

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 299 Florida Building Commission

SPONSOR(S): McClain

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee	10 Y, 4 N	Brackett	Anstead
2) Commerce Committee			

SUMMARY ANALYSIS

The Florida Building Commission (Commission) located under the Department of Business and Professional Regulation (DBPR) implements and adopts the Florida Building Code (Code). The Code includes all of the statewide building requirements and standards for construction in the state. The Commission is made up of 27 members who are appointed by the Governor and confirmed by the Senate.

The bill:

- Reduces the number of members on the Commission from 27 to 11.
- Amends the qualifications for the architect and electrical contractor members of the Commission.

The bill is not expected to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. 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 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. After the state filled the property insurer void left by failed and fleeing private insurance companies, and the federal government poured billions of dollars of aid into disaster areas, the Governor appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhancing the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Code), and that first edition replaced all local codes on March 1, 2002.²

In 2004, for the second edition of the Code, the state adopted the International Code Council's I-Codes. 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." Every three years the ICC publishes the 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 adopted the I-Codes.³

All subsequent Florida Building Codes have been adopted utilizing the I-Codes as the base code. The most recent Code is the 5th edition, which is referred to as the 2014 Florida Building Code. The 5th edition of the Code went into effect June 30, 2015.⁴ In 2017, the Legislature enacted legislation requiring the Florida Building Commission (Commission) to review the I-Codes every three years to determine if the Code needs to be updated, instead of requiring automatic adoption of the latest code.⁵

The Commission also reviews the National Electric Code (NEC) every three years to determine if the Code needs to be updated. The NEC is published every three years by the National Fire Protection Association (NFPA) and has been adopted by all 50 states. The NFPA develops codes to address the installation of electrical conductors, equipment, and raceways; signaling and communications

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 Oct. 18, 2017).

² *Id.* & DBPR, *Overview of the Florida Building Code*, <https://www.floridahousing.org/.../aboutflorida/.../overview-of-the-florida-building-commission-and-standard.pptx> (last visited on Oct. 18, 2017).

³ International Code Council, *About the ICC*, <http://www.iccsafe.org/about-icc/overview/about-international-code-council/> (last visited on Oct. 18, 2017) & International Code Council, *ICC Code Development Process*, <https://cdn-web.iccsafe.org/wp-content/uploads/ICC-Code-Development-Process.pdf> (last visited on Oct. 18, 2017).

⁴ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Oct. 18, 2017).

⁵ Section 553.73(7)(a), F.S.

conductors, equipment, and raceways; and optical fiber cables and raceways in commercial, residential, and industrial occupancies in order to protect people and property from electrical hazards.⁶

The Florida Building Commission

The Commission was statutorily created to implement the 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 Code. The Commission also approves products for statewide acceptance. 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. Members, who must be certified to do business in the state and must be actively engaged in the designated profession, include the following:

- One architect;
- One structural engineer;
- One air-conditioning or mechanical contractor;
- One electrical contractor;
- One member from fire protection engineering or technology;
- One general contractor;
- One plumbing contractor;
- One roofing or sheet metal contractor;
- One residential contractor;
- Three members who are municipal or district code enforcement officials, one of whom is also a fire marshal;
- One member who represents the Department of Financial Services;
- One member who is a county code 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 the state;
- One member of the manufactured buildings industry;
- One mechanical or electrical engineer;
- One member who is a representative of a municipality or a charter county;
- One member of the building products manufacturing industry;
- One member who is a representative of the commercial building owners and managers industry;
- 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;
- 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 (IGCC), or a professional who is accredited under Leadership in Energy and Environmental Design (LEED);
- One member who is a representative of a natural gas distribution system;
- One member who is a representative of the Department of Agriculture and Consumer Services' Office of Energy; and
- One member who is the chair.⁷

The Commission has 11 Technical Advisory Committees (TAC) ranging from the building structural TAC to the swimming pool TAC.⁸ TACs are made up of Commission members and other parties who advise the

⁶ NFPA, *Codes and Standards*, <http://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards?mode=code&code=70> (last visited on Oct. 18, 2017) & NFPA, *National Electric Code: Current and Past editions*, <http://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards?mode=code&code=70&tab=editions> (last visited on Oct. 18, 2017).

⁷ s. 553.74, F.S.

⁸ DBPR, *Florida Building Code Online*, https://www.floridabuilding.org/c/c_commission.aspx (last visited on Oct. 18, 2017).

Commission on declaratory statements, proposed amendments, and any other areas of interest of the Commission.⁹

The Commission is currently in the process of adopting the 6th Edition of the Florida Building Code, which is tentatively expected to go into effect on December 31, 2017.¹⁰

Effect of the Bill

The bill reduces the number of members on the Commission from 27 to 11. The bill removes members representing the following:

- Air-conditioning or mechanical contractors;
- Two of the municipal or district code enforcement officials, including a fire marshall;
- The Department of Financial Services;
- County code enforcement officials;
- The representative for persons with disabilities;
- Manufactured buildings industry;
- Mechanical or electrical engineers;
- Municipal or charter counties;
- Building products manufacturing industry;
- Commercial building owners and managers industry;
- Public education;
- The green building industry;
- The natural gas distribution system;
- The Department of Agriculture and Consumer Services' Office of Energy; and
- The Chair.

The bill amends:

- The qualifications of the architect member from an architect who is "registered and actively practicing in the state" to an architect who is "licensed in the state and has at least 5 years of experience in the design and construction of buildings containing Group R occupancy(ies) at or above 210 feet above the lowest level of emergency service access." A Group R Occupancy is any building containing sleeping units either for permanent dwellings or transient occupancy;¹¹ and
- The qualifications for the electrical contractor member from an electrical contractor to an electrical contractor "or an electrical engineer."

B. SECTION DIRECTORY:

Section 1. Amends s. 553.74, F.S., by reducing the number of members on the commission.

Section 2. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

⁹ DBPR, *Florida Building Code Standards*, http://www.myfloridalicense.com/dbpr/bcs/program_committees.html (last visited on Oct. 18, 2017), & Rule 61G20-2.001 F.A.C.

¹⁰ 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 Oct. 18, 2017).

¹¹ Section 310, Florida Building Code: Building (5th ed. 2014).

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES