

**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.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/SB 142

INTRODUCER: Innovation, Industry, and Technology Committee and Senator Perry

SUBJECT: Permit Fees

DATE: March 12, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Wiehle</u>	<u>Imhof</u>	<u>IT</u>	<b>Fav/CS</b>
3.	<u>Toman</u>	<u>Phelps</u>	<u>RC</u>	<b>Favorable</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 142 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 by December 31, 2020, the governing body will post a newly required building permit and inspection utilization report. The report will include costs incurred and revenues derived from the enforcement of the Florida Building Code. After December 31, 2020, a local government must update the utilization report prior to amending its building permit and inspection fee schedule.

**II. Present Situation:**

**Florida Building Code**

Part IV of ch. 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.<sup>1</sup> The Florida Building Code must be applied, administered and enforced uniformly and consistently from jurisdiction to jurisdiction.<sup>2</sup> The Florida Building Commission develops and maintains the Florida Building Code.<sup>3</sup>

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<sup>1</sup> Section 553.72(1), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 553.74, F.S. The Florida Building Commission is a 27-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Florida Building Code.

## Florida Fire Prevention Code

The State Fire Marshall must adopt, by rule, the Florida Fire Prevention Code (FFPC), 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.<sup>4</sup> The FFPC operates in conjunction with the Florida Building Code. Conflicts between the FFPC and the Florida Building Code are resolved through coordination and cooperation between the State Fire Marshall and the Florida Building Commission in favor of requirements offering the greatest degree of life safety.<sup>5</sup>

## Enforcement of the Florida Building Code: Permits and Inspections

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.<sup>6</sup> Authorized state and local government agencies enforce the Florida Building Code and issue building permits.<sup>7</sup>

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.<sup>8</sup> It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local enforcing agency upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.<sup>9</sup> A local enforcement agency must post each type of building permit application on its website.<sup>10</sup>

A building official is a local government employee who supervises building code activities, including plan review, enforcement, and inspection.<sup>11</sup> Any construction work that requires a building permit also requires plans and inspections by the local building official to ensure the work complies with the Florida Building Code,<sup>12</sup> including certain required building, electrical, plumbing, mechanical, and gas inspections.<sup>13</sup>

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<sup>4</sup> Section 633.202(1), F.S.

<sup>5</sup> See ss. 553.72(5), 553.73(1)(d), and 633.104(5), F.S.

<sup>6</sup> Section 553.72(2), F.S.

<sup>7</sup> See ss. 125.01(1)(bb), 125.56(1), 553.72(3), and 553.80(1), F.S.

<sup>8</sup> Section 202, 2017 Florida Building Code – Building, Sixth Edition (July 2017) available at <https://codes.iccsafe.org/content/FBC2017/chapter-2-definitions> (last visited February 26, 2019). Section 553.79(1)(b), F.S. requires a local enforcement agency of the Florida Building Code to post each type of building permit application on its website.

<sup>9</sup> See ss. 125.56(4)(a) and 553.79(1), F.S. Other entities may, by resolution or regulation, be directed to issue permits.

<sup>10</sup> Section 553.79(1)(b), F.S.

<sup>11</sup> Section 468.603(2), F.S.

<sup>12</sup> Section 553.79(2), F.S.

<sup>13</sup> Section 110.3, 2017 Florida Building Code – Building, Sixth Edition (July 2017) available at <https://codes.iccsafe.org/content/FBC2017/chapter-1-scope-and-administration> (last visited February 26, 2019).

## **Local Government Building Code Permitting Fees**

### ***Determination and Usage***

A local government entity may provide a schedule of reasonable inspection fees in order to defer the costs of inspection and enforcement of the Florida Building Code.<sup>14</sup> The local government entity's fees must be used solely for carrying out that local government entity's responsibilities in enforcing the Florida Building Code.<sup>15</sup> The basis for the fee structure must relate to the level of service provided by the local government.<sup>16</sup> The total estimated annual revenue derived from fees, and fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities.<sup>17</sup> Fees charged must be consistently applied.<sup>18</sup> The funding of certain general government activities and programs from fee revenues is expressly prohibited. Examples of these include planning and zoning activities or the enforcement of local ordinances unrelated to the Florida Building Code.<sup>19</sup>

### ***Fiscal Tracking and Accountability***

A local government must use recognized management, accounting, and oversight practices to ensure that any building permitting and inspection fees, fines, and investment earnings are maintained and allocated or used solely for the purposes of enforcing building codes.<sup>20</sup> Any unexpended fee balances are carried forward to future years for allowable activities or are refunded at the discretion of the local government.<sup>21</sup>

The most recent information on building permit fee revenues provided by the Office of Economic and Demographic Research captures data from 2016. For that year, 64 counties reported building permit fee revenues totaling \$258,489,279; while 318 municipalities reported revenues totaling \$447,863,533.<sup>22</sup>

## **Local Government Annual Financial Audit Reports and Web Postings**

Sections 218.32 and 218.39, F.S., provide requirements for local governments regarding submissions of annual financial reports and audits. Local governments must submit an annual financial report to the Department of Financial Services (DFS) covering their operations for the

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<sup>14</sup> See ss. 125.56(2), 166.222, and 553.80(7), F.S. While not required by Florida Statutes, it appears that many local governments currently post fee schedules on their websites.

<sup>15</sup> The phrase "enforcing the Florida 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. The phrase may also include training costs associated with the enforcement. See s. 553.80(7)(a), F.S.

<sup>16</sup> Section 553.80(7), F.S.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Section 553.80(7)(b), F.S. Additional activities that may not be funded by permit fees include public information requests, community functions, boards, and any program not directly related to enforcement of the Florida Building Code.

<sup>20</sup> Section 553.80(7)(b), F.S.

<sup>21</sup> Section 553.80(7), F.S.

<sup>22</sup> Office of Economic and Demographic Research, The Florida Legislature, *Building Permit Fees*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/a-f.cfm> (last visited February 26, 2019).

preceding fiscal year.<sup>23</sup> Each local governmental entity's website must provide a link to the DFS website to view the entity's submitted financial report.<sup>24</sup> If the local government does not have an official website, the county government's website must provide the required link.<sup>25</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 125.56, F.S., to require the governing body of a county that charges permit and inspection fees to enforce the Florida Building Code and Florida Fire Prevention Code to post on its website both its permit and inspection fee schedules and a building permit and inspection utilization report.

**Section 2** amends s. 166.222, F.S., to require the governing body of a municipality that charges building code inspection or enforcement fees to post on its website both its permit and inspection fee schedules and a building permit and inspection utilization report.

**Section 3** amends s. 553.80, F.S., to require the governing body of a local government that provides a schedule of Florida Building Code enforcement fees to create and post a building permit and inspection utilization report on its website by December 31, 2020. The information in the report must be derived from relevant information available in the most recently completed financial audit. After December 31, 2020, before the governing body can make any changes to its fee schedule, it must update its building permit and inspection utilization report.

The report must include:

- Direct and indirect costs incurred by the local government to enforce the Florida Building Code, including costs related to:
  - Personnel services costs, including salary and related employee benefit costs incurred by the local government to enforce the Florida Building Code; and
  - Operating expenditures and expenses.
- Permit and inspection utilization information, including:
  - Number of building permit applications submitted;
  - Number of building permits issued or approved;
  - Number of building inspections and reinspections requested;
  - Number of building inspections and reinspections conducted;
  - Number of building inspections conducted by a private provider;
  - Number of building audits conducted by the local government of the building inspection conducted by a private provider;
  - Number of positions dedicated by the local government to enforce the Florida Building Code, issue building permits, and conduct inspections; and
  - Other permissible activities for enforcing the Florida Building Code as described in s. 553.80(7)(a), F.S.
- Revenue information, including:
  - Revenue derived from fees;
  - Revenue derived from fines;

<sup>23</sup> It is possible that smaller municipalities (those with annual revenues or total expenditures and expenses between \$100,000 and \$250,000) may go three years between financial audit submissions. *See* s. 218.39(1)(g), F.S.

<sup>24</sup> Section 218.32(1)(g), F.S.

<sup>25</sup> *Id.*

- When applicable, investment earnings from the local government's investment of revenue derived from fees and fines;
- Balances carried forward by the local government;
- Balances refunded by the local government and
- Other revenue sources, including local government general revenue.

**Section 4** provides an effective date of July 1, 2019.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

Eligible local governments are authorized to charge reasonable, level-of-service building permit fees to enforce the Florida Building Code. This bill does not abrogate that authority. The proposed building permit and inspection utilization report should capture the extent of existing fees as well as any fee adjustments going forward.

B. Private Sector Impact:

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

C. Government Sector Impact:

Some local governments may require an initial expenditure of funds to revise their existing websites to include the ability to post permit and inspection fee schedules as well as expenditures to create and then post a building permit and inspection utilization report.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.56, 166.222, and 553.80.

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 Innovation, Industry, and Technology on March 6, 2019:**

The committee substitute revises the list of information that must be contained in the building permit and inspection utilization report, making it more detailed and specific.

- B. Amendments:

None.