F.S., requiring a governing body of a local government to publish a report and post it on the local government's website; providing reporting requirements.
- Section 4 Provides an effective date of July 1, 2018.

**II. 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.

2. Expenditures:

Indeterminate. Some local governments may require an initial expenditure of funds to revise the local government's existing website to include the ability to post permit and inspection fee

schedules as well as a report on the local government's website. This may be an issue for a local government with minimal website capability.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Requiring a local government to post its permit and inspection fee schedules as well as a building permit and inspection utilization report on its website will help applicants for building permits assess the associated costs of the permit.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18 of the Florida Constitution may apply because this bill requires local governments to revise their websites and post their permit and inspection fee schedules with a link to the building permit and inspection utilization report on their websites. This may result in additional expenditures to comply with the statute. However, an exemption may apply because the fiscal impact is likely to be insignificant since local governments are already authorized to post each type of building permit application on their websites.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Sections 1 and 2 of the bill requires each local government to include on its website a link to the building permit and inspection utilization report required under s. 553.80(7), F.S. However, section 3 of the bill requires publication of such a report before the local government makes any adjustment to a fee schedule. The bill is not clear as to whether a local government is required to prepare such a report, and update it annually, if the local government makes no adjustments to a fee schedule.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 10, 2018, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment adds the permit and inspection fee schedule requirements in s. 125.56, F.S., which applies to a board of commissioners of a county only, to municipalities with authority under s. 166.222, F.S., to avoid confusion as to the applicability of the new requirements to non-county local governments.

This analysis is drafted to the committee substitute as approved by the Local, Federal & Veterans Subcommittee.