

STORAGE NAME: h1723a.brc

DATE: March 29, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
BUSINESS REGULATION AND CONSUMER AFFAIRS
ANALYSIS**

BILL #: HB 1723

RELATING TO: The Florida Building Code (Glitch Bill)

SPONSOR(S): Representative Constantine

COMPANION BILL(S): SB 1148 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1)	COMMUNITY AFFAIRS	YEAS 7	NAYS 0
(2)	BUSINESS REGULATION AND CONSUMER AFFAIRS	YEAS 10	NAYS 0
(3)	GENERAL GOVERNMENT APPROPRIATIONS		
(4)			
(5)			

I. SUMMARY:

A strike-everything amendment by the Committee on Community Affairs is traveling with the bill. It: adds community college, state university and educational boards as entities which may contract for inspections; makes numerous reference changes inserting the State Fire Marshal in lieu of the Department of Insurance; and directs the Florida Building Commission to conduct research regarding private sector assistance with the plans review and inspection functions of local government building departments.

The bill and amendments clarify and update the 1998 action by the legislature which reconstituted the Florida Board of Building Codes and Standards as the Florida Building Commission and authorized the Commission to adopt a State of Florida Unified Building Code. The bill:

- Clarifies the qualifications to take the examinations for inspectors, plans examiner and building code administrators.
- Prohibits persons who participate in the passage of a local building code amendment from sitting on the county wide compliance review board.
- Specifies that the Department of Business and Professional Regulation may conduct disciplinary investigations of, and take disciplinary action against, all construction-related disciplines that are regulated by a professional licensing board.
- Clarifies that the Florida Building Commission will adopt the Florida Building Code by rule [unless the proposed rule has been challenged] and submit it to the Legislature before the 2000 regular legislative session.
- Provides that the Florida Building Commission will provide technical assistance and issue advisory opinions concerning both the technical and administrative provisions of the Florida Building Code upon the written request of a private party or local enforcement agency.
- Clarifies various product evaluation entities that will be recognized by the Florida Building Commission.
- Provides for the usage of electrically operated smoke detectors.
- Makes numerous technical and cross-reference changes to conform the statutes.

The bill has no significant fiscal effect on state or local governments, or on the private sector.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Governor's Building Codes Study Commission

On July 31, 1996, the Governor issued an Executive Order establishing the Governor's Building Codes Study Commission (BCSC). The Commission was charged to "evaluate the current effectiveness of, and through general consensus among the Commission members, recommend any necessary steps to reform the Florida building code system." One of the Commission's changes was to "look at the overall inventory of building codes and standards controlling the quality of Florida's build environment, the administration of these codes and standards, and issues relating to code compliance."

The Commission issued a report and reported their findings to the Governor in December, 1997.

The Florida Building Commission and the Florida Building Code

Chapter 98-287, Laws of Florida, authorizes the adoption and subsequent updates of a statewide, unified building code to be called the Florida Building Code. In addition, the law re-constitutes the Board of Building Codes and Standards as the Florida Building Commission.

Upon initial adoption, the Florida Building Code is deemed adopted by all local jurisdictions. Local governments may adopt more stringent requirements to the code subject to some restrictions. Beginning in 2001, local governments shall assume expanded responsibilities for permitting, plans review and inspection of facilities that are currently reviewed by state agencies.

A statewide product evaluation system shall be developed and administered by the Florida Building Commission. Furthermore, a building code training program shall be developed relating to the Florida Building Code. This program will become part of current continuing education requirements for occupations related to construction and construction regulation.

Disciplinary consequences related to material code violations for state-certified and registered contractors were developed. In addition, the Department of Business and Professional Regulation is required to implement an automated information system which tracks disciplinary actions taken against construction-related occupations on a state-wide basis.

Continuing education requirements for registered engineers and registered landscape architects were created.

The act conforms the powers of the Department of Insurance and the Office of the State Fire Marshal with the re-constituted powers of the Florida Building Commission. Similar processes for code adoption, update and promulgation of the Florida Building Code, Florida Fire Prevention Code, Life Safety Code are provided.

The act repeals some of the current statutes applicable to building codes effective January 1, 2001. The effective date of repeal of the relevant sections of chapter 553, Florida Statutes, is subject to legislative approval of the state-wide unified building code as developed by the Florida Building Commission.

B. EFFECT OF PROPOSED CHANGES:

The bill clarifies and updates the 1998 action by the legislature which reconstituted the Florida Board of Building Codes and Standards as the Florida Building Commission and authorized the Commission to adopt a State of Florida Unified Building Code. The bill:

- Clarifies the qualifications to take the examinations for inspectors, plans examiner and building code administrators.
- Prohibits persons who participate in the passage of a local building code amendment from sitting on the county wide compliance review board.

- Specifies that the Department of Business and Professional Regulation may conduct disciplinary investigations of, and take disciplinary action against, all construction-related disciplines that are regulated by a professional licensing board.
- Clarifies that the Florida Building Commission will adopt the Florida Building Code by rule [unless the proposed rule has been challenged] and submit it to the Legislature before the 2000 regular legislative session.
- Provides that the Florida Building Commission will provide technical assistance and issue advisory opinions concerning both the technical and administrative provisions of the Florida Building Code upon the written request of a private party or local enforcement agency.
- Clarifies various product evaluation entities that will be recognized by the Florida Building Commission.
- Provides for the usage of electrically operated smoke detectors.
- Makes numerous technical changes and reference changes to conform the statutes.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 161.56, 468.607, 468.609, 489.115, 497.255, 553.06, 553.73, 553.74, 553.141, 553.503, 553.506, 553.512, 553.73, 553.77, 553.781, 553.80, 553.842, 633.025, Florida Statutes, 1998 Supplement, and sections 62 and 68 of chapter 98-287, Laws of Florida.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends section 161.56(1), Florida Statutes, 1998 Supplement, to make a technical change.

Section 2: Effective January 1, 2001, amends section 161.56(1), Florida Statutes, 1998 Supplement, to make a technical amendment.

Section 3: Amends section 468.607, Florida Statutes, to provide inspectors and plans examiners conducting activities authorized under this section shall be deemed certified to continue inspections for the local government until their Uniform Building Code Inspector certification expires, after which time they must possess the proper valid certificate, pursuant to law.

Section 4: Amends section 468.609(2) and (3), Florida Statutes, 1998 Supplement, to make a clarification relating to the Building Code Training Program, as one of the requirements to take the exam as inspector or plans examiner.

Section 5: Amends section 489.115, Florida Statutes, 1998 Supplement, to change references from the Florida Board of Building Codes and Standards to the Florida Building Commission.

Section 6: Amends section 497.255, Florida Statutes, 1998 Supplement, to change references from the Florida Board of Building Codes and Standards to the Florida Building Commission.

Section 7: Amends section 553.06(1), Florida Statutes, 1998 Supplement, to change a reference from the Florida Board of Building Codes and Standards to the Florida Building Commission.

- Section 8: Amends section 62 of chapter 98-287, Laws of Florida, to provide that the Florida Building Commission will adopt the Florida Building Code, by rule, and submit it to the Legislature before the 2000 regular legislative session, unless the proposed rule has been challenged, to provide, effective January 1, 2001, or upon the resolution of an administrative challenge to the rule adopting the Florida Building Code, all existing local technical amendments to any building code adopted by local governments are repealed.
- Section 9: Effective January 1, 2001, amends section 553.73(4) and (5), Florida Statutes, 1998 Supplement, to change a reference from the Florida Board of Building Codes and Standards to the Florida Building Commission; prohibits persons who participate in the passage of a local building code amendment from sitting on the county wide compliance review board; to provide for rewording; to provide, that no change by an institute or standards organization to any standard or criterion adopted by reference in the Florida Building Code shall become effective statewide until adopted by the commission and the edition of the Florida Building Code in effect on the date of application of any permit authorized by the code shall govern the permitted work for the life of the permit and any extension granted to such permit.
- Section 10: Amends section 553.74(3) and (4), Florida Statutes, 1998 Supplement, to change references from the Florida Board of Building Codes and Standards to the Florida Building Commission.
- Section 11: Effective January 1, 2001, amends section 553.77 (1)(d), (e) and (i), Florida Statutes, 1998 Supplement, as amended by section 46 of chapter 98-287, Laws of Florida, to add state agency as a party which may request a declaratory statement by the Florida Building Commission; to make a technical change.
- Adds paragraph (p) to said subsection to provide that the Florida Building Commission will provide technical assistance and issue advisory opinions concerning both the technical and administrative provisions of the Florida Building Code upon the written request of a private party or local enforcement agency.
- Section 12: Amends section 553.77(2), Florida Statutes, 1998 Supplement, to add state agency as a party which may apply for product evaluation;
- Adds paragraph (d) to said subsection to provide that the Florida Building Commission provide technical assistance and issue advisory opinions concerning both the technical and administrative provisions of the Florida Building Code upon the written request of a private party a state agency or local enforcement agency.
- Section 13: Amends section 553.141(4), Florida Statutes, to change references from the Florida Board of Building Codes and Standards to the Florida Building Commission.
- Section 14: Amends section 553.503, Florida Statutes, to change references from the Florida Board of Building Codes and Standards to the Florida Building Commission.
- Section 15: Amends section 553.506, Florida Statutes, to change references from the Florida Board of Building Codes and Standards to the Florida Building Commission.
- Section 16: Amends section 553.512, Florida Statutes, to change references from the Florida Board of Building Codes and Standards to the Florida Building Commission.
- Section 17: Amends section 553.781(2)(b) , Florida Statutes, 1998 Supplement, to specify that the Department of Business and Professional Regulation conduct disciplinary investigations and take disciplinary actions, concerning delegation of responsibility to other units of government.
- Section 18: Effective January 1, 2001, amends section 553.80(1), Florida Statutes, 1998 Supplement, as amended by section 51 of chapter 98-287, Laws of Florida to delete language.

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Section 19: Amends section 553.842(3),(5), and (12) Florida Statutes, 1998 Supplement, to clarify a requirement for submittal of a report for product evaluation indicating compliance with the Florida Building Code; to replace the words submittal and validation with issuance; to provide products reported to comply with the requirements of the Standard Building Code (1997 Edition) or the South Florida Building Code (Broward and Dade Edition) are approved; adds approved entities.

Section 20: Effective January 1, 2001, amends section 633.025(8) and (9), Florida Statutes, 1998 Supplement, as amended by section 59 of chapter 98-287, Laws of Florida, to provide electrically operated single station smoke detectors required for residential buildings shall not be required to be interconnected within individual living units in all buildings having direct access to the outside from each living unit and having three stories or less. This subsection shall not apply to any residential building required to have a manual or automatic fire alarm system.

Section 21: Amends section 68 of chapter 98-287, Laws of Florida, to provide conditions and date upon which numerous sections of law become effective. [January 1, 2001, or upon the resolution of an administrative challenge to the rule to be adopted by the Florida Building Commission pursuant to section 120.56(2), Laws of Florida, adopting the Florida Building Code.]

Section 22: Except as otherwise provided herein, this act takes effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that local governments have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state shared tax with local governments.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Community Affairs approved HB 1723, on March 22, 1999, after adopting a strike-everything amendment which incorporates the following:

- Section 5 became Section 6. The new Section 5 adds community college, state university and educational boards as entities which may contract for inspections. Subsequent sections were renumbered.
- Section 20 became Section 23 and makes numerous reference changes inserting the State Fire Marshal in lieu of the Department of Insurance.
- Section 21 was added to provide that only the State Fire Marshal may issue declaratory statements relating to the Florida Fire Prevention Code and the Life Safety Code and shall issue such declaratory statements when requested in writing by any substantially affected person or local enforcing agency.
- The new Section 22 makes numerous reference changes inserting the State Fire Marshal in lieu of the Department of Insurance.

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- The new Section 24 directs the Florida Building Commission to conduct research regarding private sector assistance with the plans review and inspection functions of local government building departments.
- The new Section 26 adds the State Fire Marshal as an entity with which the Florida Building Commission must coordinate in developing the building code training program.
- The new section 27 repeals duplicative and obsolete language from relevant provisions of chapter 98-287, Laws of Florida.

Representative Gay's amendment, adopted March 22, 1999, was engrossed into the strike-everything amendment described above. That amendment directs the Florida Building Commission to conduct research regarding private sector assistance with the plans review and inspection functions of local government building departments and is found in Section 24 of the strike-everything amendment.

On March 29, 1999, the Committee on Business Regulation and Consumer Affairs (BRCA) adopted four amendments to the Community Affairs strike-everything amendment. All five amendments are traveling with the bill. Changes made by the BRCA amendments include: (1) Providing that the version of the building code in effect when a building permit is pulled shall govern the work performed; (2) Providing that approval of any product shall be effective until the expiration of the approval, or for not more than two years following the effective date for the Florida Building Code; and (3) Technical and clarifying changes.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Lisa C. Cervenka

Staff Director:

Joan Highsmith-Smith

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Prepared by:

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