

By Senator Bennett

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1                                   A bill to be entitled  
2           An act relating to an assessment on the sale of  
3           masonry units; creating the "Concrete Masonry Products  
4           Research, Education, and Promotion Act"; providing  
5           definitions; creating the Florida Concrete Masonry  
6           Council, Inc., as a nonprofit corporation; authorizing  
7           the council to levy an assessment on the sale of  
8           masonry units by a manufacturer, under certain  
9           circumstances; specifying the powers and duties of the  
10          council; prohibiting the council from participating or  
11          intervening in any political campaign; prohibiting the  
12          council from using any receipt to benefit its  
13          directors, officers, or other private persons;  
14          prohibiting the council from engaging in certain  
15          activities or exercising certain powers; providing for  
16          the appointment of the governing board of the council;  
17          providing that board members serve without  
18          compensation; entitling members to receive  
19          reimbursement for per diem and travel expenses;  
20          authorizing the council to submit a referendum to  
21          manufacturers of masonry units for authorization to  
22          levy an assessment on the sale of concrete masonry  
23          units; providing for the administrative powers and  
24          duties of the council; authorizing the council to  
25          accept grants, donations, contributions, or gifts  
26          under certain circumstances; authorizing the council  
27          to make payments to other organizations under certain  
28          circumstances; requiring that a manufacturer of  
29          concrete masonry products collect the assessment from

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30 a purchaser at the time of sale of a concrete masonry  
31 unit; authorizing the council to initiate legal action  
32 against a manufacturer that fails to remit the  
33 assessment; providing a procedure for manufacturers to  
34 petition for a referendum to continue the assessment;  
35 requiring the council to adopt bylaws; providing an  
36 effective date.

37  
38 WHEREAS, the Legislature intends to promote the growth of  
39 the concrete masonry industry in this state; to assure the  
40 public that a superior, sustainable construction material is  
41 produced by a skilled and educated workforce; to provide for the  
42 general economic welfare of the state and of the producers,  
43 contractors, and end-use consumers of masonry products; and to  
44 provide the masonry industry of this state with the authority to  
45 establish a self-financed, self-governed program to help  
46 develop, maintain, and expand the state, national, and foreign  
47 markets for masonry products and services that are mined,  
48 manufactured, produced, or processed in this state, NOW,  
49 THEREFORE,

50  
51 Be It Enacted by the Legislature of the State of Florida:

52  
53 Section 1. Concrete Masonry Products Research, Education,  
54 and Promotion Act.-

55 (1) SHORT TITLE.-This section may be cited as the "Concrete  
56 Masonry Products Research, Education, and Promotion Act."

57 (2) DEFINITIONS.-As used in this section, the term:

58 (a) "Commission" means the Florida Building Commission.

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59       (b) "Concrete masonry products" refers to a broad class of  
60 products, including, but not limited to, concrete masonry units  
61 and hardscape products such as concrete pavers and segmental  
62 retaining wall units that are manufactured on a block machine  
63 using dry-cast concrete.

64       (c) "Concrete masonry unit" means a concrete masonry  
65 product that is a man-made masonry unit having a nominal width  
66 of 3 inches or greater and manufactured by a block machine using  
67 dry-cast concrete. The term includes, but is not limited to,  
68 gray block, architectural block, concrete brick, concrete  
69 masonry units to be post-tensioned, concrete masonry units to be  
70 surface-bonded, sound wall block, and fence block. The term does  
71 not include concrete veneer units having a width of less than 3  
72 inches, segmental retaining wall units, concrete pavers, clay  
73 brick, clay masonry units, precast panels, cast stone, adhered  
74 manufactured stone masonry veneer, calcium silicate units,  
75 lintels and sills, articulating concrete or revetment block,  
76 autoclave-aerated concrete, and dimension stone.

77       (d) "Council" means the Florida Concrete Masonry Council,  
78 Inc.

79       (e) "Machine cavity" means the open space in the mold of a  
80 block machine capable of forming a single masonry unit that has  
81 nominal plan dimensions of 8 inches by 16 inches.

82       (f) "Manufacturer" means a person engaged in the business  
83 of manufacturing concrete masonry units.

84       (g) "Masonry unit" means a noncombustible building product  
85 intended to be laid by hand or to be joined using mortar, grout,  
86 surface bonding, post-tensioning, or some combination of these  
87 methods.

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88 (3) FLORIDA CONCRETE MASONRY COUNCIL, INC.; CREATION;  
89 PURPOSES.—

90 (a) There is created the Florida Concrete Masonry Council,  
91 Inc., a nonprofit corporation organized under the laws of this  
92 state and operating as a direct-support organization of the  
93 commission.

94 (b) The council may levy an assessment of 1 cent per  
95 concrete masonry unit that is produced and sold by a  
96 manufacturer in the state if the imposition of the assessment is  
97 approved by referendum pursuant to subsection (5). The proceeds  
98 of the assessment shall be used to fund the activities of the  
99 council. With respect to the administration of the assessment,  
100 the council shall:

101 1. Develop, implement, and monitor a collection system for  
102 the assessment which must be administered by an independent  
103 third party.

104 2. Conduct referenda under subsections (5) and (11).

105 (c) The council shall:

106 1. Plan, implement, and conduct programs of education,  
107 promotion, research, and consumer information and industry  
108 information which are designed to strengthen the market position  
109 of the concrete masonry industry in this state and in the  
110 nation, to maintain and expand domestic and foreign markets, and  
111 to expand the uses for concrete masonry products.

112 2. Use the proceeds of the assessment for the purpose of  
113 funding research, education, promotion, and consumer and  
114 industry information of concrete masonry products in this state  
115 and in the nation.

116 3. Coordinate research, education, promotion, industry, and

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117 consumer information programs with national programs or programs  
118 of other states.

119 4. Develop new uses and markets for concrete masonry  
120 products.

121 5. Develop and improve educational access to individuals  
122 seeking employment in the field of concrete masonry.

123 6. Develop methods of improving the quality of concrete  
124 masonry products for the purpose of windstorm protection.

125 7. Develop methods of improving the energy efficiency  
126 attributes of concrete masonry products.

127 8. Inform and educate the public concerning the  
128 sustainability and economic benefits of concrete masonry  
129 products.

130 9. Serve as a liaison within the concrete masonry and other  
131 construction industries of the state and elsewhere in matters  
132 that would increase efficiencies that ultimately benefit both  
133 the consumer and the concrete masonry industry.

134 10. Buy, sell, mortgage, rent, or improve, in any manner  
135 that the council considers expedient, real property or personal  
136 property, or both.

137 11. Publish and distribute such papers or periodicals as  
138 the board of directors considers necessary to encourage and  
139 accomplish the purposes of the council.

140 12. Do all other acts necessary or expedient for the  
141 administration of the affairs and attainment of the purposes of  
142 the council.

143 13. Approve an annual plan, budget, and audit for the  
144 council.

145 (d)1. The council may not participate or intervene in any

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146 political campaign on behalf of or in opposition to any  
147 candidate for public office. This restriction includes, but is  
148 not limited to, a prohibition against publishing or distributing  
149 any statement.

150 2. The net receipts of the council may not in any part  
151 inure to the benefit of or be distributable to its directors,  
152 its officers, or other private persons, except that the council  
153 may pay reasonable compensation for services rendered by staff  
154 employees and may make payments and distributions in furtherance  
155 of the purposes of this section.

156 3. Notwithstanding any other provision of law, the council  
157 may not carry on any other activity not permitted to be carried  
158 on by a corporation:

159 a. That is exempt from federal income tax under s.  
160 501(c)(3) of the Internal Revenue Code; or

161 b. To which charitable contributions are deductible under  
162 s. 170(c)(2) of the Internal Revenue Code.

163 4. Notwithstanding any other statement of the purposes and  
164 responsibilities of the council, the council may not engage in  
165 any activity or exercise any power that is not in furtherance of  
166 its specific and primary purposes.

167 (4) GOVERNING BOARD.—

168 (a) The Florida Concrete Masonry Council, Inc., shall be  
169 governed by a board of directors composed of 15 members as  
170 follows:

171 1. Nine members representing concrete masonry  
172 manufacturers. Of these board members, at least five must be a  
173 representative of a manufacturer that is a member of the Masonry  
174 Association of Florida. These members must be representatives of

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175 concrete masonry manufacturers of various sizes. A manufacturer  
176 may not be represented by more than one member of the board.

177 2. One member representing the Florida Building Commission.

178 3. One member representing the Florida Homebuilders  
179 Association.

180 4. One member having expertise in apprenticeship or  
181 vocational training.

182 5. Two members who are masonry contractors and who are  
183 members of the Masonry Association of Florida.

184 6. One member who is not a masonry contractor or  
185 manufacturer or an employee of a masonry contractor or  
186 manufacturer, but who is otherwise a stakeholder in the masonry  
187 industry.

188 (b) The initial board of directors shall be appointed by  
189 the chair of the commission based on recommendations from the  
190 Masonry Association of Florida. Five of the initial board  
191 members shall be appointed to a 1-year term. Five shall be  
192 appointed for a 2-year term. The remaining board members shall  
193 be appointed for a 3-year term. Thereafter, each member shall be  
194 appointed to serve a 3-year term and may be reappointed to serve  
195 an additional consecutive term. After the initial appointments  
196 are made, each subsequent vacancy must be filled in accordance  
197 with the bylaws of the council. A member may not serve more than  
198 two consecutive terms. A member representing a manufacturer or a  
199 contractor must be employed by a manufacturer or contractor  
200 engaging in the trade or manufacture of concrete masonry  
201 products for at least 5 years immediately preceding the first  
202 day of his or her service on the board. All members of the board  
203 shall serve without compensation. However, the board members are

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204 entitled to reimbursement for per diem and travel expenses  
205 incurred in carrying out the intents and purposes of this  
206 section in accordance with s. 112.061, Florida Statutes.

207 (c) The council shall elect from its members a chair, vice  
208 chair, and a secretary-treasurer to a 2-year term. The chair of  
209 the board must be a concrete masonry manufacturer.

210 (d) The council shall provide for its officers through its  
211 bylaws, including the ability to set forth offices and  
212 responsibilities and form committees necessary for the  
213 administration of this section.

214 (e) If a member of the board is absent for two consecutive,  
215 officially called meetings, the board of directors may declare  
216 that position vacant.

217 (f) The council shall provide through its bylaws a  
218 mechanism for selecting board members which will require the  
219 council to solicit candidates from throughout the concrete  
220 masonry industry. The mechanism must ensure a fair and equitable  
221 representation on the board of manufacturers of various sizes  
222 and manufacturers from regions throughout the state.

223 (5) REFERENDUM ON ASSESSMENTS.—All concrete masonry  
224 manufacturers in this state may vote in a referendum to  
225 determine whether the council may levy an assessment of 1 cent  
226 per concrete masonry unit. The referendum shall pose the  
227 question: "Do you approve of authorizing the Florida Concrete  
228 Masonry Council, Inc., to levy an assessment, pursuant to  
229 Florida law, of \$0.01 per concrete masonry unit sold by a  
230 manufacturer in this state, to be used for the education of  
231 concrete masonry workers, research, and the promotion of  
232 concrete masonry products?" The ballot provided to each



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233 manufacturer must be accompanied with a copy of this section.  
234 The duration of an authorization to levy the assessment may not  
235 exceed 5 years following the date of the approval of the levy  
236 unless reauthorized pursuant to subsection (11).

237 (a) A referendum held under this section must be conducted  
238 by the Bureau of Economic and Business Research at the  
239 University of Florida by secret ballot in a manner prescribed by  
240 the council and approved by the commission. The council may  
241 solicit and accept contributions to fund costs incurred for the  
242 referendum.

243 (b) Notice of a referendum to be held under this section  
244 must be given by certified mail to each manufacturer at least 30  
245 days before the referendum is held.

246 (c) Each manufacturer is entitled to at least one vote plus  
247 one vote for every 10 machine cavities that are owned by the  
248 manufacturer and located in this state 90 days before the date  
249 of the referendum. However, a manufacturer may not have more  
250 than four votes. Proof of identification of the manufacturing of  
251 concrete masonry products and of the number of machine cavities  
252 must be presented before voting.

253 (d) A simple majority vote shall determine any issue that  
254 requires a referendum under this section.

255 (6) ADMINISTRATIVE POWERS AND DUTIES OF THE COUNCIL.—

256 (a) The council shall:

257 1. Receive and disburse funds, as prescribed elsewhere in  
258 this section, to be used in administering and implementing this  
259 section.

260 2. Maintain a permanent record of its business proceedings.

261 3. Maintain a permanent, detailed record of its financial

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262 dealings.

263 4. Prepare, for review by the concrete masonry industry in  
264 this state, periodic reports and an annual report for each  
265 fiscal year of its activities, and file the annual report with  
266 the commission.

267 5. Prepare, for review by the concrete masonry industry in  
268 this state, periodic reports and an annual accounting for each  
269 fiscal year of all receipts and expenditures, and retain a  
270 certified public accountant for this purpose.

271 6. Appoint a licensed banking institution to serve as the  
272 depository for program funds and handle disbursements of those  
273 funds.

274 7. Maintain frequent communication with public officers at  
275 the state and national levels, including the commission.

276 8. Maintain an office in this state.

277 (b) The council may:

278 1. Conduct or contract for scientific research with any  
279 accredited university, college, or similar institution, and  
280 enter into other contracts or agreements that will aid in  
281 carrying out the purposes of this section, including contracts  
282 for the purchase or acquisition of facilities or equipment  
283 necessary to carry out the purposes of this section.

284 2. Disseminate reliable information benefiting the consumer  
285 and the concrete masonry industry.

286 3. Provide to governmental bodies, on request, information  
287 relating to subjects of concern to the concrete masonry  
288 industry, and act jointly or in cooperation with the state or  
289 Federal Government, and agencies thereof, in the development or  
290 administration of programs that the council considers to be

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291 consistent with the objectives of this section.

292 4. Sue and be sued as a council without individual  
293 liability of the members for acts of the council when acting  
294 within the scope of the powers of this section and in the manner  
295 prescribed by the laws of this state.

296 5. Borrow from licensed lending institutions money in  
297 amounts that are not cumulatively greater than 50 percent of the  
298 council's anticipated annual income.

299 6. Maintain a financial reserve for emergency use, the  
300 total of which must not exceed 50 percent of the council's  
301 anticipated annual income.

302 7. Appoint advisory groups composed of representatives from  
303 organizations, institutions, governments, or businesses related  
304 to or interested in the welfare of the concrete masonry industry  
305 and the end-use consumer.

306 8. Employ subordinate officers and employees of the  
307 council, prescribe their duties, and fix their compensation and  
308 terms of employment.

309 9. Cooperate with any local, state, regional, or nationwide  
310 organization or agency engaged in work or activities consistent  
311 with the objectives of the program.

312 10. Cause any duly authorized agent or representative to  
313 enter upon the premises of any market agency, market agent,  
314 collection agency, or manufacturer and examine or cause to be  
315 examined by the authorized agent only books, papers, and records  
316 that deal with the payment of the assessment provided for in  
317 this section or with the enforcement of this section.

318 11. Do all other things necessary to further the intent of  
319 this section which are not prohibited by law.

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320       (7) ACCEPTANCE OF GRANTS AND GIFTS.—The council may accept  
321 grants, donations, contributions, or gifts from any source if  
322 the use of such resources is not restricted in any manner that  
323 the council considers to be inconsistent with the objectives of  
324 this section.

325       (8) PAYMENTS TO ORGANIZATIONS.—

326       (a) The council may make payments to other organizations  
327 for work or services performed which are consistent with the  
328 objectives of the program.

329       (b) Before making payments described in this subsection,  
330 the council must secure a written agreement that the  
331 organization receiving payment will:

332       1. Furnish at least annually, or more frequently on request  
333 of the council, written or printed reports of program activities  
334 and reports of financial data that are relative to the council's  
335 funding of such activities; and

336       2. Agree to have appropriate representatives attend  
337 business meetings of the council as reasonably requested by the  
338 chair of the council.

339       (c) The council may require adequate proof of security  
340 bonding on the payments to any individual, business, or other  
341 organization.

342       (9) COLLECTION OF MONEYS AT TIME OF SALE.—

343       (a) Each manufacturer shall assess from the purchaser, at  
344 the time of sale by the manufacturer, the assessment levied by  
345 the council. The amount of the assessment must be separately  
346 stated on all receipts, invoices, or other evidence of sale as  
347 the "Florida Building Sustainability Fee."

348       (b) The manufacturer shall collect all such moneys and

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349 forward them quarterly to the council, and the council shall  
350 provide appropriate business forms for the convenience of the  
351 collecting agent in executing this duty.

352 (c) The council shall maintain within its financial records  
353 a separate accounting of all moneys received under this  
354 subsection. The council shall provide for an annual financial  
355 audit of its accounts and records to be conducted by an  
356 independent certified public accountant pursuant to rules  
357 adopted by the Auditor General under s. 11.45, Florida Statutes.

358 (d) The assessment is due and payable upon the sale of  
359 concrete masonry units that are produced in this state,  
360 regardless of the location of the purchaser. The assessment  
361 constitutes a personal debt of the manufacturer of concrete  
362 masonry units who collects the assessment or who otherwise owes  
363 the assessment. If a manufacturer fails to remit any properly  
364 due assessment, the council may bring a civil action against the  
365 manufacturer in the circuit court of any county for the  
366 collection thereof, and may add a penalty in the amount of 10  
367 percent of the assessment owed, the cost of enforcing the  
368 collection of the assessment, court costs, and reasonable  
369 attorney's fees. The action shall be tried and judgment rendered  
370 as in any other cause of action for debts due and payable. All  
371 assessments, penalties, and enforcement costs are due and  
372 payable to the council.

373 (10) VOTE ON CONTINUING THE ASSESSMENT.—Upon the delivery  
374 by certified mail to the council of petitions that represent at  
375 least 25 percent of the votes allocated under subsection (5) and  
376 that ask, "Shall the assessment authorized by the Concrete  
377 Masonry Products Research, Education, and Promotion Act

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378 continue?" the council shall, within 90 days after the receipt  
379 of the petitions, conduct a referendum to determine whether a  
380 majority of the votes cast in the referendum support the  
381 continuation of the Concrete Masonry Products Research,  
382 Education, and Promotion Act. All signatures must be collected  
383 within a 12-month period. A referendum held under this  
384 subsection may not be held more than one time in a 3-year  
385 period. Before each referendum, votes shall be reallocated using  
386 the method described in subsection (5).

387 (11) BYLAWS.—The council shall, by September 30, 2012,  
388 adopt bylaws to carry out the intents and purposes of this  
389 section. These bylaws may be amended upon 30-days' notice to  
390 board members at any regular or special meeting called for this  
391 purpose. The bylaws must conform to the requirements of this  
392 section but may also address any matter not in conflict with the  
393 general laws of this state.

394 Section 2. This act shall take effect July 1, 2012.