

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 860

INTRODUCER: Community Affairs Committee; and Senators Brandes and Lee

SUBJECT: Building Code Administrators and Inspectors

DATE: March 14, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.			RI	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 860 makes numerous changes to ch. 468, F.S., to address the shortage of building code inspectors and plans examiners.

Specifically, the bill creates an internship path for certification as a building code inspector or plans examiner.

The bill also requires the Florida Building Code Administrators and Inspectors Board (FBCAIB) to provide for the issuance of a provisional certificate to any building code inspector or plans examiner who meets certain eligibility requirements. Furthermore, a person may perform the duties of a plan examiners or building code inspector for 120 days if he or she submits a provisional certificate application and is under the direct supervision of a certified building code administrator. Under current law, the provisional certificate and the authorization to perform plan examiner and building code inspector duties are available for newly employed or promoted building code inspectors and plans examiners only.

The bill also changes the process by which revisions are made to the Florida Building Code.

Current law requires the Florida Building Commission (Commission) to revise the Florida Building Code every 3 years to automatically adopt the most recent versions of the International Code Council I-Codes (I-Codes) and the International Energy Conservation Code (IECC) into the foundation of the Florida Building Code. Additionally, under current law, amendments and modifications to the Florida Building Code only remain in effect until the effective date of a new edition of the Florida Building Code.

Under the new process, the Commission will start with the current Florida Building Code and evaluate the changes made in the I-Codes and the IECC and adopt the changes the Commission deems appropriate. However, the Commission must maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction. If amendments or modifications are made to the Florida Building Code, those amendments and modifications will be carried forward until the next edition of the Florida Building Code. The Florida Building Code updating process will remain on a 3-year cycle.

The bill also requires the Commission to adopt the Florida Building Code by a three-fourths vote of the members present.

II. Present Situation:

The Florida Building Code and the Florida Building Commission

In 1974, Florida adopted a state minimum building code law requiring all local governments to adopt and enforce a building code that would ensure minimum standards for the public's health and safety. Four separate model codes were available that local governments could consider and adopt. In that system, the state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes as they desired.¹

In 1996, a study commission was appointed to review the system of local codes created by the 1974 law and to make recommendations for modernizing the entire system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and an enhanced oversight role for the state in local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code, and that first edition replaced all local codes on March 1, 2002. In 2004, for the second edition of the Florida Building Code, the state adopted the International Code Council's I-Codes.² All subsequent Florida Building Codes have been adopted utilizing the I-Codes as the base code. The most recent Florida Building Code is the fifth edition which is referred to as the 2014 Florida Building Code. The 2014 Florida Building Code went into effect June 30, 2015.³

The Commission was statutorily created to implement the Florida Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 27-member technical body responsible for the development, maintenance, and interpretation of the Florida Building Code. The Commission also approves products for statewide acceptance. Members are appointed by the Governor and confirmed by the Senate and

¹ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited March 14, 2017).

² The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." The ICC publishes I-Codes: a complete set of model comprehensive, coordinated building safety and fire prevention codes, for all aspects of construction, that have been developed by ICC members. All 50 states have adopted the I-Codes.

³ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited March 14, 2017).

include design professionals, contractors, and government experts in the various disciplines covered by the Florida Building Code.⁴

Most substantive issues before the Commission are vetted through a workgroup process where consensus recommendations are developed and submitted by appointed representative stakeholder groups in an open process with several opportunities for public input.

According to the Commission,

General consensus is a participatory process whereby, on matters of substance, the members strive for agreements which all of the members can accept, support, live with or agree not to oppose. In instances where, after vigorously exploring possible ways to enhance the members' support for the final decision on substantive decisions, and the Commission finds that 100 percent acceptance or support is not achievable, final decisions require at least 75 percent favorable vote of all members present and voting.⁵

Building Code Cycle

Pursuant to s. 553.73(7)(a), F.S., the Commission must update the Florida Building Code every 3 years. When updating the Florida Building Code, the Commission is required to use the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, the International Residential Code, and the International Electrical Code. These I-Codes form the foundation codes of the updated Florida Building Code.

Any amendments or modifications to the foundation codes found within the Florida Building Code remain in effect only until the effective date of a new edition of the Florida Building Code, every 3 years.⁶ At that point, the amendments or modifications to the foundation codes are removed, unless the amendments or modifications are related to state agency regulations or are related to the wind-resistance design of buildings and structures within the high-velocity hurricane zone of Miami-Dade and Broward Counties, which are carried forward into the next edition of the Florida Building Code.

When a provision of the current Florida Building Code is not part of the foundation codes, an industry member or another interested party must resubmit the provision to the Commission during the Florida Building Code adoption process in order to be considered for the next edition of the Florida Building Code.⁷

⁴ Section 553.74, F.S.

⁵ Florida Building Commission, Florida Building Commission Consensus-Building Process, *available at* http://www.floridabuilding.org/fbc/commission/FBC_0608/Commission/FBC_Discussion_and_Public_Input_Processes.htm (last visited March 14, 2017).

⁶ Section 553.73(7)(g), F.S.

⁷ Section 553.73(7)(g), F.S.

Amendments between Cycles

Section 553.73(8), F.S., authorizes the Commission to approve amendments pursuant to the rule adoptions procedure in ch. 120, F.S., which are needed to address:

- Conflicts within the updated Florida Building Code;
- Conflicts between the updated Florida Building Code and the Florida Fire Prevention Code adopted pursuant to ch. 633, F.S.;
- Unintended results from the integration of the previously adopted Florida-specific amendments;
- Equivalency of standards;
- Changes to or inconsistencies with federal or state law; or
- Adoption of an updated edition of the National Electrical Code if the Commission finds that delay of implementing the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety, and welfare.

However, the Commission may not approve amendments that would weaken the construction requirements relating to wind resistance or the prevention of water intrusion.

The Commission may also approve technical amendments to the Florida Building Code once a year for statewide or regional application if the amendment:⁸

- Is needed in order to accommodate the specific needs of Florida.
- Has a reasonable and substantial connection with the health, safety, and welfare of the general public.
- Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.
- Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.
- Does not degrade the effectiveness of the Florida Building Code.

The 6th Edition of the Florida Building Code

The Commission is currently conducting its rule development process for the 6th edition of the Florida Building Code. Under s. 553.73(7)(e), F.S., a rule updating the Florida Building Code does not take effect until 6 months after the publication of the updated Florida Building Code. The 6th edition of the Florida Building Code is tentatively expected to go into effect on December 31, 2017.⁹

The 6th edition of the Florida Building Code will incorporate the latest version of the I-Codes (2015). The next edition of the I-Codes will be the 2018 I-Codes.

⁸ Section 553.73(9), F.S.

⁹ 6th Edition (2017) FBC Code Update Development Tasks, *available at* http://www.floridabuilding.org/fbc/thecode/2017_Code_Development/Timelines/FBC_WorkplanOption1-2015.pdf (Last visited March 14, 2017).

Voting Processes for the Technical Advisory Committees and the Commission

Under s. 553.73(3)(b), F.S., in order for a technical advisory committee to make a favorable recommendation to the Commission, the proposal must receive a three-fourths vote of the members present at the meeting, and at least half of the regular members must be present in order to conduct the meeting.

The Florida Administrative Code, under 61G20-2.002(7), F.A.C., provides a similar requirement for votes taken by the Commission. Specifically, the provision provides that “The decision of the Commission to approve a proposed amendment shall be by 75% vote. Those proposals failing to meet the vote requirement shall not be adopted.”

Building Code Administrators, Plans Examiners, and Inspectors Certifications

Building Code Inspector and Plans Examiner

In order to take the examination for building code inspector or plans examiner certification, s. 468.609(2), F.S., provides that a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

- **Option 1:** Demonstrate 5 years of combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought.
- **Option 2:** Demonstrate 4 years of a combination of postsecondary education in the field of construction or a related field and experience, with at least 1 year of experience in construction, building code inspection, or plans review.
- **Option 3:** Demonstrate 4 years of a combination of technical education in the field of construction or a related field and experience, with at least 1 year of experience in construction, building code inspection, or plans review.
- **Option 4:** Currently hold a standard certificate as issued by the FBCAIB, or a fire safety inspector license issued pursuant to ch. 633, F.S.; have a minimum of 3 years of verifiable full-time experience in inspection or plan review; and satisfactorily complete an approved building code inspector or plans examiner training program of at least 100 hours but not more than 200 hours in the certification category sought.
- **Option 5:** Demonstrate a minimum of 2 years combined experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a firesafety inspector, or construction; and the completion of an approved training program in the field of building code inspection or plan review of at least 200 hours but not more than 300 hours in the certification category sought, with at least 20 hours but not more than 30 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificate holder.
- **Option 6:** Currently hold a standard certificate issued by the FBCAIB or a firesafety inspector license if the person also:
 - Has at least 5 years of verifiable full-time experience as a building code inspector, plans examiner, or licensed firesafety inspector; and
 - Satisfactorily completes a building code inspector or plans examiner classroom training course or program that provides between 200 and 300 hours in the certification category

sought, except for one-family and two-family dwelling training programs which are required to provide between 500 and 800 hours of training as prescribed by the FBCAIB.

The FBCAIB must accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom component of the training program.¹⁰

Under s. 468.609(7), F.S., the FBCAIB is required to provide for the issuance of provisional 1-year certificates for certain newly employed or promoted building code inspectors or plans examiners; and to provide appropriate levels of such provisional certificates.

Additionally, a newly employed or hired person may perform the duties of the plans examiner or building code inspector for 120 days if a provisional certificate application has been submitted and the newly employed or hired person is under the direct supervision of a certified building code administrator who holds a standard certification and who has found the person qualified for a provisional certificate.¹¹

Building Code Administrator

In order to take the examination for building code administrator certification, s. 468.609(3), F.S., provides that a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

- **Option 1:** Demonstrate 10 years of combined experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least 5 years of experience in supervisory positions; or
- **Option 2:** Demonstrate 10 years of a combination of experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least 5 years of supervisory experience, and postsecondary education in the field of construction or related field, of which no more than 5 years may be applied. The individual must have also completed between 20 and 30 hours training in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificate holder.

Private Providers

Section 553.791(1)(i), F.S., defines “private provider” as a licensed engineer or a licensed architect who performs inspections on residential buildings in certain circumstances and, for additions and alterations under 1,000 square feet, the term also applies to individuals who hold a standard license under part XII of Chapter 468.

Private providers are authorized to contract with property owners and local building departments to conduct plans review and building code inspections.¹²

¹⁰ Section 468.609(2), F.S.

¹¹ Section 468.609(7)(d), F.S.

¹² DBPR, Legislative Bill Analysis for SB 860, pp. 2-3, (March 9, 2017)

Construction Industry Workforce Task Force

Single-family building permit activity, an indicator of new construction, reached its peak in Florida in 2005. During the recent recession, new construction declined significantly, bottoming out in 2009. New construction has increased in recent years, but there are anecdotal reports that contractors are having a hard time finding skilled labor.

Because of the skilled labor shortage, the Florida Legislature created the Construction Industry Workforce Task Force within the University of Florida M.E. Rinker, Sr., School of Construction Management in 2016.¹³ The goals of the task force were to:

- Address the critical shortage of individuals trained in building construction and inspection.
- Develop a consensus path for training the next generation of construction workers in the state.
- Determine the causes for the current shortage of a trained construction industry work force and address the impact of the shortages on the recovery of the real estate market.
- Review current methods and resources available for construction training.
- Review the state of construction training available in K-12 schools.
- Address training issues relating to building code inspectors to increase the number of qualified inspectors.

The task force consisted of 23 members, representing various construction industries and the Legislature. The task force elected a chair from among its members. The University of Florida M.E. Rinker, Sr., School of Construction Management was required to provide assistance to the task force in carrying out its responsibilities.

The task force submitted a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives in early 2017. The report stated that the construction and building profession is attracting fewer construction related workers.¹⁴ Florida requires 5 years of construction trade experience in order to obtain an inspector license.¹⁵ Given the stringent educational requirements, contractors often prefer working in the construction trades rather than becoming inspectors.

In its final report, the taskforce recommended the development of the following initiatives:

- Creating an Alternative Internship Certification Program to the current standard qualifications;
- Adding residential inspector and plan examiner categories for all trades;
- Expanding the provisional and 120-day periods beyond newly hired or promoted staff;
- Authorizing interagency service agreement inspections and plan examination for standard certified building officials of populations 50,000 or fewer;

¹³ Chapter 2016-129, s. 31, Laws of Fla.

¹⁴ Florida Workforce Taskforce Report, prepared by the University of Florida, p. 12, available at <http://www.cce.ufl.edu/wp-content/uploads/2016/12/6-Florida-Construction-Workforce-Taskforce-Address-training-issues-among-building-code-inspectors-to-increase-the-number-qualified-1.pdf> (last visited March 8, 2017).

¹⁵ Section 468.609(2)(c)1., F.S.

- Having the FBCAIB streamline the application for certification process by providing for an electronic application process and combining the examination registration with the provisional application;
- Providing high school education guidance material for construction related careers;
- Supporting higher education code curriculum in engineering, architecture, and construction management degrees; and
- Comprehensively studying the compensation for building code compliance personnel.¹⁶

III. Effect of Proposed Changes:

Section 1 reorders and amends s. 468.603, F.S. Specifically, the section revises the terms “building code administrator” or “building official” to include any person under contract with a municipal or county government with specified building construction regulation responsibilities. The definition further provides that one person employed or under contract by each municipal or county government as a certified building code administrator or building official may be authorized to perform any plan review or inspection.

The section also amends the definition for the term “building code inspector” to include any person under contract with a local government or state agency with specified building construction responsibilities.

Additionally, the section defines the term “residential plans examiner” to mean a person who is qualified to determine whether plans submitted for purposes of obtaining building and other permits comply with the applicable residential building, plumbing, mechanical, electrical, gas, energy, accessibility, and other construction codes.

According to the Department of Business and Professional Regulation, the bill will replace the existing voluntary category 1 and 2 family dwelling plans examiner license contained in Rule 61G19-6.016(6), Florida Administrative Code, with a residential plans examiner license.¹⁷ The DBPR anticipates that the majority of residential plans examiner licenses will be issued to individuals working for governments.¹⁸

Section 2 amends s. 468.609, F.S., to provide an additional internship path for persons to become eligible to take the examination for certification as a building code inspector or plans examiner. A person who completes an inspector or plans examiner internship certification program that includes all of the following requirements is now eligible to take the examination:

- Passing an International Code Council administered examination in the category sought before beginning a 4-year internship while employed full time by a Florida municipality, county, or other governmental jurisdiction under the direct supervision of a standard certified, government employed, sponsoring building official. A related vocational or college degree attained or verifiable on-the-job experience may reduce the required internship period year-for-year, but it may not be reduced to less than 1 year.
- Passing the Florida Principles and Practice exam before completing the internship period.

¹⁶ *Id.* at p. 14.

¹⁷ DBPR, Legislative Bill Analysis for SB 860, p. 5 (March 9, 2017).

¹⁸ *Id.*

- Passing a FCAIB approved 40-hour code training in the category sought before completing the internship period.
- Obtaining a favorable recommendation from the sponsoring building official after completing the internship period.

The bill also requires the FCAIB to provide for the issuance of a provisional certificate, valid for 1 year, to any building code inspector or plans examiner who meets the eligibility requirements in s. 468.609(2), F.S. Furthermore, a person may perform the duties of a plan examiners or building code inspector for 120 days if the person submits a provisional certificate application and is under the direct supervision of a certified building code administrator. In this circumstance, the supervising building code administrator must hold a standard certification and find the person qualified for a provisional certificate. Under current law, the provisional certificate is available for newly employed or promoted building code inspectors and plans examiners only.

The FCAIB must by rule:

- Establish a procedure to determine reciprocity for an International Code Council examination administered by another state. According to DBPR, the FCAIB already recognizes ICC administered examinations regardless of where they were taken and passed.¹⁹
- Authorize candidates for the inspector or plans examiner internship program under s. 468.609(2)(c)7., F.S., to:
 - Perform duties during the first 120 days after initial application submittal to the FCAIB.
 - Apply for a 1-year provisional certificate before completing the internship period if the candidate has not passed the Florida Principles and Practice exam or 40-hour code training course.
 - Apply for a standard certification at least 30 days but not more than 60 days before completing the internship period.
- Develop a form to authorize candidates for the inspector or plans examiner internship program to transfer approved partial internship periods completed in other jurisdictions.
- Develop an electronic application for standard certification of interns who successfully complete the inspector or plans examiner internship program.
- Establish minimum standards for, and a procedure to determine the eligibility of, internships for candidates to obtain certification under the inspector or plans examiner internship program.

After achieving initial standard certification, a person may seek additional certifications in other categories by completing additional noncurrent internship programs when passing an International Code Council examination, passing a FCAIB approved 40-hour code training, and completing an additional 1-year, full-time internship in the respective category sought. Any person holding a standard certification may seek additional certifications.

Section 3 amends s. 468.617, F.S., to provide that a county or municipal government, school board, community college board, state university, or state agency is not prohibited from entering into a contract with any person or entity for the provision of building code administrator or

¹⁹ *Id.*

building code official services. Under current law, such local governments were authorized to enter into a contract for building code inspection services only.

Section 4 amends s. 468.8313, F.S., to provide that the DBPR may review and approve home inspectors exams by a nationally recognized entity. However, the examinations must meet the standards defined by rule and certified by the DBPR in order to be approved.

Section 5 amends s. 553.73, F.S., to require the Commission to use the 6th edition of the Florida Building Code as the foundation for the Florida Building Code. The Commission is required to consider whether the Florida Building Code needs to be revised and to adopt code revisions by rule. When evaluating potential revisions to the Florida Building Code, the Florida Building Commission shall review, rather than automatically adopt, the I-Codes every 3 years. The Commission shall also review the International Energy Conservation Code; however, the Commission must maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction pursuant to s. 553.901, F.S.

Amendments and modifications, other than local amendments under s. 553.73(4), F.S., to the Florida Building Code will now remain effective when a new edition of the Florida Building Code is published.

The bill removes references to Florida-specific amendments because the entire building code will now be Florida-specific. The bill also makes other conforming and clarifying changes in terminology.

Section 6 amends s. 553.76, F.S., to require the Commission to adopt the Florida Building Code, and amendments thereto, by a three-fourths vote of the members present.

Section 7 amends s. 553.791, F.S., to expand the definition of the term “private provider” to include a person licensed as a building code administrator under part XII of chapter 468. As a result, building code administrators are now authorized to contract with property owners and local building departments to conduct plans review and building code inspections.

Sections 8 and 9 amend ss. 471.045 and 481.222, F.S., respectively, to conform cross-references.

Section 10 provides an effective date of October 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Builders and building code officials may benefit from the increased continuity of the Florida Building Code and increased transparency of the code adoption process.

C. Government Sector Impact:

The bill would require the DBPR to make several modifications to its Versa: Regulation and Versa: Online systems in order to implement the internship programs for building code inspectors and plans examiners.²⁰ The bill may also require changes to OnBase routing. However, the DBPR states that these changes can be made using existing resources.

The Commission will have to review each change to the I-Codes and the IECC individually rather than approving wholesale changes to the Florida Building Code.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 468.603, 468.609, 468.617, 468.8313, 553.73, 553.76, 553.791, 471.045, and 481.222 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs Committee on March 14, 2017:

- Revises the terms “building code administrator,” “building official” and “building code inspector” to include persons under contract with the local government or state

²⁰ *Id.*

agency, in addition to employees of the local government or state agency. Current law states that these positions had to be employees of the government or agency.

- Removes a provision which authorized certain municipal or county employees to perform plan review or inspection as a certified building official under an interagency service agreement with a jurisdiction of population 50,000 or fewer.
- Requires the FCAIB to establish minimum standards for, and a procedure to determine the eligibility of, internships for specified candidates.
- Clarifies that the DBPR may review and approve home inspector examinations by a nationally recognized entity only if those examinations meet the rule and certification standards of the DBPR.
- Changes the effective date of the bill from July 1, 2017, to October 1, 2017.
- Adds a provision that changes the process by which revisions are made to the Florida Building Code and requires the Commission to adopt the Florida Building Code by a three-fourth vote of the members present.

B. Amendments:

None.