

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1245 Building Construction

**SPONSOR(S):** Appropriations Committee, Business & Professional Regulation Subcommittee; Davis

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1252

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	13 Y, 0 N, As CS	Livingston	Luczynski
2) Appropriations Committee	26 Y, 0 N, As CS	Topp	Leznoff
3) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

The bill amends a number of provisions related to building construction in the state. The bill:

- revises noticing requirements of alleged violators of local codes and ordinances;
- exempts specified septic tank system inspections and evaluations when remodeling a home and establishes guidelines for construction proximate to a system;
- exempts certain demolition work and volunteer work on a construction project from the requirements for licensure as a contractor;
- amends the definition of plumbing contractor to include a person licensed under liquefied petroleum gas provisions to be among those not requiring certification or registration as a plumbing contractor when disconnecting or reconnecting water lines in the servicing or replacement of an existing water heater;
- increases the maximum civil penalty a local governing body may levy against an unlicensed contractor;
- revises local government and Department of Business and Professional Regulation (DBPR) collection retention percentages for unpaid fines and costs ordered by the Construction Industry Licensing Board;
- removes a requirement that local governments send minor violation notices of noncompliance to contractors prior to seeking fines and other disciplinary penalties;
- increases the maximum civil penalty by local code enforcement officers against unlicensed electrical and alarm system contractors from \$500 to \$2,000;
- prohibits adopting any mandatory sprinkler provisions of the International Residential Code within the Florida Building Code or any local amendments to the state code;
- authorizes that an electronic copy of a building site plan may be maintained for record retention and inspection purposes at a building site;
- specifies DBPR procedures for Florida Building Code product approval compliance and authorizes the process for expedited 10-day approval reviews;
- renames the statewide standard for energy efficiency;
- specifies that residential heating and cooling systems need only meet the manufacturer's approval and listing of equipment;
- changes the purpose of the Florida Building Energy-Efficiency Rating Act from rating system development to energy rating system oversight;
- removes the requirement that a building energy-efficiency rating system provide a uniform rating scale of the efficiency of buildings;
- allows DBPR to recognize and approve another nationally recognized building energy-efficiency rating system; and
- clarifies DBPR's role in developing, adopting and administering the building energy-efficiency system.

The bill appropriates \$119,618 in recurring funds and \$263,143 in nonrecurring funds from the Professional Regulation Trust Fund within the DBPR to provide for the implementation of this act in the 2013-2014 fiscal year.

DOH indicates a significant negative fiscal impact, however, due to the discretionary nature of certain provisions of the bill, it appears that any fiscal impact would be self-imposed by the department.

The effective date of the bill is July 1, 2013.

### FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1245c.APC

DATE: 4/11/2013

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present situation

#### **Code Enforcement Notices**

Notices to alleged violators of local government codes and ordinances are governed by s. 162.12, F.S. There are four options cited in s. 162.12(1), F.S., by which notices are provided, including by:

certified mail to the address listed in the tax collector's office for tax notices, or to any other address provided by the property owner in writing to the local government for the purpose of receiving notices. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the date of mailing, notice may be provided by posting as described in subparagraphs (2)(b)1. and 2.;

The other options for serving notices in s. 162.12(1), F.S., are:

- hand delivery by the sheriff, code inspector, or other designated person;
- leaving at the violator's residence with any person residing there above the age of 15; or
- for commercial premises, leaving the notice with the manager or other person in charge.

In addition to the noticing provisions outlined in s. 162.12(1), F.S., the code enforcement board may serve notice through publication or posting methods.

#### **Onsite Sewage Treatment and Disposal Systems and Remodeling**

An "onsite sewage treatment and disposal system (system)" is a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solid or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system.<sup>1</sup>

Section 381.0065(3), F.S., authorizes the Department of Health (DOH) to adopt rules administering system provisions and to perform system application reviews, site evaluations and issue permits. In addition, DOH may inspect residential system construction, modification, and repair. Currently, a system modification, replacement, or upgrade is not required for a remodeling addition to a single-family home if a bedroom is not added.<sup>2</sup>

#### **Construction Contracting and Licensure to Demolish**

Contracting is defined in the context of the regulation of construction contracting under ch. 489, F.S.

Section 489.103, F.S., specifies several exemptions from licensure as a contractor and includes owners of property when acting as their own contractor and providing direct, onsite supervision themselves of all work not performed by licensed contractors and the owner complies with qualifying criteria specified in this section.

Section 489.105(3), F.S., defines "contractor" as a person, who for compensation undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real

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<sup>1</sup> Section 381.0065(2)(k), F.S.

<sup>2</sup> Section 381.0065(4)(aa), F.S.

estate, for others or for resale to others. Prior to changes to this definition during the 2012 legislative session, demolition of buildings or residences that were three stories in height or less, as well as, steel tanks, towers and other structures 50 feet in height or less did not require licensure pursuant to ch. 489, F.S.

## **Plumbing/LP gas contracting**

### **Plumbing Contractors**

Section 489.105(3)(m), F.S., defines “plumbing contractor.” This definition does not limit the scope of work of any specialty contractor certified pursuant to s. 489.113(6), F.S., and does not require certification or registration of an authorized employee of a public natural gas utility or of a private natural gas utility regulated by the Public Service Commission when disconnecting and reconnecting water lines in the servicing or replacement of an existing water heater.

Chapter 527, F.S., governs the sale of liquefied petroleum gas and defines numerous categories of licensure by the Department of Agriculture and Consumer Services. Among these categories, “LP gas installer” is defined to mean any person who is engaged in the liquefied petroleum gas business and whose services include the installation, servicing, altering, or modifying of apparatus, piping, tubing, tanks, and equipment for the use of liquefied petroleum or natural gas.

## **Grandfathering Provisions for Electrical and Alarm System Contractors**

Chapter 489, F.S., requires that all individuals who practice construction and electrical contracting in Florida must either be “certified” or “registered.” Section 489.514, F.S., provides that the Electrical Contractors Licensing Board issue a “certification” to an electrical, electrical specialty or alarm system contractor who is “registered” upon receipt of a completed application, payment of an appropriate fee, and evidence that he or she meets statutorily specified criteria. The criteria include possessing a registered local license, passing an approved written examination, and having at least five years of contracting. Applicants wishing to obtain a “certificate” pursuant to this statutory “grandfather” allowance were required to make application by November 1, 2004.

## **Penalties for Unlicensed Contracting**

Prohibitions and penalties for construction contracting and electrical and alarm system contracting are found in Part I, ch. 489, F.S., and Part II, ch. 489, F.S., respectively. The local governing body of a county or municipality is authorized to enforce codes and ordinances against unlicensed contractors. The local governing board may enact an ordinance establishing procedures for implementing codes, including a schedule of penalties to be assessed by the code enforcement officer for violations.<sup>3</sup> The maximum civil penalty to be levied for a citation may not exceed \$500.<sup>4</sup>

A person charged with a violation has two options: correct the cited violation and pay the civil penalty, or, request an administrative hearing before the enforcement or licensing board or designated special magistrate. If either of these entities finds that a violation exists, it may order the violator to pay a civil penalty of not less than the original citation but not more than \$1,000 per day for each construction contracting violation and \$500 for each electrical contracting violation.<sup>5</sup>

## **Outstanding Fines Issued by the Florida Construction Industry Licensing Board**

Section 489.127(6), F.S., authorizes local municipalities and counties to collect unpaid fines and costs ordered by the Florida Construction Industry Licensing Board. These local governments may retain 25 percent of the total amount collected if they remit the remaining 75 percent to the DBPR.<sup>6</sup> According to

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<sup>3</sup> See ss. 489.127(5)(c) and 489.531(4)(c), F.S.

<sup>4</sup> Id.

<sup>5</sup> See 489.127(5)(f) and 489.531(4)(f), F.S.

<sup>6</sup> DBPR does not have any record of local governments remitting to the department unpaid fines and costs ordered by the Construction Industry Licensing Board.

DBPR, the department currently uses the Department of Financial Services' approved collections vendor to collect unpaid fines and costs when a required payment remains delinquent for more than 6 months.<sup>7</sup> The vendor charges a 23 percent fee in order to collect the ordered amount. This fee becomes due upon collection regardless of who collects the unpaid fine.

## **Compliance with State Law and Local Ordinances on Contracting**

Section 489.131(7)(a), F.S., provides that local government contracting fines and other penalties are assessed for the primary purpose of gaining compliance with the laws regulating the unlicensed practice of contracting. The subsection further requires that local jurisdictions issue a notice of noncompliance prior to seeking fines and other penalties for first-time "minor violations."<sup>8</sup> Such notices of non-compliance must identify the ordinance violated, specify a method of compliance, and provide a reasonable time period for compliance. Failure to address a notice of non-compliance is grounds for additional disciplinary proceedings.

## **Residential Fire Sprinklers**

In 2010, the Legislature amended s. 553.73(17), F.S., to prohibit the Florida Building Commission from adopting or incorporating mandatory fire sprinklers provisions in section R313 of the most current version of the International Residential Code (IRC) as part of the Florida Building Code or as a local amendment to the Code.<sup>9</sup> Pursuant to the enacted prohibition, the Florida Building Commission did not adopt the current version section as part of the 2010 Florida Building Code and, according to DBPR, the Commission is not considering it for the next edition of the Code.<sup>10</sup>

## **Florida Building Commission**

The Florida Building Commission (ss. 553.76 and 553.77, F.S.) is a 25-member technical body responsible for the development, maintenance and interpretation of the Florida Building Code. The Commission also approves products for statewide acceptance and administers the Building Code Training Program. Members are appointed by the Governor and confirmed by the Senate and include design professionals, contractors, and government experts in the various disciplines covered by the code.

## **Electronic Documents**

The Building Code requires that a permit applicant submit one or more copies of construction documents to the building official and specifically authorizes applicants to submit such documents electronically when authorized by the local building official.<sup>11</sup> Once reviewed and approved by the building official, the Florida Building Code requires that one set of construction documents be retained by the building official and another be provided to the applicant to "be kept at the site of work and be open to inspection by the building official or a duly authorized representative" pursuant to s.107.3.1, Florida Building Code, Building (2010).

## **Florida Building Code and the State Product Approval Program**

The State Product Approval System, which went into effect October 1, 2003, covers certain structural products (i.e., panel walls, exterior doors, roofing products; skylights, windows, shutters, structural

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<sup>7</sup> Florida Department of Business and Professional Regulation, Agency Analysis of SB 1252: Building Construction (Mar. 13, 2013) (on file with the Senate Committee on Community Affairs).

<sup>8</sup> A violation is deemed "minor" if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm.

<sup>9</sup> Chapter 2010-176, s. 32, Laws of Florida.

<sup>10</sup> Florida Department of Business and Professional Regulation, Agency Analysis of SB 1252: Building Construction (Mar. 13, 2013) (on file with the Business and Professional Regulation Subcommittee).

<sup>11</sup> See s. 468.604(4), F.S.

components, and new and innovative products) and provides manufacturers of these products with the choice of obtaining state approval as an alternative to receiving local approval.<sup>12</sup>

To obtain state approval, a manufacturer must demonstrate compliance with applicable standards and provisions of the Florida Building Code by submitting one of the following reports:

- a certification mark or listing from an approved certification agency,
- a test report from an approved test laboratory,
- a product evaluation report from an evaluation entity authorized under s. 553.842(8)(a), F.S., or
- a product evaluation report developed, signed and sealed by a Florida licensed engineer or architect.

Currently, applications for product approval using the test report method and evaluation report method are subject to approval by the Florida Building Commission using the normal approval process. However, applications for product approval using the certification method are subject to approval by DBPR using the expedited 10-day review process as outlined in s. 553.842(5), F.S.

## **Florida Energy Code**

Part V of ch. 553, F.S.(ss. 553.900 – 553.912), titled “Florida Thermal Efficiency Code,” was enacted in 1979 in response to the oil crisis of the 70s and required the establishment of a “statewide thermal efficiency code.” The Florida Building Commission adopted the Florida Energy Efficiency Code for Building Construction (FEECBC), which remained Florida’s statewide energy code from 1979 to 2012.

In 2008, s. 553.73(7)(a), F.S., was amended to require the Florida Building Commission to use the International Energy Conservation Code as the foundation for Florida’s Energy Code, while retaining the Florida-specific criteria which were established as part of the FEECBC.<sup>13</sup> The 2008 legislation required the Florida Building Commission to effectively adopt both the International Energy Code and the Florida Energy Efficiency Code for Building Construction. On March 15, 2012, the Florida Building Commission adopted the 2010 Florida Building Code – Energy Conservation, which is based on the 2009 IECC but maintains the Florida-specific criteria of the FEECBC.

Although Florida’s 2010 Florida Building Code – Energy Conservation is different from the Florida Energy Efficiency Code for Building Construction, according to DBPR, most of the significant changes to its content result directly from the Florida-specific changes approved by the Florida Building Commission through the code update process.<sup>14</sup>

## **Florida Building Energy Efficiency Rating System (BERS)**

Chapter 553, part VIII, F.S., is known as the “Florida Building Energy-Efficiency Rating Act.” The Act requires DBPR to provide a statewide uniform system for rating the energy efficiency of buildings. In addition, DBPR is required to develop a training and certification program to certify energy raters. DBPR established the Building Energy Raters System (BERS) program to train and certify energy raters. DBPR currently outsources administration of the BERS program to the Florida Solar Energy Center (FSEC) on a no-cost basis through a Memorandum of Understanding.<sup>15</sup> Energy raters are trained and tested by FSEC and the DBPR issues the rater a certificate based on completion of the FSEC program. The rating system is a voluntary program and does not require any rating be performed.

Currently, BERS rules adopt by reference the 2006 Mortgage Industry National Home Energy Rating Systems Accreditation Standards, promulgated by the National Association of State Energy Officials (NASEO)/Residential Energy Services Network (RESNET) as the standard for energy rater

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<sup>12</sup> See s. 553.842, F.S.

<sup>13</sup> Chapter 2008-227, s. 108, Laws of Florida.

<sup>14</sup> Florida Department of Business and Professional Regulation, Agency Analysis of SB 1252: Building Construction (Mar. 13, 2013) (on file with the Business and Professional Regulation Subcommittee).

<sup>15</sup> Id. The remainder of this section of the analysis is drawn from the DBPR Agency Analysis of the bill.

certifications under the BERS program. As a national program for energy rating, RESNET's services and rating procedures are similar to those of the BERS program. Based on adoption of the NASEO standard, Florida BERS raters are also required to undertake national examinations and certifications.

### Effect of proposed changes

Section 1 amends s. 162.12, F.S., on noticing alleged violators of local codes and ordinances to qualify that a notice sent by certified mail include a return receipt request. The notice may be sent to either an address from the tax collector's office or one from the database of the county property appraiser. The section also allows the local government to provide notices to any address it may have for the property owner or through publication or posting methods.

Section 2 amends s. 381.0065, F.S., on onsite sewage treatment and disposal systems when remodeling a single family home that does not include the addition of a bedroom. Currently, a system modification, replacement or upgrade of a system is not required in these types of remodeling projects. This section specifies that an "existing inspection or evaluation, or an existing system tank pump-out" is also not required for such remodels.

This section also clarifies that the remodeling addition or modification may not cover any part of the system or encroach upon a required setback or the unobstructed area as determined by a timely local health department floor and site plan review.

Section 3 amends s. 489.103, F.S., to create an exemption from contractor licensure for a person acting voluntarily or out of charity and assists a residential property owner in making improvements to the owner's property. The exemption does not apply to a person who has a contract with the property owner to act in the capacity of a contractor or otherwise represents that he or she is qualified to engage in contracting. The property owner must be present on the job site and actively supervising work performed by the volunteer.

Section 4 amends s. 489.105, F.S., to define the term "demolish," for purposes of licensure, as it existed prior to changes in 2012, and create an exemption from licensure for work that applies to demolition of buildings or residences that are three stories in height or less, as well as, steel tanks, towers and other structures 50 feet in height or less.

This section defines a plumbing contractor to include a person licensed under the liquefied petroleum gas provisions of ch. 527, F.S., among those not requiring certification or registration as a plumbing contractor when disconnecting or reconnecting water lines in the servicing or replacement of an existing water heater.

Section 5 amends s. 489.127, F.S., on construction contracting prohibitions and penalties to increase the maximum amount local municipalities and counties may charge for unlicensed contracting citations from \$500 to \$2,000 and to increase the maximum civil penalties for unlicensed contracting from \$1,000 to \$1,500 per day of each violation. In addition, the bill increases the percentage of funds a local government may retain when they collect unpaid fines and costs ordered by the Construction Industry Licensing Board from 25 percent to 75 percent. The remaining 25 percent would be remitted to DBPR.

As noted in the DBPR bill analysis Section 2 of the bill appears to contain an internal inconsistency by requiring a local licensing board or special magistrate to assess a civil penalty which is no less than the citation amount but no more than \$1,500. Since the maximum citation is more than the maximum penalty, a local board or magistrate would be unable to comply with the provisions since the minimum civil penalty required (\$2000) would be more than the \$1,500 maximum civil penalty permitted.<sup>16</sup>

Section 6 amends s. 489.131, F.S., remove the statutory intent that collection of fines and imposition of other penalties is secondary to the goal of attaining compliance with current construction contracting

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<sup>16</sup> Florida Department of Business and Professional Regulation, Agency Analysis of SB 1252: Building Construction (Mar. 13, 2013) (on file with the Business and Professional Regulation Subcommittee).

regulations. In addition, the section removes the requirement that local counties and municipalities issue a notice of non-compliance for first time minor violations prior to seeking fines and other disciplinary penalties.

Section 7 amends s. 489.514, F.S., on certification for registered contractors to re-open and extend the period for grandfathering of “registered” electrical, specialty electrical and alarm system contractor licenses to statewide “certified” licenses until November 1, 2015. This is consistent with the extension of a similar grandfather allowance for construction contractors, which in 2012 was extended to November 1, 2015.

Section 8 amends s. 489.531, F.S., to increase the maximum amount local municipalities and counties may charge for unlicensed electrical and alarm system contracting citations from \$500 to \$2,000.

Section 9 amends s. 553.73, F.S., to prohibit adopting any mandatory sprinkler provisions of the International Residential Code within the Florida Building Code or any local amendments to the state code.

Section 10 amends s. 553.74, F.S., relating to the Florida Building Commission to add a 26th member to the Commission who will represent the natural gas distribution system industry.

Section 11 amends s. 553.79, F.S., to authorize that an electronic copy of a building site plan may be maintained for record retention and inspection purposes at a building site.

Section 12 amends s. 553.842, F.S., to require that DBPR approve products that demonstrate compliance with the Florida Building Code using product evaluation reports from approved evaluation entities. Applications for product approval using product evaluation reports may be considered and approved by DBPR under the expedited 10-day review process. The current procedure requires applications be held until the next meeting of the Florida Building Commission.

Section 13 amends s. 553.901, F.S., to rename the statewide standard for energy efficiency the Florida Building Code-Energy Conservation, to reflect a coordination of construction standards related to energy efficiency within the Florida Building Code adopted in accordance with s. 553.73(7)(a), F.S.

Section 14 amends s. 553.902, F.S., to conform to the change made by section 13.

Section 15 amends s. 553.903, F.S., to conform to the change made by section 13.

Section 16 amends s. 553.904, F.S., to conform to the change made by section 13.

Section 17 amends s. 553.905, F.S., to conform to the change made by section 13.

Section 18 amends s. 553.906, F.S., to conform to the change made by section 13.

Section 19 amends s. 553.912, F.S., to conform to the change made by Section 13 and codifies the current energy code provision applicable to existing residential heating and cooling equipment excepting that equipment from meeting minimum equipment efficiencies unless necessary to preserve the listing of the equipment.

Section 20 amends s. 553.991, F.S., of the Florida Building Energy-Efficiency Rating Act to identify the purpose of the Act as statewide oversight of energy rating systems to promote energy efficiency rather than to develop a statewide rating system.

Section 21 amends s. 553.992, F.S., to direct DBPR to establish and maintain criteria for a building energy-efficiency rating system and to require that the department’s rules specifically prohibit a sole provider of functions related to the system.

Section 22 amends s. 553.993, F.S., to include a definition of “building energy-efficiency rating system” as a system created by one of three national systems or the Florida Solar Energy System and allows DBPR to recognize and approve another nationally recognized rating system. The section also provides definitions for “energy auditor,” “energy-efficiency rating,” and energy rater.”

Section 23 amends s. 553.995, F.S., to remove the requirement that a building energy-efficiency rating system provide a uniform rating scale of the efficiency of buildings; to direct the efforts of a designated stakeholders' group to provide input on the adoption and administration of the system; and to specify that DBPR approve training and certification programs applicable to raters.

Section 24 provides an appropriation to the DBPR to implement the provisions of the bill.

Section 25 provides an effective date of July 1, 2013.

## B. SECTION DIRECTORY:

See A., Effect of proposed changes, above.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

DBPR indicates that the bill will likely produce revenues (that will exceed expenditures) related to implementation primarily of the licensure sections of the bill of: \$677,159 in FY 2013-14, \$518,219 in FY 2014-15, and \$601,509 in FY 2015-16.<sup>17</sup>

The Department of Health (DOH) indicates the bill will have a fiscal impact in loss of revenue from the prohibition on existing system inspections and evaluations. The loss of revenue is expected to be minimal.

#### 2. Expenditures:

The bill appropriates \$119,618 in recurring funds and \$263,143 in nonrecurring funds from the Professional Regulation Trust Fund within the DBPR to provide for the implementation of this act in the 2013-2014 fiscal year.

The Department of Health indicates the bill will have a fiscal impact from the increased workload of reviewing applications within five business days without a specific fee. Staff works quickly to review applications so as not to delay building permits unduly; however, with a mandated deadline as proposed in the legislation, there may be a need to add staff in order to be in compliance. The cost for additional staff cannot be determined at this time. However, the bill language states “The local health department may review a floor plan and site plan that show the distance of the remodeling addition or modification from the system to determine if a setback or unobstructed area is impacted.” Since this language allows for a permissive review by DOH it is believed that this workload can be handled through reprioritizing the resources formerly used existing onsite sewage system inspections or evaluations. Any fiscal impact to the department would be self-imposed, as the relevant provisions of the bill are discretionary.

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<sup>17</sup> Department of Business and Professional Regulation, Bill Analysis on CS/HB 1245, dated April 3, 2013, on file with House Appropriations Committee.



**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

*See Fiscal Comments.*

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Certain DFS approved collection vendors currently utilized by DBPR may experience indeterminate revenue losses related to the collection retention percentage changes in the bill.

**D. FISCAL COMMENTS:**

The bill may have an initial insignificant negative fiscal impact on DBPR related to the collection of fines from local governments. DBPR does not have any record of local governments remitting to the department unpaid fines and costs ordered by the Construction Industry Licensing Board.<sup>18</sup> It is unknown to what extent the bill's change in the local government collection retention percentage (from 25 percent to 75 percent) may entice local governments to begin such collections. In future years it is possible fine collections could see a positive fiscal impact.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The DOH points out that not evaluating systems under the proposed change would allow these systems to remain in failure and discharge untreated wastewater into Florida's ground and surface waters. System failure may eventually lead to a direct public health hazard because of backups of wastewater into homes and untreated wastewater runoff into the yard and adjacent properties.

DBPR noted in its bill analysis that they have transferred the collection of the delinquent Final Order to a DFS approved collection vendor, under the terms of the DSF statewide contract, the approved collection vendor will receive 23 percent of the collection amount regardless of who collects it.

DBPR also offered potential revisions to the bill in the Comments or Concerns section of its agency analysis. These are provided below.

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<sup>18</sup> Florida Department of Business and Professional Regulation, Agency Analysis of SB 1252: Building Construction (Mar. 13, 2013) (on file with the Business and Professional Regulation Subcommittee).

- In section 7, s. 553.842(5)(a), F.S., change “commission staff” to “Department staff.” Currently, there is no specific staff designated as “commission staff.” DBPR is the sole agency with the responsibility of staffing the Florida Building Commission.
- In section 14, s. 553.912, F.S., change the term “Florida Energy Efficiency Code for Building Construction” to “Florida Building Code – Energy Conservation” for consistency with the proposed legislation.
- Sections 20 and 21, ss. 553.991 and 553.992, F.S. DBPR conducted several workshops with industry groups regarding improvements to the BERS program. During these workshops, industry groups urged the department to open BERS to more providers and thus eliminate the perceived monopoly by FSEC. The DBPR believes that the Florida Building Energy Rating Act is no longer necessary since available national energy rating programs adequately accomplish the objectives of the statutes. Reliance on national programs with no oversight from the DBPR could permit additional avenues for training and certification sought by several stakeholder groups.
- According to DBPR, the effective date of July 1, 2013, may not allow sufficient time to update the current BERS rules for consistency with the proposed legislation. The DBPR anticipates an additional ten months from the effective date of the Act would be necessary to make the changes.

#### **IV. ADMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 27, 2013, the Business & Professional Regulation Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute (CS). The significant differences between the CS and the bill as originally filed include the following:

- Revises noticing requirements of alleged violators of local codes and ordinances.
- Exempts certain demolition work and volunteer work on a construction project from the requirements for licensure as a contractor.
- Revises a definition for licensed plumbing contractors.
- Re-opens and extends the grandfathering period for certain registered electrical and alarm system contractors to acquire statewide certified licenses.
- Adds a member to Florida Building Commission from the natural gas distribution industry.
- Clarifies that cost-saving incentives for IRC fire sprinklers are permissible when mutually agreed upon between a builder and code official.
- Provides building energy-efficiency system definitions.

The staff analysis is drafted to reflect the CS/HB 1245.

On April 10, 2013, the Appropriations Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment provided an appropriation of \$119,618 in recurring funds and \$263,143

in nonrecurring funds from the Professional Regulation Trust Fund in the Department of Business and Professional Regulation to implement the provisions of the bill in the 2013-2014 fiscal year.

The staff analysis is drafted to reflect the CS/CS/HB 1245.