

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/HB 7147	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Regulatory Affairs Committee; Energy & Utilities Subcommittee; J. Diaz	117 Y's	1 N's
COMPANION BILLS:	CS/CS/CS/SB 1044; CS/CS/CS/HB 593; HB 4007; CS/CS/SB 1106	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/HB 7147 passed the House on April 25, 2014. The bill was passed, as amended, by the Senate on May 1, 2014, and subsequently passed the House on May 2, 2014.

The bill contains the following provisions related to building construction and energy issues:

- Modifies the process for obtaining operating and building permits for public swimming pool construction and provides for variances from the Florida Building Code in hardship circumstances;
- Specifies inspection criteria for construction or modification of manufactured buildings or building modules, provides that make-up air is not required for specified range hood exhaust systems, and creates requirements for smoke alarms in specified dwellings;
- Authorizes and provides procedures for building officials, local enforcement agencies, and the Florida Building Commission to interpret the Florida Accessibility Code for Building Construction;
- Streamlines the process for nonbinding interpretations of the Fire Prevention Code;
- Exempts tents up to 30 x 30 feet from the Fire Prevention Code;
- Revises the process for water well contractor license examination applications and expands education and training for the Florida Building Code Compliance and Mitigation Program;
- Provides for specific types of documentation pertaining to the building industry to be submitted and retained electronically;
- Modifies the regulation of building energy-efficiency rating systems;
- Adds a representative of the Office of Energy, within the Department of Agriculture and Consumer Services (DACS), to the Florida Building Commission and authorizes the Commissioner of Agriculture to appoint a representative to the Southern States Energy Board;
- Clarifies DACS' duties with respect to promotion of renewable energy and energy efficiency and conservation, and its cooperation with the Florida Energy Systems Consortium;
- Authorizes DACS to post information on alternative fueling stations and electric vehicle charging stations on its website;
- Requires the Office of Energy to establish a program for allocating or reallocating the federal qualified energy conservation bond volume limitation; and
- Repeals the expired Solar Energy Systems Incentive Program and the expired Florida Energy Star Residential HVAC Rebate Program and related cross-references.

HB 5001, the General Appropriations Act, provides an appropriation of \$47,212 from general revenue funds for the annual dues to the Southern States Energy Board.

The bill was approved by the Governor on June 13, 2014, ch. 2014-154, L.O.F., and will become effective on July 1, 2014, except as otherwise provided.

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

STORAGE NAME: h7147z1.EUS

DATE: June 23, 2014

I. SUBSTANTIVE INFORMATION

A. EFFECT OF 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 the Bill

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; and
- Have completed the application form and remitted a nonrefundable application fee.

Effect of the Bill

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 one from a water well inspector employed by a governmental agency.

Southern States Energy Board (Sections 3 and 5)

Present Situation

The Southern States Energy Board (SSEB) is a non-profit interstate compact organization created by state law in 1960 and consented to by Congress⁴ with “a broad mandate to contribute to the economic and community well-being of the southern region.”⁵ Its mission is “to enhance economic development and the quality of life in the South through innovations in energy and environmental policies, programs and technologies.”⁶

Sixteen southern states and two territories comprise the SSEB: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, U.S. Virgin Islands, Virginia, and West Virginia. Each jurisdiction is represented by the Governor and members appointed by the House and Senate. A governor serves as the chair and legislators serve as vice-chair and treasurer. Ex-officio, non-voting SSEB members include a federal representative appointed by the President of the United States, the Southern Legislative Conference Energy and Environment Committee Chair, and the SSEB’s executive director, who serves as secretary.⁷

According to its website, the SSEB pursues its mission through the creation of programs in the fields of energy and environmental policy research, development and implementation, science and technology exploration, and related areas of concern. The SSEB “serves its members directly by providing timely assistance designed to develop effective energy and environmental policies and programs and represents its members before governmental agencies at all levels.”⁸

The SSEB’s long-term goals are the following:

⁴ Public Laws 87-563 and 92-440.

⁵ Southern States Energy Board website, at <http://www.sseb.org/about/> (last accessed on May 8, 2014).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

- Perform essential services that provide direct scientific and technical assistance to state governments;
- Develop, promote, and recommend policies and programs on energy, environment, and economic development that encourage sustainable development;
- Provide technical assistance to executive and legislative policy-makers and the private sector in order to achieve synthesis of energy, environment, and economic issues that ensure energy security and supply;
- Facilitate the implementation of energy and environmental policies between federal, state, and local governments and the private sector;
- Sustain business development throughout the region by eliminating barriers to the use of efficient energy and environmental technologies; and
- Support improved energy efficient technologies that pollute less and contribute to a clean global environment while protecting indigenous natural resources for future generations.⁹

Core funding for the SSEB is comprised of appropriations from its 18 member jurisdictions, and each member's share of support is determined by a formula written into the original Southern States Energy Compact (Compact). The formula uses relative state population, per capita income, and equal shares as factors. The SSEB has not requested an increase in state appropriations since 1987.¹⁰

Section 377.711, F.S., codifies the terms of the Compact and establishes Florida as a member of the Compact. Section 377.712, F.S., provides for Florida's participation on the SSEB, by requiring the Governor, the President of the Senate, and the Speaker of the House of Representatives to each appoint one member to the SSEB.¹¹ Section 377.6015, F.S., authorizes the Department of Agriculture and Consumer Services (DACS) to represent Florida in the Compact. Departments, agencies, and officers of the state and its subdivisions are authorized to cooperate with the SSEB if the activities have been approved by either the Governor or the Florida Department of Health.¹²

Effect of the Bill

The bill clarifies the authority of the Commissioner of Agriculture to appoint a member of the SSEB and to appoint a deputy or assistant to assist the member. This authority replaces existing language, removed in the bill, which authorized DACS to represent Florida in the Compact. This change provides greater consistency with the provisions of s. 377.712, F.S., which specify Florida's participation in the SSEB. The bill also removes reference to the Department of Health.

Office of Energy (Section 4)

Present Situation

During the 2007 Legislative Session, the issue of fragmentation of energy policy governance was raised. At that time, there were many public sector entities playing a role in developing, implementing, or coordinating some aspect of Florida's energy policies: the State Energy Office within the Department of Environmental Protection; the Department of Community Affairs; the Florida Building Commission; DACS; the Department of Management Services; the Department of Financial Services; the Public Service Commission; the Florida Energy Commission; and a host of colleges and universities.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Currently, the Florida members are Governor Rick Scott, Senator Anitere Flores, and Representative Jose Felix Diaz.

¹² Section 377.712, F.S.

In 2008, the Legislature established the Florida Energy and Climate Commission (FECC) as the state entity responsible for recommending, implementing, and coordinating Florida's energy policy and for coordinating all federal energy programs delegated to the state.¹³ The measure, in effect, merged the Department of Environmental Protection's Florida Energy Office with the Legislature's Florida Energy Commission and administratively placed the new entity within the Executive Office of the Governor. In 2009, the Senate failed to confirm the membership of the FECC.

In 2011,¹⁴ the Legislature abolished the FECC and transferred all of its powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts from the Executive Office of the Governor to the Office of Energy within DACS.

Among its responsibilities, DACS' Office of Energy administers tax incentive programs, administers the provisions of the Florida Energy and Climate Protection Act, works cooperatively with other state entities regarding energy-related matters, and provides energy policy recommendations to the Legislature.¹⁵

DACS provides an annual report to the Governor and the Legislature reflecting its activities and its policy recommendations. The report must include a report from the Public Service Commission (PSC) addressing, among other things, ongoing energy conservation programs and must include recommendations for energy conservation programs in the state. Further, DACS must promote energy conservation in all energy use sectors throughout the state.¹⁶

The terms "energy conservation" and "energy efficiency" are often used interchangeably, but have distinct meanings. Energy conservation is generally defined as reduction in total levels of energy consumption.¹⁷ An example is lowering the thermostat. Energy efficiency is generally defined as achieving more services from the same energy input or the same services from less energy input. An example is replacing an incandescent light bulb with an LED light bulb.¹⁸ Programs addressed by the PSC include both energy conservation and energy efficiency measures.

DACS must also promote the development and use of renewable energy resources. Current law requires it to do so by: establishing goals and strategies for increasing the use of solar energy in the state; aiding and promoting the commercialization of solar energy technology; identifying barriers to greater use of solar energy systems in this state; and investigating opportunities for solar electric vehicles and other solar energy manufacturing, distribution, installation, and financing efforts which will enhance Florida's position as a leader in solar energy research, development, and use.¹⁹

The Florida Energy Systems Consortium (consortium) promotes collaboration among experts in the State University System for the purposes of sharing energy-related expertise and assisting in the development and implementation of a comprehensive, long-term, environmentally compatible, sustainable, and efficient energy strategic plan for the state.²⁰ The consortium is required to focus on the research and development of innovative energy systems that will lead to alternative energy strategies, improved energy efficiencies, and expanded economic development for the state.²¹ The consortium consists of all of the state universities and is administered at the University of Florida by a director appointed by the President of the University of Florida. The director reports to DACS.²²

¹³ Section 46, ch. 2008-227, L.O.F.

¹⁴ Chapter 2011-142, L.O.F.

¹⁵ Sections 377.6015 and 377.703, F.S.

¹⁶ Section 377.703(2)(f) and (i), F.S.

¹⁷ *Florida's Electric Utilities: A Reference Guide*, Revised 1994 Edition, p. 35.

¹⁸ International Energy Agency, Energy Efficiency, at <http://www.iea.org/topics/energyefficiency/> (last accessed on May 8, 2014).

¹⁹ Section 377.703(2)(h), F.S.

²⁰ Section 1004.648, F.S.

²¹ *Id.*

²² *Id.*

Effect of the Bill

The bill clarifies that DACS' duties include making recommendations, collecting and disseminating information, and developing and conducting educational and training programs regarding energy efficiency in addition to energy conservation. The bill captures both "energy conservation" and "energy efficiency" programs to reflect the broad array of programs addressed by the PSC and indicates that DACS' recommendations and promotional efforts must address both.

The bill clarifies that DACS' efforts to promote renewable energy resources are not limited to solar energy technologies, but include all renewable resources.

The bill adds the consortium to the list of entities that the Office of Energy must work with in cooperation.

Solar Energy Systems Incentive Program and Florida Energy Star Residential HVAC Rebate Program (Sections 6, 7, 8, and 9)

Present Situation

The Legislature created the Solar Energy System Incentives Program (Solar Rebate Program or program) in 2006 to encourage homeowners and businesses to purchase and install solar energy systems. Rebates ranged from \$100 for solar pool heaters to up to \$100,000 for solar energy systems for businesses. Systems installed from July 1, 2006, to June 30, 2010, were eligible for limited rebates on purchase and installation costs, subject to legislative appropriation.

Over the course of the program, the Legislature appropriated more than \$25 million²³ in funding for the Solar Rebate Program. However, the program proved more popular than anticipated and funds were depleted. A backlog of more than \$52 million in unpaid rebate applications had accumulated as of October 2010.

In August 2010, the FECC created the Florida Energy Star Residential HVAC Rebate Program (HVAC Rebate Program) in accordance with s. 377.807, F.S. The HVAC Rebate Program was intended to provide \$1,500 rebates for the purchase and installation of eligible HVAC systems and was to commence August 30, 2010, and terminate on December 31, 2010, or when funds were depleted. The FECC announced the HVAC Rebate Program in August 2010 without having authorized funding. The FECC sought funding through the Legislative Budget Commission (LBC). As the funding transfer request was not lawfully permissible, however, no action was taken by the LBC. Consequently, the FECC suspended the HVAC Rebate Program and announced that all applications were pending legislative action.²⁴

In November 2010 during Special Session A, the Legislature passed HB 15-A, which provided for payment of HVAC rebates and provided that any remaining funds, after processing payment of all approved HVAC rebates, be used to proportionally pay all approved, but unpaid, rebate applications in the Solar Rebate Program backlog. After the funds were exhausted, both programs were closed. New installations and purchases have not been eligible for rebates under those programs since 2010.

Effect of the Bill

²³ The Legislature provided the following funding for the program:

- FY 2006-07 \$2.5 million in General Revenue;
- FY 2007-08 \$3.5 million in General Revenue;
- FY 2008-09 \$5.0 million in General Revenue; and
- FY 2009-10 \$14.4 million in federal funds provided through the American Reinvestment and Recovery Act of 2009

²⁴ House Staff Analysis for HB 15-A (November 16, 2010).

The Solar Rebate Program and the HVAC Rebate Program are no longer in existence and all of the qualified applicants have received a rebate. The bill removes the expired programs and their associated definitions and cross-references from the statutes.

Alternative Fueling Stations and Electric Vehicle Charging Stations (Section 10)

Present Situation

Over the last decade, the state has adopted incentives for alternative-fuel vehicles. Most recently, in 2013, the Legislature created a program for natural gas fuel fleet conversions that began January 1, 2014. Administered by DACS, the state offers a rebate for up to 50 percent of the eligible costs of a natural gas fuel fleet vehicle or bi-fuel operating system placed into service on or after July 1, 2013.²⁵ An applicant is eligible to receive a maximum rebate of \$25,000 per vehicle up to a total of \$250,000 per applicant per fiscal year, on a first-come, first-served basis.

Electric Vehicles (EVs) are becoming more competitive as a result of tax credits, the introduction of gasoline-electric hybrid technology, and improved batteries. As the technology becomes more established, EVs may become a more realistic alternative to gasoline and diesel-fueled vehicles.²⁶

Estimates of the number of EVs in Florida, as provided by utilities and other organizations, ranged from approximately 1,000 to 6,000 in 2012²⁷ and are assumed to be higher in 2014. Because no agency tracks these figures formally, it is difficult to pinpoint the number more precisely, and future projections are even more speculative. The number of installed EV charging stations in the state is currently estimated at more than 400.²⁸

Currently, there are alternative fuel and EV charging station locators available online, such as <http://floridagas.org/ForVehicles/FuelStationMap.aspx> and <http://www.afdc.energy.gov/locator/stations>; however, no source appears to provide a complete list of alternative fuel or public charging stations.²⁹

²⁵ Chapter 2013-198, L.O.F

²⁶ Florida Public Service Commission, *Report on Electric Vehicle Charging*, p. 1 (December 2012).

²⁷ *Id.*

²⁸ Department of Agriculture and Consumer Services, Office of Energy, at <http://www.freshfromflorida.com/Energy/Electric-Vehicle-Charging-Stations-Infrastructure> (last accessed on March 17, 2014).

²⁹ *Id.*

Effect of the Bill

The bill creates s. 377.815, F.S., which authorizes DACS to post on its website information relating to alternative fueling stations and EV charging stations.

It defines the term “alternative fuel” to mean “nontraditional transportation fuel, such as pure methanol, ethanol, and other alcohols; blends of 85 percent or more of alcohol with gasoline; natural gas and liquid fuels domestically produced from natural gas; liquefied petroleum gas; coal-derived liquid fuels; hydrogen; electricity; pure biodiesel; fuels, other than alcohol, derived from biological materials; and P-series fuels.”

Specifically, the bill provides that an owner or operator of an alternative fueling station that is available in Florida may report any of the following information to DACS to be posted on its website:

- The type of alternative fuel available;
- The station's name, address, or location; or
- The fees or costs associated with the alternative fuel that is available for purchase.

The owner or operator of an EV charging station that is available in Florida may report any of the following information to DACS to be posted on its website:

- The station's name, address, or location; or
- The fees or costs, if any, associated with the EV charging services provided by the station.

Qualified Energy Conservation Bonds (Section 11)

Present Situation

Qualified Energy Conservation Bonds (QECBs) are taxable bonds that are issued by state or local governments to finance one or more qualified energy conservation purpose.

In 2008, a federal program³⁰ was created through the Energy Improvement and Extension Act (EIEA) whereby \$800 million in bonding authority for QECBs was given, to be divided among the states by population.³¹ In 2009, the American Reinvestment and Recovery Act of 2009 increased the authority to \$3.2 billion to be divided among the states.³²

DACS' Office of Energy states the following:

Qualified Energy Efficiency Conservation Bonds (QECBs) are a financing tool designed to provide low cost capital through [local government] bond issuance. The proceeds from the issuance [of QECBs] can be used for a broad range of energy projects for both public and private activity. As opposed to a loan guarantee, this program provides a lengthy repayment period to encourage increased energy project activity. To utilize these funds, either the Governor has to sign an executive order or the legislature has to authorize via statute.

Once authorized, a bond may be issued by state, local, and tribal governments to finance qualified energy conservation projects (for example: funding a commercial Property Assessed Clean Energy (PACE) program, residential energy efficiency loans, and municipal energy efficiency to name a few). A maximum of 30% of QECB allocations may be used for private

³⁰ U.S.C. s. 54D

³¹ Database of State Incentives for Renewables and Efficiency, at http://www.dsireusa.org/incentives/incentive.cfm?Incentive_Code=US51F (last accessed on May 12, 2014).

³² U.S.C. s. 54D(d)

activity purposes. At least 70% must finance governmental projects, which includes broadly defined "green government programs."³³

Florida's share of the bonding authority for QECCBs is approximately \$190 million and is initially allocated to cities and counties having a population of 100,000 or more.³⁴

Eligible technologies include:

- Solar Thermal Electric;
- Photovoltaics;
- Landfill Gas;
- Wind;
- Biomass;
- Hydroelectric;
- Geothermal Electric;
- Municipal Solid Waste;
- Hydrokinetic Power;
- Anaerobic Digestion;
- Wave Energy; and
- Ocean Thermal.³⁵

Effect of the Bill

The bill requires DACS to establish an allocation program for allocating or reallocating the QECCB volume limitation provided by the federal program. This allocation program must provide notification of all mandatory allocations required or authorized by Internal Revenue Code. Under the bill, DACS will allocate issuance capacity to cities and counties with populations above 100,000 based on the city's or county's percentage of total state population (based on 2008 population figures). For example, if a municipality has 150,000 residents and the state has 1.5 million residents, the state must allocate 10 percent of its QECCB issuance capacity to the municipality.³⁶ Further, a percentage of the funds would be available for the state to initiate state wide programs.

If a city or county does not intend to issue QECCBs, it may reallocate all or part of its issuance capacity back to the state. Any funds that are reallocated back to the state may be reallocated to eligible issuers, including the state.³⁷

Electronically Transferred Documents (Section 12 and part of Section 22)

Present Situation

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.³⁸ This proof of compensation must be evidenced by the following:

- A certificate of coverage issued by the carrier;

³³ Memorandum from DACS' Office of Energy to Commissioner Adam Putnam Re: Qualified Energy Efficiency Conservation Bonds, April 9, 2014.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ These sections address workers' compensation liability and security provisions.

- 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."³⁹ Section 468.604(4), F.S., 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.

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 (code).

Effect of the Bill

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, 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 13, 14, 15, 20, and part of Section 22)

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.⁴⁰

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.⁴¹

³⁹ Chapter 2012-58, L.O.F.

⁴⁰ Chapter 2012-184, L.O.F.

⁴¹ Section 514.011(2), F.S.

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.⁴²

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.⁴³ The operating permit must be renewed annually and posted in a conspicuous place.⁴⁴

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.

Section 514.0115, F.S., authorizes DOH to grant variances from DOH rules regarding public swimming pools pursuant to DOH rules.

Effect of the Bill

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.”⁴⁵

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, whether complete or incomplete, for an operating permit and does not allow issuance of a certificate of completion or occupancy until the operating permit is issued. The local enforcement agency is to conduct their review of the building permit application upon filing and may confer with DOH if necessary, but may not delay the building permit application review while awaiting comments from DOH.

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; and
- A copy of the final inspection from the local enforcement agency.

Regarding application for an operating permit, the bill requires the applicant to respond to a request for additional information due to an incomplete application pursuant to ch. 120, F.S. Upon receipt of the

⁴² Section 514.031(1), F.S.

⁴³ *Id.*

⁴⁴ Section 514.031(4), F.S.

⁴⁵ Section 553.71(5), F.S.

application, whether complete or incomplete, DOH must review and provide to the local enforcement agency and the applicant any comment or proposed modifications on the information received.

The bill authorizes DOH to grant variances from the code provisions for public swimming pools when requested by the pool owner or their representative to relieve hardship in cases involving deviations from the code when the following is shown:

- The hardship was not caused intentionally by the action of the applicant;
- No reasonable alternative exists; and
- The health and safety of the pool patrons is not at risk.

Building officials are directed to recognize and enforce variance orders issued by DOH including any attached conditions.

Florida Building Code Requirements for Construction or Modification of Manufactured Buildings and Building Modules (Section 16)

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 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.⁴⁶

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;
- Submittal to and approval by DBPR of manufacturers' internal quality control procedures and manuals, including any amendments; and
- 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

⁴⁶ Section 553.74, F.S.

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.⁴⁷

“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.⁴⁸

Effect of the Bill

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,⁴⁹ 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 17)

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.⁵⁰ 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.^{51, 52}

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 Code Compliance and Mitigation Program.⁵³ Funds allocated to the Florida Building Code Compliance and Mitigation Program are \$925,000 each fiscal year.⁵⁴

Effect of the Bill

The bill removes obsolete dates related to the surcharge.

Roof-Mounted Mechanical Equipment and Range Hood Exhaust Systems (Section 18)

⁴⁷ Section 553.36(13), F.S.

⁴⁸ Section 553.36(15), F.S.

⁴⁹ The manufacturer must be certified by the commission.

⁵⁰ Section 553.72(3), F.S.

⁵¹ Section 553.721, F.S.

⁵² The minimum amount collected on any permit issued is \$2.

⁵³ The Florida Building Code Compliance and Mitigation Program is established in s. 553.841, F.S.

⁵⁴ Funds used by DBPR as well as funds to be transferred to DOH shall be as prescribed in the annual General Appropriations Act.

Present Situation

Roof-Mounted Mechanical Equipment

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.

Range Hood Exhaust Systems

It is becoming more common for residential kitchens to resemble commercial kitchens with much larger-capacity range hoods being installed, resulting in a lack of makeup air for all exhaust systems in the dwelling. To address this imbalance of exhaust air to makeup air, the 2010 Florida Building Code requires that exhaust hood systems capable of exhausting in excess of 400 cubic feet per minute be provided with makeup air at a rate approximately equal to the exhaust air rate. These makeup air systems must be equipped with a means of closure and be automatically controlled to start and operate simultaneously with the exhaust system.⁵⁵

Industry representatives have indicated that this code provision has resulted in a requirement that is excessive and costly for owners who have ranges that have hood exhaust systems that exhaust greater than 400 cubic feet.

Effect of the Bill

Roof-Mounted Mechanical Equipment

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.

Range Hood Exhaust Systems

The bill provides that for a single-family dwelling, makeup air is not required for range hood exhaust systems capable of exhausting:

- 400 cubic feet per minute or less; or
- More than 400 cubic feet per minute but no more than 800 cubic feet per minute if there are no gravity vent appliances within the conditioned living space of the dwelling.

Florida Building Commission (Section 19)

Present Situation

The commission (ss. 553.74 - 553.77, F.S.) is a 26-member technical body responsible for the development, maintenance, and interpretation of the 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 the following design professionals, contractors, and government experts in the various disciplines covered by the code:

- One architect registered to practice in this state and actively engaged in the profession;

⁵⁵ Section M1503.4 of the 2010 Florida Building Code, Residential.

- One structural engineer registered to practice in this state and actively engaged in the profession;
- One air-conditioning or mechanical contractor certified to do business in this state and actively engaged in the profession;
- One electrical contractor certified to do business in this state and actively engaged in the profession;
- One member from fire protection engineering or technology who is actively engaged in the profession;
- One general contractor certified to do business in this state and actively engaged in the profession;
- One plumbing contractor licensed to do business in this state and actively engaged in the profession;
- One roofing or sheet metal contractor certified to do business in this state and actively engaged in the profession;
- One residential contractor licensed to do business in this state and actively engaged in the profession;
- Three members who are municipal or district codes enforcement officials, one of whom is also a fire official;
- One member who represents the Department of Financial Services;
- One member who is a county codes enforcement official;
- One member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in this state;
- One member of the manufactured buildings industry who is licensed to do business in this state and is actively engaged in the industry;
- One mechanical or electrical engineer registered to practice in this state and actively engaged in the profession;
- One member who is a representative of a municipality or a charter county;
- One member of the building products manufacturing industry who is authorized to do business in this state and is actively engaged in the industry;
- One member who is a representative of the building owners and managers industry who is actively engaged in commercial building ownership or management;
- One member who is a representative of the insurance industry;
- One member who is a representative of public education;
- One member who is a swimming pool contractor licensed to do business in this state and actively engaged in the profession;
- One member who is a representative of the green building industry and who is a third-party commission agent, a Florida board member of the United States Green Building Council or Green Building Initiative, a professional who is accredited under the International Green Construction Code,⁵⁶ or a professional who is accredited under Leadership in Energy and Environmental Design;⁵⁷
- One member who is a representative of a natural gas distribution system and who is actively engaged in the distribution of natural gas in this state; and
- One member who shall be the chair.

DACS, under the Florida Energy Efficiency and Conservation Act, is required, among other duties, to be a party in the proceedings to adopt energy efficiency and conservation goals and must file with the PSC comments on those proposed goals.⁵⁸ DACS' comments must include an analysis of the impact of

⁵⁶ Commonly referred to as IGCC.

⁵⁷ Commonly referred to as LEED.

⁵⁸ In accordance with s. 366.82(2), F.S., the PSC shall adopt appropriate goals for increasing the efficiency of energy consumption and increasing the development of demand-side renewable energy systems, specifically including goals designed to increase the conservation of expensive resources, such as petroleum fuels, to reduce and control the growth rates of electric consumption, to reduce the growth rates of weather-sensitive peak demand, and to encourage development of demand-side renewable energy resources.

state and local building codes and appliance efficiency standards on the need for utility-sponsored conservation and energy efficiency measures and programs.⁵⁹

Effect of the Bill

The bill adds a representative of DACS' Office of Energy to the commission. The bill encourages the Commissioner of Agriculture to recommend a list of candidates for consideration.

Florida Building Code Interpretation (Section 21)

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.⁶⁰

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.

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.

⁵⁹ Section 366.82(5), F.S.

⁶⁰ Email correspondence with DBPR staff (March 5, 2014) (on file with the Business & Professional Regulation Subcommittee).

Enforcement of Florida Building Code Compliance on Educational Facilities (Section 23)

Present Situation

Section 553.80, F.S., provides for enforcement of the code by state universities, community colleges, and public school districts.

Effect of the Bill

The bill provides a technical correction to the provision that counties and municipalities expedite projects, that are subject to the code, of public schools rather than the school districts.

Florida Building Code Compliance and Mitigation Program (Section 24)

Present Situation

The DBPR administers the Florida Building Code Compliance and Mitigation 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.⁶¹ The services and materials under the Florida Building Code Compliance and Mitigation Program must be provided by a private, nonprofit corporation under contract with DBPR. This program is geared toward persons *licensed* in the design and construction industries, not those simply *employed* in the design and construction industries.⁶²

Effect of the Bill

The bill revises education and training requirements of the Florida Building Code Compliance and Mitigation 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. The bill expands this program to include people employed in the design and construction industries.

Smoke Alarms in One-Family and Two-Family Dwellings and Townhomes (Section 25)

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."⁶³

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; or
- Installation, alteration or repairs of plumbing or mechanical systems.⁶⁴

⁶¹ Section 553.841(2), F.S.

⁶² Section 553.841(3), F.S.

⁶³ Section R314.3.1 of the 2010 Florida Building Code, Residential.

⁶⁴ *Id.*

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.⁶⁵

Exceptions include the following:

- Smoke alarms may be battery-operated when installed in buildings without commercial power; or
- 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.⁶⁶

Effect of the Bill

The bill creates s. 553.883, F.S., to require owners of one-family and two-family dwellings and townhomes undergoing a repair, or a level 1 alteration as defined in the 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. These battery requirements do not apply to a fire alarm, smoke detector, smoke alarm, or ancillary component that is electronically connected as a part of a centrally monitored or supervised alarm system.

Florida Building Energy-Efficiency Rating System (Section 26)

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,”⁶⁷ and applies to all public, commercial, and residential buildings in the state.⁶⁸ 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.”⁶⁹ Utilization of rating systems is voluntary for public and commercial buildings.⁷⁰

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

⁶⁵ Section R314.4 of the 2010 Florida Building Code, Residential.

⁶⁶ *Id.*

⁶⁷ Section 553.991, F.S.

⁶⁸ Section 553.994, F.S.

⁶⁹ Section 553.993(6), F.S.

⁷⁰ Department of Business and Professional Regulation, Agency Analysis of SB 1252 (March 13, 2013) (on file with the Business & Professional Regulation Subcommittee).

the rating class for which the rater is certified.”⁷¹ 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.^{72, 73}

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 RESNET, the Commercial Energy Services Network, the Building Performance Institute, or FSEC.⁷⁴

Effect of the Bill

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.”

⁷¹ Section 553.993(7), F.S.

⁷² Department of Business and Professional Regulation, Agency Analysis of SB 1252 (March 13, 2013) (on file with the Business & Professional Regulation Subcommittee).

⁷³ Based on adoption of the NASEO standard, Florida BERS raters are also required to take national examinations and certifications.

⁷⁴ Section 553.993(3), F.S.

Florida Fire Prevention Code (Sections 27 and 28)

Present Situation

Tents

The following comments are attributed to Florida's Division of State Fire Marshal regarding the application of the Florida Fire Prevention Code and related inspections of tents:⁷⁵

Tents that are 10' x 12' and smaller are exempt from permitting and regulation at this time. According to the Florida Fire Prevention Code, 20' x 20' tents have a calculated occupant load of seven square feet per person or 57 people. According to the Florida Building Code it would be five square feet per person or 80 people. Using the same formula, a 30'x30' tent would have an occupant load of 129 people under the Florida Fire Prevention Code and 180 under the Florida Building Code. Any building or structure (temporary or permanent) having an occupant load of 50 or more people means increase code considerations because of the lives present and management of movement in an emergency.

The inspection checks for, among other things, fire rating and stability of the installation. There are two basic types of tents; tension where there is a center pole and high tension guys (rope or wire) where all of the strength comes from guys secured to the structure and ground. The other type is a frame-type where the frame is connected side-to-side and end-to-end including the center of the structure. Frame tents are much more stable than tension tents.

Fire Code Interpretation Committee

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.⁷⁶

Each nonbinding interpretation of Florida Fire Prevention 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.^{77, 78}

If a committee member is unable to respond to a request for a nonbinding interpretation of the Florida Fire Prevention Code, an alternate member may respond if the committee member notifies committee that he or she is unable to respond.⁷⁹

⁷⁵ Correspondence with the Office of Chief Financial Officer (April 30, 2014) (On file with the Business & Professional Regulation Subcommittee).

⁷⁶ Section 633.212(1), F.S.

⁷⁷ Section 633.212(3), F.S.

⁷⁸ The division may charge a fee, not to exceed \$150, for each request for a review or nonbinding interpretation.

⁷⁹ Section 633.212(1), F.S.

Effect of the Bill

Tents

The bill exempts tents up to 30 feet by 30 feet from the Florida Fire Prevention Code and the national codes that are incorporated by reference.

Fire Code Interpretation Committee

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.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None. See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None. 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.

Having access to location and pricing information for alternative fuel and electric vehicle charging stations may facilitate the use of vehicles utilizing these types of energy.

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.

DACS states that the cost of implementing the bill could be minimal. Staff would develop the allocation process as well collect data so staff can report on the use of the funds. These tasks could be done utilizing current staff.⁸⁰

HB 5001, the General Appropriations Act, provides an appropriation of \$47,212 from general revenue funds for the annual dues to the Southern States Energy Board.

⁸⁰ Memorandum from DACS' Office of Energy to Commissioner Adam Putnam Re: Qualified Energy Efficiency Conservation Bonds, April 9, 2014.