

By Senator Grimsley

21-00530-13

2013944

1 A bill to be entitled
2 An act relating to concrete masonry products;
3 providing a short title; creating the Florida Concrete
4 Masonry Council, Inc.; authorizing the council to levy
5 an assessment on the sale of concrete masonry units
6 under certain circumstances; providing the powers and
7 duties of the council and restrictions upon actions of
8 the council; providing for appointment of the
9 governing board of the council; authorizing the
10 council to submit a referendum to manufacturers of
11 concrete masonry units for authorization to levy an
12 assessment on the sale of concrete masonry units;
13 providing procedure for holding the referendum;
14 authorizing the council to accept grants, donations,
15 contributions, and gifts under certain circumstances;
16 authorizing the council to make payments to other
17 organizations under certain circumstances; providing
18 requirements for the manufacturer's collection of
19 assessments; authorizing the council to initiate legal
20 action against a manufacturer under certain
21 conditions; providing a procedure for manufacturers to
22 petition for a referendum to continue the assessment;
23 requiring the council to adopt bylaws; providing an
24 effective date.

25
26 WHEREAS, the Legislature intends to promote the growth of
27 the concrete masonry industry in this state; to assure the
28 public that a superior, sustainable construction material is
29 produced by a skilled and educated workforce; to provide for the

21-00530-13

2013944

30 general economic welfare of the state and of the producers,
31 contractors, and end-use consumers of masonry products; and to
32 provide the masonry industry of this state with the authority to
33 establish a self-governed program to help develop, maintain, and
34 expand the state, national, and foreign markets for masonry
35 products and services that are mined, manufactured, produced, or
36 processed in this state, NOW, THEREFORE,

37
38 Be It Enacted by the Legislature of the State of Florida:

39
40 Section 1. Concrete Masonry Products Research, Education,
41 and Promotion Act.—

42 (1) SHORT TITLE.—This section may be cited as the “Concrete
43 Masonry Products Research, Education, and Promotion Act.”

44 (2) FLORIDA CONCRETE MASONRY COUNCIL, INC.; CREATION;
45 PURPOSES.—

46 (a) There is created the Florida Concrete Masonry Council,
47 Inc., a nonprofit corporation organized under the laws of this
48 state and operating as a direct-support organization of the
49 Florida Building Commission.

50 (b) The council may levy an assessment on each concrete
51 masonry unit produced and sold by a manufacturer in the state if
52 the imposition of the assessment is approved by referendum
53 pursuant to subsection (4).

54 (c) The council shall:

55 1. Develop, implement, and monitor a collection system for
56 the assessment, which must be administered by an independent
57 third party.

58 2. Conduct referenda pursuant to subsections (4) and (8).

21-00530-13

2013944

59 3. Plan, implement, and conduct programs of education,
60 promotion, research, and consumer information and industry
61 information that are designed to strengthen the market position
62 of the concrete masonry industry in this state and in the
63 nation, to maintain and expand domestic and foreign markets, and
64 to expand the uses for concrete masonry products.

65 4. Use the means authorized by this section for the purpose
66 of funding research, education, promotion, and consumer and
67 industry information relating to concrete masonry products in
68 this state and in the nation.

69 5. Coordinate research, education, promotion, and consumer
70 and industry information programs with national programs or
71 programs of other states.

72 6. Develop new uses and markets for concrete masonry
73 products.

74 7. Develop and improve access to education for individuals
75 seeking employment in the field of concrete masonry.

76 8. Develop methods of improving the quality of concrete
77 masonry products for the purpose of windstorm protection.

78 9. Develop methods of improving the energy efficiency
79 attributes of concrete masonry products.

80 10. Inform and educate the public concerning the
81 sustainability and economic benefits of concrete masonry
82 products.

83 11. Do all other things necessary or expedient for the
84 administration of the affairs and attainment of the purposes of
85 the council.

86 (d) The council may:

87 1. Conduct or contract for scientific research with any

21-00530-13

2013944

88 accredited university, college, or similar institution and enter
89 into other contracts or agreements that will aid in carrying out
90 the purposes of this section, including contracts for the
91 purchase or acquisition of facilities or equipment necessary to
92 carry out the purposes of this section.

93 2. Disseminate reliable information benefiting the consumer
94 and the concrete masonry industry.

95 3. Provide to governmental bodies, on request, information
96 relating to subjects of concern to the concrete masonry industry
97 and act jointly or in cooperation with the state or Federal
98 Government, and agencies thereof, in the development or
99 administration of programs that the council considers to be
100 consistent with the objectives of this section.

101 4. Sue and be sued as a council without individual
102 liability of the members for acts of the council when acting
103 within the scope of the powers of this section and in the manner
104 prescribed by the laws of this state.

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

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

111 7. Employ subordinate officers and employees of the
112 council, prescribe their duties, and fix their compensation and
113 terms of employment.

114 8. Cooperate with any local, state, regional, or nationwide
115 organization or agency engaged in work or activities consistent
116 with the objectives of this section.

21-00530-13

2013944

117 9. Cause any duly authorized agent or representative to
118 enter upon the premises of any market agency, market agent,
119 collection agency, or manufacturer and examine or cause to be
120 examined by the authorized agent only books, papers, and records
121 that deal with the payment of the assessment provided for in
122 this section or with the enforcement of this section.

123 10. Do all other things necessary to further the intent of
124 this section that are not prohibited by law.

125 (e)1. The council may not participate or intervene in any
126 political campaign on behalf of or in opposition to any
127 candidate for public office or any state or local ballot
128 initiative. This restriction includes, but is not limited to, a
129 prohibition against publishing or distributing any statement.

130 2. The net receipts of the council may not in any part
131 inure to the benefit of or be distributable to its directors,
132 its officers, or other private persons, except that the council
133 may pay reasonable compensation for services rendered by staff
134 employees and may make payments and distributions in furtherance
135 of the purposes of this section.

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

139 a. That is exempt from federal income taxation under s.
140 501(c)(3) of the Internal Revenue Code; or

141 b. To which charitable contributions are deductible under
142 26 U.S.C. s. 170(c)(2) of the Internal Revenue Code.

143 (3) GOVERNING BOARD.—

144 (a) The Florida Concrete Masonry Council, Inc., shall be
145 governed by a board of directors composed of 15 members as

21-00530-13

2013944

146 follows:

147 1. Nine members representing concrete masonry
148 manufacturers. Of these board members, at least five must be
149 representatives of manufacturers that are members of the Masonry
150 Association of Florida. These members must be representatives of
151 concrete masonry manufacturers of various sizes. A manufacturer
152 may not be represented by more than one member of the board.

153 2. One member representing the Florida Building Commission.

154 3. One member representing the Florida Home Builders
155 Association.

156 4. One member having expertise in apprenticeship or
157 vocational training.

158 5. Two members who are masonry contractors and who are
159 members of the Masonry Association of Florida.

160 6. One member who is not a masonry contractor or
161 manufacturer or an employee of a masonry contractor or
162 manufacturer but who is otherwise a stakeholder in the masonry
163 industry.

164 (b) The initial board of directors shall adopt bylaws to
165 govern initial terms of directors, governance of board members
166 and meetings, term limits, and procedures for filling vacancies.

167 (4) REFERENDUM ON ASSESSMENT.—All concrete masonry
168 manufacturers in this state may vote in a referendum to
169 determine whether the council may levy an assessment per
170 concrete masonry unit. The referendum shall pose the question:

171
172 "Do you approve of authorizing the Florida Concrete
173 Masonry Council, Inc., to levy an assessment, pursuant
174 to Florida law, of _____ per concrete masonry unit sold

21-00530-13

2013944

175 by a manufacturer in this state, to be used for the
176 education of concrete masonry workers, research, and
177 the promotion of concrete masonry products?"

178
179 The amount of the assessment shall be provided by the council.
180 The duration of an authorization to levy the assessment may not
181 exceed 5 years following the date of the approval of the levy
182 unless reauthorized pursuant to subsection (8).

183 (a) A referendum held under this subsection or subsection
184 (8) must be conducted by the Bureau of Economic and Business
185 Research at the University of Florida in the manner prescribed
186 by the council and approved by the Florida Building Commission.
187 The council may solicit and accept contributions to fund costs
188 incurred for the referendum.

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

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

199 (d) A 60-percent majority vote shall determine any issue
200 that requires a levy of assessment referendum under this
201 section.

202 (5) ACCEPTANCE OF GRANTS AND GIFTS.—The council may accept
203 grants, donations, contributions, or gifts from any source if

21-00530-13

2013944

204 the use of such resources is not restricted in any manner that
205 the council considers to be inconsistent with the objectives of
206 this section.

207 (6) PAYMENTS TO ORGANIZATIONS.—

208 (a) The council may make payments to other organizations
209 for work or services performed that are consistent with the
210 objectives of the program.

211 (b) Before making payments described in this subsection,
212 the council must secure a written agreement that the
213 organization receiving payment will furnish at least annually,
214 or more frequently on request of the council, written or printed
215 reports of program activities and reports of financial data that
216 are relative to the council's funding of such activities.

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

220 (7) COLLECTION OF MONEYS AT TIME OF SALE.—

221 (a) If an assessment is approved by referendum, each
222 manufacturer shall assess from the purchaser, at the time of
223 sale by the manufacturer, the assessment levied by the council.
224 The amount of the assessment must be separately stated on all
225 receipts, invoices, or other evidence of sale as the "Florida
226 Building Sustainability Fee."

227 (b) The manufacturer shall collect all such moneys and
228 forward them quarterly to the council, and the council shall
229 provide appropriate business forms for the convenience of the
230 collecting agent in executing this duty.

231 (c) The council shall maintain within its financial records
232 a separate accounting of all moneys received under this

21-00530-13

2013944

233 subsection. The council shall provide for an annual financial
234 audit of its accounts and records to be conducted by an
235 independent certified public accountant pursuant to rules
236 adopted by the Auditor General under s. 11.45.

237 (d) The assessment is due and payable upon the sale of
238 concrete masonry units that are produced in this state. The
239 assessment constitutes a personal debt of the manufacturer of
240 concrete masonry units who collects the assessment or who
241 otherwise owes the assessment. If a manufacturer fails to remit
242 any properly due assessment, the council may bring a civil
243 action against the manufacturer in the circuit court of any
244 county for the collection thereof, the cost of enforcing the
245 collection of the assessment, court costs, and reasonable
246 attorney fees. The action shall be tried and judgment rendered
247 as in any other cause of action for debts due and payable. All
248 assessments, penalties, and enforcement costs are due and
249 payable to the council.

250 (8) VOTE ON CONTINUING THE ASSESSMENT.—Upon the delivery by
251 certified mail to the council of petitions that represent at
252 least 25 percent of the votes allocated under subsection (4) and
253 that ask, "Shall the assessment authorized by the Concrete
254 Masonry Products Research, Education, and Promotion Act
255 continue?" the council shall, within 90 days after the receipt
256 of the petitions, conduct a referendum to determine whether 60
257 percent of the votes cast in the referendum support the
258 continuation of the Concrete Masonry Products Research,
259 Education, and Promotion Act. All signatures must be collected
260 within a 3-month period. A referendum held under this subsection
261 may not be held more than one time in a 3-year period. Before

21-00530-13

2013944__

262 each referendum, votes shall be reallocated using the method
263 described in subsection (4).

264 (9) BYLAWS.—The council shall, by September 30, 2013, adopt
265 bylaws to carry out the intents and purposes of this section.
266 These bylaws may be amended upon 30 days' notice to board
267 members at any regular or special meeting called for this
268 purpose. The bylaws must conform to the requirements of this
269 section but may also address any matter not in conflict with the
270 general laws of this state.

271 Section 2. This act shall take effect July 1, 2013.