

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: SB 1144

INTRODUCER: Senator Perry

SUBJECT: Permit Fees

DATE: January 12, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Pre-meeting
2.			AFT	
3.			AP	

I. Summary:

SB 1144 requires the governing body of a local government to post its building permit and inspection fee schedules on its website. The bill also requires that before making any adjustment to a fee schedule, a governing body of a local government must publish a building permit and inspection utilization report and post it on its website. The report must be updated annually on the website and be easily accessible to the public.

II. Present Situation:

Florida Building Codes Act

Part IV of chapter 553, F.S., is known as the “Florida Building Codes Act.” The purpose and intent of the Florida Building Codes Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public’s health, safety, and welfare.¹

Fire Prevention Code

The State Fire Marshall must adopt, by rule, the Florida Fire Prevention Code, which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such fire safety laws and rules. A new edition is adopted every 3 years.²

¹ Section 553.72(1), F.S.

² Section 633.202(1), F.S.

Enforcement of the Florida Building Code

The board of county commissioners of each county is authorized to enforce the Building Code and the Fire Code and to issue building permits.³ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit and paying reasonable fees as set forth in a schedule of fees adopted by the board.⁴

The board of county commissioners of each county and the governing body of a municipality are authorized to provide a schedule of reasonable inspection fees in order to defer the costs of inspection and enforcement of the Building Code and Fire Code.⁵ A county that issues building permits must post each type of building permit application on its website.⁶ Completed applications must be submitted electronically to the county or local enforcement agency building department, which must provide accepted methods of electronic submission.⁷ However, payments, attachments, or drawings required as part of the permit application may be submitted in person in a nonelectronic format, at the discretion of the building official.⁸

Local Government Fees

It is unlawful for any person, firm, corporation, or governmental entity to construct, erect, alter, modify, repair, or demolish any building without first obtaining a permit from the appropriate enforcing agency or from such persons delegated the authority to issue permits, upon the payment of reasonable fees adopted by the enforcing agency.⁹

Except for construction regarding correctional and mental health facilities, elevators, storage facilities, educational institutions, and toll collection facilities, each local government and each legally constituted enforcement district with statutory authority must regulate building construction.¹⁰ Local governments are authorized to provide a schedule of consistent reasonable fees to be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code.¹¹ The basis for the fee structure must relate to the level of service provided by the local government.¹² Fees charged must be consistently applied.¹³

³ Sections 125.56(1) and 125.01(1)(bb), F.S.

⁴ Section 125.56(4)(a), F.S.

⁵ Sections 125.56(2) and 166.222, F.S.

⁶ Section 125.56(4)(b), F.S.

⁷ *Id.*

⁸ *Id.*

⁹ Section 553.79(1), F.S.

¹⁰ Section 553.80(1), F.S.

¹¹ The phrase "enforcing the Building Code" includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; and fire inspections associated with new construction. *See* s. 553.80(7)(a), F.S.

¹² Section 553.80(7), F.S.

¹³ *Id.*

Local enforcement agencies, independent special districts,¹⁴ or dependent special districts¹⁵ may not require additional fees, charges, or expenses for:

- Providing proof of licensure pursuant to ch. 489, F.S.;
- Recording or filing a license issued; and
- Providing, recording, or filing evidence of workers' compensation insurance coverage required by ch. 440, F.S.¹⁶

A "local enforcement agency" means the 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 the design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 125.56, F.S., to require a local government authorized under this section, s. 166.222, F.S., or s. 553.80, F.S., to charge fees to post its permit fee and inspection fee schedule on its website with a link to the building permit and inspection report required under s. 553.80(7), F.S.

Section 2 amends s. 553.80, F.S., to require the governing body of a local government to publish a building permit and inspection report and post it on the local government's website before making any adjustment to a fee schedule. The report must be updated annually on the website and be easily accessible to the public. Additionally, the report must include:

- Direct and indirect costs incurred by the local government to implement the Florida Building Code, including costs related to the review of:
 - Building plans.
 - Building inspections.
 - Building reinspections.
 - Building permit processing.
 - Building code enforcement.
 - Building fire inspections.
- Number of building permits requested.
- Number of building permits issued.
- Number of building inspections and reinspections conducted.

¹⁴ Section 189.012(3), F.S., defines an "independent special district" as a special district that is not a dependent special district as defined in s. 189.012(2), F.S.

¹⁵A dependent special district has a governing board comprised of members, which are identical in membership to, or all appointed by, or removable at will by, the governing body of a single county or municipality. A dependent special district also includes a district that has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or municipality. *See* s. 189.012(2), F.S. A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. *See 2017-2018 Local Gov't Formation Manual* at pg. 64, available at <http://www.myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911>.

¹⁶ Section 553.80(7)(d), F.S.

¹⁷ Section 553.71(5), F.S.

- Number of personnel employed by the local government to implement the Florida Building Code, issue building permits, and conduct inspections.
- Salary and related employee benefit costs incurred by the local government to implement the Florida Building Code, issue building permits, and conduct inspections.
- Revenue derived from fees pursuant to this subsection.
- Revenue derived from fines pursuant to this subsection.
- Investment earnings derived from the local government's investment of revenue derived from fees and fines pursuant to this subsection.
- Balances carried forward by the local government pursuant to this subsection.
- Balances refunded by the local government pursuant to this subsection.

Section 3 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18(a), Article VII, of the Florida Constitution requires any general law that would require the expenditure of money to be passed by a two-thirds vote of the membership of each house of the Legislature. The mandate requirements of Art. VII, section 18 of the Florida Constitution may apply because this bill requires local governments to revise their websites and post their permit and inspection fee schedules with a link to the building permit and inspection utilization report on their websites, which may require expenditures.

However, there are several exemptions and exceptions to the mandate requirements. The mandate requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2017-2018 is approximately \$2 million or less.^{18,19,20} Additionally, the mandate requirements do not apply if the Legislature determines that the bill fulfills an important state interest, and the bill applies to all persons similarly situated.

The fiscal impact of the bill appears to be insignificant because current law authorizes local governments to post each type of building permit application on their websites. As a result, local governments may be able to fulfill the obligations of the bill with minimal additional resources. If the bill does not qualify under any exemption or exception, final passage must be approved by a two-thirds vote of the membership of each house of the Legislature.

¹⁸ FLA. CONST. art. VII, s. 18(d).

¹⁹ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Dec. 19, 2017).

²⁰ Based on the Demographic Estimating Conference's population adopted on December 5, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf>.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Indeterminate. Some local governments may require an initial expenditure of funds to revise the local government's existing website to include the ability to post permit and inspection fee schedules as well as a report on the local government's website. This may be an issue for a local government with minimal website capability.

B. Private Sector Impact:

Requiring a local government to post its permit and inspection fee schedules as well as a building permit and inspection utilization report on its website will help applicants for building permits assess the associated costs of the permit.

C. Government Sector Impact:

Local governments will be required to post permit and inspection fee schedules as well as a building permit and inspection utilization report on its website.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill amends s. 125.56, F.S., relating to the enforcement of the Florida Building and Fire Protection Codes by the board of commissioners of a county, by adding requirements for municipalities with authority under s. 166.222, F.S., or other local governments with authority under s. 553.80, F.S. Placing the new requirement for all entities authorized to impose permit and inspection fees within a statute currently directed only to counties may create confusion as to the applicability of the new requirements to non-county local governments.

Furthermore, section 1 of the bill requires each local government to include on its website a link to the building permit and inspection utilization report required under s. 553.80(7), F.S. However, section 3 of the bill requires publication of such a report before the local government adjusts a fee schedule. The bill is not clear as to whether a local government is required to prepare such a report, and update it annually, if the local government does not make any adjustments to a fee schedule.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.56 and 553.80.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
