

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 593 Building Construction

SPONSOR(S): Regulatory Affairs Committee; Government Operations Appropriations Subcommittee; Business & Professional Regulation Subcommittee; Eagle and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1106

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	13 Y, 0 N, As CS	Whittier	Luczynski
2) Government Operations Appropriations Subcommittee	11 Y, 0 N, As CS	Topp	Topp
3) Regulatory Affairs Committee	16 Y, 0 N, As CS	Whittier	Hamon

SUMMARY ANALYSIS

The bill contains provisions related to building construction, codes, permitting, licensure, and energy-efficiency rating. Specifically, the bill does the following:

- Deletes a water well driller and a water well parts and equipment vendor from the list of persons who may attest to the length of time a water well contractor applicant has been engaged in that business;
- Provides that proof of worker's compensation may be presented electronically when an employer applies for a building permit, and that such proof may be submitted and retained electronically;
- Requires application to the Department of Health for an operating permit for a public swimming pool before an application may be filed for a building permit, and provides additional requirements for obtaining an operating permit;
- Specifies inspection criteria for construction or modification of manufactured buildings or building modules;
- Requires equipment located on or above the surface of a roof to be installed in compliance with the requirements of the Florida Building Code (code) when the equipment is being replaced or moved during reroofing, and the equipment is not in compliance with the provisions of the code pertaining to roof mounted units;
- Authorizes building officials, local enforcement agencies, and the Florida Building Commission to interpret the Florida Accessibility Code for Building Construction and provides specific procedures for those interpretations;
- Revises education and training requirements for the Florida Building Code Compliance and Mitigation Program;
- Clarifies that a repair or alteration to an existing home does not mandate a hard-wired smoke alarm if a 10-year battery-operated alarm is installed and provides that, effective January 1, 2015, a newly-installed or replaced battery-powered smoke alarm must be powered by a non-removable, non-replaceable battery that powers the alarm for a minimum of 10 years;
- Revises the definition of "building energy-efficiency rating system" to spell out what a rating system is comprised of and the criteria that should be considered for new and existing construction and deletes the list of qualified entities that comprises the current definition;
- Allows maintenance of site plans and electronically transferred building permits in either their original form or as an electronic copy for the purpose of inspection and record retention; and
- Removes the requirement that a member of the Fire Code Interpretation Committee notify the committee that he or she is unable to respond to a request for a nonbinding interpretation of the Fire Prevention Code before an alternate member can respond to the request.

The bill is not anticipated to have a fiscal impact and takes effect July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Local Government Codes and Ordinances (Section 1)

Present Situation

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., for providing notices:

- By certified mail, return receipt requested, to the address listed in the tax collector's office for tax notices or to the address listed in the county property appraiser's database. The local government may also provide an additional notice to any other address it may find for the property owner. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation;
- By hand delivery by the sheriff or other law enforcement officer, code inspector, or other designated person;
- By leaving the notice at the violator's usual place of residence with any person residing there above the age of 15; or
- For commercial premises, by leaving the notice with the manager or other person in charge.

In addition to those noticing provisions, the code enforcement board may serve notice through publication or posting methods.¹

Some local governments have reported finding it costly to have to send notices by certified mail with return receipt requested.

Effect of Proposed Changes

The bill authorizes a local government to choose whether to request a return receipt when sending a notice to an alleged code violator by certified mail.

Licensure of Water Well Contractors (Section 2)

Present Situation

Any person wishing to engage in business as a water well contractor must obtain a license from a Florida Water Management District (WMD).² The WMD licensure is the only water well contractor license required for the construction, repair, or abandonment of water wells in the state or any political subdivision of the state.

Each person seeking a license must apply to take the licensure examination. Applications must be made to the WMD where the applicant resides or where the principal business is located. In order to take the licensure examination, the applicant must:³

¹ Section 162.12(2), F.S.

² Section 373.323, F.S.

³ Section 373.323(3), F.S.

- Be at least 18 years of age.
- Have two years of experience in constructing, repairing, or abandoning water wells, which must be verified by providing:
 - Evidence of the length of time the applicant has been engaged in the business of the construction, repair, or abandonment of water wells as a major activity, as attested to by a letter from three of the following persons:
 - A water well contractor.
 - A water well driller.
 - A water well parts and equipment vendor.
 - A water well inspector employed by a governmental agency.
 - A list of at least 10 water wells that the applicant has constructed, repaired, or abandoned within the preceding five years. Of these wells, at least seven must have been constructed by the applicant.
- Have completed the application form and remitted a nonrefundable application fee.

Effects of Proposed Changes

The bill revises the requirements for taking a water well contractor licensing examination by deleting a water well driller and a water well parts and equipment vendor from the list of persons who may attest to the length of time an applicant has been engaged in the water well contractor business. Therefore, only two letters will be required, one from a water well contractor and a water well inspector employed by a governmental agency.

Electronically Transferred Documents (Section 3 and part of Section 10)

Section 440.103, F.S., provides that every employer, as a condition to applying for and receiving a building permit, show proof and certify to the permit issuer that the employer has secured compensation for their employees as required in ss. 440.10 and 440.38, F.S.⁴ This proof of compensation must be evidenced by the following:

- A certificate of coverage issued by the carrier;
- A valid exemption certificate approved by the Department of Financial Services; or
- A copy of the employer's authority to self-insure.

This proof must be presented each time the employer applies for a building permit.

In 2012, the Legislature found that "the electronic filing of construction plans will increase governmental efficiency, reduce costs, and increase timeliness of processing permits."⁵ Chapter 2012-58, Laws of Fla., provides that if the building code administrator or building official provides for electronic filing, then construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee may be transmitted electronically to the building code administrator or building official for approval.⁶

Section 553.79(18), F.S., authorizes that, for the purpose of inspection and record retention, site plans for a building may be maintained in the form of an electronic copy at the worksite. These plans must be open to inspection by the building official or a duly authorized representative, as required by the Florida Building Code.

⁴ These sections address workers' compensation liability and security provisions.

⁵ Chapter 2012-58, Laws of Fla.

⁶ Section 468.604, F.S.

Effect of Proposed Changes

The bill allows an employer to electronically present to building officials (permit issuers) a certificate of coverage, a state exemption letter, or a copy of the employer's authority to self-insure for worker's compensation and provides that under this section, proof of compensation may be submitted and retained electronically.

The bill amends s. 553.79(18), F.S., to allow site plans or building permits to be maintained in the original form or an electronic copy at the worksite, and these plans and permits must be open to inspection as required by the code.

Public Swimming Pools (Sections 4 and 5 and part of Section 10)

Present Situation

In 2012, the Legislature determined that local building departments would have jurisdiction over permitting, plan reviews, and inspections of public swimming pools and public bathing places and that the Department of Health (DOH) would continue to have jurisdiction over the operating permits for public swimming pools.⁷

A "public swimming pool" or "public pool" is defined as:

A watertight structure of concrete, masonry, or other approved materials which is located either indoors or outdoors, used for bathing or swimming by humans, and filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment used in connection therewith. This term includes a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee and includes, but is not limited to, pools operated by or serving camps, churches, cities, counties, day care centers, group home facilities for eight or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type projects of five or more living units, such as apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks, and townhouses.⁸

In order to operate or continue to operate a public swimming pool, a valid operating permit from DOH must be obtained. Application for an operating permit must include the following:

- Description of the source or sources of water supply, and the amount and quality of water available and intended to be used;
- Method and manner of water purification, treatment, disinfection, and heating;
- Safety equipment and standards to be used; and
- Any other pertinent information deemed necessary by DOH.⁹

If DOH determines that the public swimming pool is, or may reasonably be expected to be, operated in compliance with state laws and rules, DOH will issue a permit. However, if it is determined that the pool is not in compliance with state laws and rules, the application for a permit will be denied. The denial must be in writing and must list the circumstances for the denial. Upon correction of those circumstances, the applicant may reapply for a permit.¹⁰ The operating permit must be renewed annually and posted in a conspicuous place.¹¹

⁷ Chapter 2012-184, Laws of Fla.

⁸ Section 514.011(2), F.S.

⁹ Section 514.031(1), F.S.

¹⁰ *Id.*

¹¹ Section 514.031(4), F.S.

Currently, the order of the permitting process that is required to build a public swimming pool is unclear. Local governments have reported entire public swimming pools being completed before owners discovered issues or problems after applying for the operating permit.

Effect of Proposed Changes

The bill requires those desiring to construct, develop, or modify a public swimming pool to apply to DOH for an operating permit before applying for a building permit from the local enforcement agency. A local enforcement agency is an “agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.”¹²

The bill prohibits the local enforcement agency from issuing a building permit to construct, develop, or modify a public swimming pool without proof of application for an operating permit and does not allow issuance of a certificate of completion or occupancy until the operating permit is issued.

The bill also adds the following to the list of information that is to accompany the operating permit application:

- A description of the structure, its appurtenances, and its operation.
- A copy of the final approval from the local enforcing agency.

Florida Building Code Requirements for Construction or Modification of Manufactured Buildings and Building Modules (Section 6)

Present Situation

The Florida Building Commission (commission), which is housed within the Department of Business and Professional Regulation (DBPR), is a 26-member technical body responsible for the development, maintenance, and interpretation of the Florida Building Code (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.¹³

Section 553.72, F.S., provides the following regarding the code:

The purpose and intent of this act is to provide a mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of a single, unified state building code, to be called the Florida Building Code, which consists of a single set of documents that apply to the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities in this state and to the enforcement of such requirements and which will allow effective and reasonable protection for public safety, health, and general welfare for all the people of Florida at the most reasonable cost to the consumer.

Section 553.37(1), F.S., requires the commission to adopt, within the code, requirements for construction or modification of manufactured buildings and building modules, to address:

- Submittal to and approval by DBPR of manufacturers’ drawings and specifications, including any amendments.

¹² Section 553.71(5), F.S.

¹³ Section 553.74, F.S.

- Submittal to and approval by DBPR of manufacturers' internal quality control procedures and manuals, including any amendments.
- Minimum inspection criteria.

“Manufactured building” or “modular building” means a closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured in manufacturing facilities for installation or erection as a finished building or as part of a finished building, which shall include, but not be limited to, residential, commercial, institutional, storage, and industrial structures. The term includes buildings not intended for human habitation such as lawn storage buildings and storage sheds manufactured and assembled offsite by a manufacturer certified in conformance with this part, but does not include a mobile home.¹⁴

“Module” means a separately transported three-dimensional component of a manufactured building which contains all or a portion of structural systems, electrical systems, plumbing systems, mechanical systems, fire systems, and thermal systems.¹⁵

Effect of Proposed Changes

The bill details the “minimum inspection criteria” under s. 553.37(1), F.S., by requiring the approved inspection agency to do the following:

- Observe the first building built, or with regard to components, observe the first unit assembled, after certification of the manufacturer,¹⁶ from start to finish, inspecting all subsystems: electrical, plumbing, structural, mechanical or thermal;
- Continue observation of the manufacturing process until the approved inspection agency determines that the manufacturer’s quality control program, in conjunction with the application of the plans approved by the approved inspection agency, will result in a building and components that meet or exceed the applicable code requirements;
- Thereafter, inspect each module produced during at least one point of the manufacturing process and inspect at least 75 percent of the subsystems of each module: electrical, plumbing, structural, mechanical or thermal; and
- With respect to components, inspect at least 75 percent of the manufactured building components and at least 20 percent of the storage sheds that are not designed for human habitation and that have a floor area of 720 square feet or less.

Florida Building Code Surcharge (Section 7)

Present Situation

The commission is authorized to adopt, modify, update, interpret, and maintain the code and provide that code enforcement is performed by authorized state and local government enforcement agencies.¹⁷ In order for DBPR to administer and carry out the code provisions, there is a surcharge that is assessed at 1.5 percent of the permit fees associated with enforcement of the code.^{18, 19}

The funds that are collected from the surcharge and remitted to DBPR are deposited in the Professional Regulation Trust Fund and then allocated to fund the commission and the Florida Building

¹⁴ Section 553.36(13), F.S.

¹⁵ Section 553.36(15), F.S.

¹⁶ The manufacturer must be certified by the commission.

¹⁷ Section 553.72(3), F.S.

¹⁸ Section 553.721, F.S.

¹⁹ The minimum amount collected on any permit issued is \$2.

Code Compliance and Mitigation Program.²⁰ Funds allocated to the Florida Building Code Compliance and Mitigation Program are \$925,000 each fiscal year.²¹

Effect of Proposed Changes

The bill removes obsolete dates related to the surcharge.

Roof-Mounted Mechanical Equipment (Section 8)

Present Situation

Section 553.73, F.S., provides that existing mechanical equipment on the surface of a roof is not required to be installed in compliance with the code until the equipment is removed or replaced.

Effect of Proposed Changes

The bill provides that existing mechanical equipment that is located on or above the surface of a roof is not required to be installed in compliance with the code except when the equipment is being replaced or moved during reroofing and the equipment is not in compliance with the part of the code pertaining to roof-mounted mechanical units.

Florida Building Code Interpretation (Section 9)

Present Situation

Section 553.775, F.S., authorizes the code to be interpreted by building officials, local enforcement agencies, and the commission. It provides specific procedures to be used when interpreting the code.

The Florida Accessibility Code for Building Construction (accessibility code), an element of the code, is adopted by the commission and prescribes requirements related to ensuring access for the disabled for new construction activity, including things such as ramps, door widths, and particular plumbing fixtures. The accessibility code combines requirements imposed by the federal regulations that implement the Americans with Disabilities Act and Florida-specific requirements specified in Part I of ch. 553, F.S.²²

In accordance with s. 120.565, F.S., the commission may render declaratory statements relating to the provisions of the accessibility code not attributable to the Americans with Disabilities Act Accessibility Guidelines. However, the accessibility code may not be interpreted by building officials, local enforcement agencies, and the commission.

²⁰ The Florida Building Code Compliance and Mitigation Program is established in s. 553.841, F.S.

²¹ Funds used by DBPR as well as funds to be transferred to DOH shall be as prescribed in the annual General Appropriations Act.

²² Email correspondence with DBPR staff (March 5, 2014) (on file with the Business & Professional Regulation Subcommittee).

Effect of Proposed Changes

The bill authorizes building officials, local enforcement agencies, and the commission to interpret the accessibility code and removes language restricting declaratory statements to Florida-specific requirements of the accessibility code.

Florida Building Code Compliance and Mitigation Program (Section 11)

Present Situation

The DBPR administers the Florida Building Code Compliance and Mitigation Program (program), which was created to develop, coordinate, and maintain education and outreach to people who are required to comply with the code and ensure consistent education, training, and communication of the code's requirements, including, but not limited to, methods for mitigation of storm-related damage.²³ The program is geared toward persons *licensed* in the design and construction industries, but does not address those *employed* in the design and construction industries. The services and materials under the program must be provided by a private, nonprofit corporation under contract with DBPR.²⁴

Effect of Proposed Changes

The bill revises education and training requirements of the program to include, in addition to maintaining a thorough knowledge of the code, a thorough knowledge of code compliance and enforcement, duties related to consumers, project completion, and compliance of design and construction to protect against consumer harm, storm damage, and other damage. It expands the program to include people employed in the design and construction industries.

Smoke Alarms in One-Family and Two-Family Dwellings and Townhomes (Section 12)

Present Situation

In relation to smoke alarms in one-family and two-family dwellings and townhomes, the code provides that, "When alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with smoke alarms located as required for new dwellings."²⁵

Exceptions include the following:

- Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck.
- Installation, alteration or repairs of plumbing or mechanical systems.²⁶

With regard to power sources for alarms, the code requires that smoke alarms receive their primary power from the building wiring when the wiring is served from a commercial source, and when primary power is interrupted, receive power from a battery. Wiring must be permanent and without a disconnecting switch other than those required for overcurrent protection. Smoke alarms must be interconnected.²⁷

Exceptions include the following:

²³ Section 553.841(2), F.S.

²⁴ Section 553.841(3), F.S.

²⁵ Section R314.3.1 of the 2010 Florida Building Code, Residential.

²⁶ *Id.*

²⁷ Section R314.4 of the 2010 Florida Building Code, Residential.

- Smoke alarms may be battery-operated when installed in buildings without commercial power.
- Interconnection and hard-wiring of smoke alarms in existing areas are not required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space, or basement available which could provide access for hard wiring and interconnection without the removal of interior finishes.²⁸

Effect of Proposed Changes

The bill creates s. 553.883, F.S., to address smoke alarms in one-family and two-family dwellings and townhomes. The bill requires owners of one-family and two-family dwellings and townhomes undergoing a repair, or a level 1 alteration as defined in the Florida Building Code to use a smoke alarm powered by a 10-year non-removable, non-replaceable battery in lieu of retrofitting the dwelling with a smoke alarm powered by the electrical system.

The bill requires that, effective January 1, 2015, a battery-powered smoke alarm that is installed or that replaces an existing battery-powered smoke alarm be powered by a non-removable, non-replaceable battery that powers the alarm for a minimum of 10 years.

Florida Building Energy-Efficiency Rating System (Section 13)

Present Situation

Part VIII of ch. 553, F.S., is entitled the “Florida Building Energy-Efficiency Rating Act.” The intent is for the state to “encourage the consideration of energy-efficiency rating systems in the market so as to provide market rewards for energy-efficient buildings and to those persons or companies designing, building, or selling energy-efficient buildings,”²⁹ and applies to all public, commercial, and residential buildings in the state.³⁰ An energy-efficiency rating is an “unbiased indication of a building’s relative energy efficiency based on consistent inspection procedures, operating assumptions, climate data, and calculation methods.”³¹ Utilization of rating systems is voluntary for public and commercial buildings.³²

Historically, DBPR provided a statewide uniform system for rating the energy efficiency of buildings and developed a training and certification program to certify energy raters. The DBPR established the Building Energy Raters System (BERS) program to train and certify energy raters and outsourced administration of the BERS program to the Florida Solar Energy Center (FSEC) on a no-cost basis through a Memorandum of Understanding. An energy rater is “an individual certified by a building energy-efficiency rating system to perform building energy-efficiency ratings for the building type and in the rating class for which the rater is certified.”³³ Energy raters were trained and tested by FSEC, and DBPR issued the rater a certificate based on completion of the FSEC program.

The BERS rules adopted, 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 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.^{34, 35}

²⁸ *Id.*

²⁹ Section 553.991, F.S.

³⁰ Section 553.994, F.S.

³¹ Section 553.993(6), F.S.

³² Department of Business and Professional Regulation, Agency Analysis of SB 1251 (March 13, 2013) (on file with the Business & Professional Regulation Subcommittee).

³³ Section 553.993(7), F.S.

³⁴ Department of Business and Professional Regulation, Agency Analysis of SB 1251 (March 13, 2013) (on file with the Business & Professional Regulation Subcommittee).

³⁵ Based on adoption of the NASEO standard, Florida BERS raters are also required to take national examinations and certifications.

In 2013, the Legislature removed the energy-efficiency rating jurisdiction from DBPR and defined “building energy-efficiency rating system” to mean a whole building energy evaluation system established by the Residential Energy Services Network, the Commercial Energy Services Network, the Building Performance Institute, or the Florida Solar Energy Center.³⁶

Effect of Changes

The bill amends s. 553.993(3), F.S., to specify criteria to be used in a building energy-efficiency rating system rather than listing qualified entities. It must be a system that “provides a reliable and scientifically-based analysis of a building’s energy consumption or energy features and allows comparison to similar building types in similar climate zones where applicable.”

Specifically, the rating system must do the following:

- Use standard calculations, formulas, and scoring methods;
- Be applicable nationally;
- Compare a building to a clearly defined and researched baseline or benchmark;
- Require qualified professionals to conduct the rating or assessment; and
- Provide a labeling and recognition program with specific criteria or levels.

The bill requires that residential program benchmarks for new construction be consistent with national building standards and residential building program benchmarks for existing construction be consistent with national home energy rating standards.

The bill requires at least one level of oversight performed by “an organized and balanced group of professionals with subject matter expertise in energy efficiency, energy rating, and evaluation methods.”

The bill strikes the names of the qualified entities from the definition of “building energy-efficiency rating system.”

Informal Interpretations of the Florida Fire Prevention Code (Section 14)

Present Situation

Section 633.212, F.S., provides legislative intent that the “Florida Fire Prevention Code be interpreted by fire officials and local enforcement agencies in a manner that reasonably and cost-effectively protects the public safety, health, and welfare; ensures uniform interpretations throughout this state; and provides just and expeditious processes for resolving disputes regarding such interpretations.” Further, it is the intent of the Legislature that the Division of State Fire Marshal (division) establish a Fire Code Interpretation Committee (committee) composed of seven members and seven alternates, equally representing each area of the state, to which a person can pose questions regarding the interpretation of the Florida Fire Prevention Code provisions.³⁷

Each nonbinding interpretation of code provisions must be provided within 15 business days after receipt of a request for interpretation. However, the response period may be waived with the written consent of the party requesting the nonbinding interpretation and the division. The interpretations are advisory only and nonbinding on the parties or the State Fire Marshal.^{38, 39}

³⁶ Section 553.993(3), F.S.

³⁷ Section 633.212(1), F.S.

³⁸ Section 633.212(3), F.S.

³⁹ The division may charge a fee, not to exceed \$150, for each request for a review or nonbinding interpretation.

If a committee member is unable to respond to a request for a nonbinding interpretation of the code, an alternate member may respond if the committee member notifies committee that he or she is unable to respond.⁴⁰

Effect of Changes

The bill removes the requirement that a committee member notify the committee that he or she is unable to respond to a request for a nonbinding interpretation before an alternate member can respond to the request.

B. SECTION DIRECTORY:

Section 1. Amends s. 162.12, F.S., revising the options for local governments to provide notices to alleged code violators.

Section 2. Amends s. 373.323, F.S., revising requirements for taking the water well contractor licensure examination.

Section 3. Amends 440.103, F.S., authorizing the use of electronic certificates of exemption, site plans, and building permits and requiring plans and permits to be open to inspection.

Section 4. Amends s. 514.03, F.S., requiring an application for an operating permit before filing an application for a building permit for a public swimming pool.

Section 5. Amends s. 514.031, F.S., providing additional requirements for obtaining a public swimming pool operating permit.

Section 6. Amends s. 553.37, F.S., specifying inspection criteria for construction or modification of manufactured buildings or modules.

Section 7. Amends s. 553.721, F.S., removing obsolete language.

Section 8. Amends s. 553.73, F.S., revising the circumstances under which existing roof-mounted mechanical equipment is subject to the Florida Building Code requirements.

Section 9. Amends s. 553.775, F.S., authorizing building officials, local enforcement agencies, and the Florida Building Commission to interpret the Florida Accessibility Code for Building Construction and specifies procedures for such interpretations.

Section 10. Amends s. 553.79, F.S., prohibiting a local enforcing agency from issuing a building permit for a public swimming pool without proof of application for an operating permit and requiring issuance of an operating permit before a certificate of completion or occupancy is issued. Also allows building site plans or building permits to be maintained in the original form or an electronic copy at the worksite.

Section 11. Amends s. 553.841, F.S., revising education and training requirements of the Florida Building Code Compliance and Mitigation Program.

Section 12. Creates s. 553.883, F.S., authorizing use of smoke alarms powered by 10-year non-removable, non-replaceable batteries in certain circumstances and requiring use of such alarms by January 1, 2015.

Section 13. Amends s. 553.993, F.S., revising the definition of the term “building energy-efficiency rating system” to require consistency with certain national standards for new construction and existing construction and providing for oversight.

⁴⁰ Section 633.212(1), F.S.
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DATE: 4/17/2014

Section 14. Amends s. 633.212, F.S., deleting a requirement that a member of the Fire Code Interpretation Committee notify the committee of an inability to respond before the alternate member may respond.

Section 15. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Clarification on the order of permit applications for public swimming pools may result in cost savings due to issues and problems being identified prior to construction.

Owners of one-family and two-family dwellings who are installing or replacing battery-powered smoke alarms will have an added cost when replacing them with battery-powered smoke alarms that are powered by 10-year non-removable, non-replaceable batteries, as required by the bill.

D. FISCAL COMMENTS:

Allowing electronic submission of proof of security for workers' compensation by employers may cut down on paper usage, travel time by the permit holder, and storage costs by the local governments. It also may prove to be a more efficient system for the public to obtain building permits.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

According to DBPR, with regard to the provision allowing the commission to interpret the accessibility code, the U.S. Department of Justice confirmed that states that adopt the federal Americans with Disabilities Act guidelines as state law may interpret the provision, "provided that it is clear that it is an interpretation of STATE law and NOT of the federal guidelines."⁴¹

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The DBPR notes that with regard to expanding the Florida Building Code Compliance and Mitigation Program to include persons employed in the design and construction industries, "The expansion of the program to include unlicensed employees in the construction industry may present significant challenges. The program will be required to devise some means to verify that recipients of services and materials of the program are employed within the construction industry and to determine the eligibility of all recipients to work in the United States."⁴²

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 11, 2014, the Business & Professional Regulation Subcommittee adopted five amendments and reported the bill favorably as a committee substitute. The committee substitute contains the following changes:

- Adds to the list of requirements for obtaining a public swimming pool operating permit a copy of the final approval from the local enforcing agency.
- Requires issuance of an operating permit before a certificate of completion or occupancy may be issued for construction of a public swimming pool.
- Removes reference to "public bathing place" within the Department of Health's statutes since public bathing places are no longer under the jurisdiction of that department.
- Replaces inspection criteria for manufactured buildings and building modules with language that is consistent with the current building code.
- Clarifies that a repair or alteration to an existing home does not mandate a hard-wired smoke alarm if a 10-year battery-operated alarm is installed. Provides that, effective January 1, 2015, a newly-installed or replaced battery-powered smoke alarm must be powered by a non-removable, non-replaceable battery that powers the alarm for a minimum of 10 years.
- Revises the definition of "building energy-efficiency rating system" to spell out what a rating system is comprised of and the criteria that should be considered for new and existing construction. Deletes the list of the qualified entities that comprises the current definition.

⁴¹ Department of Business and Professional Regulation, Agency Analysis of HB 593 (February 20, 2014) (on file with the Business & Professional Regulation Subcommittee).

⁴² *Id.*

On March 31, 2014, the Government Operations Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute contains the following change:

- Removes the allocation of \$250,000 to Future Builders of America Program.

On April 10, 2014, the Regulatory Affairs Committee adopted several amendments and reported the bill favorably as a committee substitute. The committee substitute contains the following changes:

- Authorizes a local government to have the choice of whether or not to request a return receipt when sending a notice to an alleged code enforcement violator by certified mail.
- Deletes a water well driller and a water well parts and equipment vendor from the list of persons who may attest to the length of time a water well contractor applicant has been engaged in the water well business, so that only two letters will be required, one from a water well contractor and a water well inspector employed by a governmental agency.
- Provides that proof of worker's compensation may be presented electronically when an employer applies for a building permit, and that such proof may be submitted and retained electronically.
- Allows maintenance of site plans and electronically transferred building permits in either their original form or as an electronic copy for the purpose of inspection and record retention.
- Requires equipment located on or above the surface of a roof to be installed in compliance with the requirements of the code when the equipment is being replaced or moved during reroofing, and the equipment is not in compliance with the provisions of the code pertaining to roof mounted units.
- Revises terminology and a citation regarding the code in reference to smoke alarms.
- Removes the requirement that a member of the Fire Code Interpretation Committee notify the committee that he or she is unable to respond to a request for a nonbinding interpretation of the Fire Prevention Code before an alternate member can respond to the request.

This staff analysis has been updated to reflect the committee substitute.