

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 578

INTRODUCER: Senator Clemens

SUBJECT: Public Construction Projects

DATE: March 7, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Pre-meeting
2.			GO	
3.			AGG	
4.			AP	
5.				
6.				

I. Summary:

SB 578 requires all state agencies, when constructing public bridges, buildings and other structures, to use lumber, timber, and other forest products produced and manufactured in Florida if such products are available and their price, fitness, and quality are equal.

The bill prohibits a state agency, when requiring compliance with a sustainable building rating system or national model green building code, from excluding the use of a sustainable building rating system or national model green building code for new construction and renovation projects associated with publicly owned buildings or facilities.

This bill substantially amends ss. 255.20 and 255.2575 of the Florida Statutes.

II. Present Situation:

Florida Timber Industry

According to the Florida Forestry Association, there are almost 16 million acres of forests in Florida. Seventy percent (11.2 million acres) is privately owned, 16 percent (2.6 million acres) is owned by the state, 11 percent (1.7 million acres) is owned by the federal government, and three percent (0.5 million acres) is owned by local governments.^{1, 2} Although forests cover about 50 percent of the state's land area, Florida's timberlands are located mostly north of Orlando. In the

¹ Florida Forestry Association website: <http://floridaforest.org/about-us/fl-forests-facts/>.

² 2010 Florida's Forestry and Forest Product Industry Economic Impacts, by the Florida Forest Service (PDF file accessed at <http://floridaforest.org/about-us/fl-forests-facts/>).

northern half of the state most counties are at least 50 percent forested. Liberty County in northwest Florida is the most forested with timber lands covering more than 90 percent of its area. The peninsula is forested at 40 percent or less and a number of counties in southeast Florida are less than 10 percent forested.³

In 2010, there were 59 primary wood-using mills in Florida. Almost half of those are sawmills (27). Other types of mills include mulch (7), pulp/paper (6), chip-and-saw (5), chip mill (3), post (3), plywood (2), pole (2), pellet, strand board, veneer and firewood (1 each). The primary wood-using mills in Florida are located mostly in the northern part of the state.⁴

There are several forest certification standard programs that provide guidance and certification that timber land is being used in a sustainable manner. The Sustainable Forestry Initiative, the American Tree Farm System, and the Forest Stewardship Council are some commonly-used programs.

The Sustainable Forestry Initiative (SFI) program is a widely-used standard. The organization asserts that their “forest certification standard is based on principles that promote sustainable forest management, including measures to protect water quality, biodiversity, wildlife habitat, species at risk, and Forests with Exceptional Conservation Value.” Further, the standard “has strong acceptance in the global marketplace so we can deliver a steady supply of wood and paper products from legal and responsible sources. This is especially important at a time when there is growing demand for green building and responsible paper purchasing, and less than 10 percent of the world’s forests are certified.”⁵

The American Tree Farm System (ATFS), another commonly-used program, “offers certification to landowners who are committed to good forest management....Forest certification is the certification of land management practices to a standard of sustainability. A written certification is issued by an independent third-party that attests to the sustainable management of a working forest...protect[ing] economic, social and environmental benefits.”⁶

The Forest Stewardship Council (FSC) is an independent, non-profit organization. “[M]embership consists of three equally weighted chambers -- environmental, economic, and social -- to ensure the balance and the highest level of integrity. Independent FSC-accredited certification bodies verify that all FSC-certified forests conform to the requirements contained within an FSC forest management standard....Certifiers are independent of FSC and the companies they are auditing.”⁷

Florida Energy Conservation and Sustainable Buildings Act

In recent years, the Florida Legislature has placed an increased emphasis on promoting renewable energy, energy conservation, and enhanced energy efficiency on a state and local

³ *Id.*

⁴ *Id.*

⁵ Sustainable Forestry Initiative website: <http://www.sfiprogram.org/sustainable-forestry-initiative/>.

⁶ American Tree Farm System website: <https://us.fsc.org/about-certification.198.htm>.

⁷ Forest Stewardship Council website: <https://us.fsc.org/about-certification.198.htm>.

level. In 2008, the Legislature passed a comprehensive energy package,⁸ which contained the Florida Energy Conservation and Sustainable Buildings Act (Act). This Act (ss. 255.51-255.2575, F.S.) provides that, “Significant efforts are needed to build energy-efficient state-owned buildings that meet environmental standards and provide energy savings over the life of the building structure. With buildings lasting many decades and with energy costs escalating rapidly, it is essential that the costs of operation and maintenance for energy-using equipment and sustainable materials be included in all design proposals for state-owned buildings.”⁹

Section 255.252(3), F.S., provides legislative intent that, “[I]t is the policy of the state that buildings constructed and financed by the state be designed and constructed to comply with a sustainable building rating or a national model green building code” and “[i]t is further the policy of the state that the renovation of existing state facilities be in accordance with a sustainable building rating or a national model green building code.”

“Sustainable building rating or national model green building code” means a rating system established by one of the following:

- United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system,
- International Green Construction Code (IgCC),
- Green Building Initiative’s Green Globes rating system,
- Florida Green Building Coalition standards, or
- A nationally recognized, high-performance green building rating system as approved by the Department of Management Services.¹⁰

Direction is again provided in s. 255.257(4)(a), F.S.: “All state agencies shall adopt a sustainable building rating system or use a national model green building code for all new buildings and renovations to existing buildings.” Section 255.2575(2), F.S., provides that, “All county, municipal, school district, water management district, state university, community college, and state court buildings shall be constructed to comply with a sustainable building rating system or a national model green building code.”¹¹

The Department of Management Services (Department) states on its website, the following:

State agencies are required by law to comply with the various green aspects of a sustainable rating system such as LEED or the others approved in statute. However, when it comes to energy consumption in particular, state agencies are now required by rule to consider at least one design option that far outperforms their preferred rating system. Nevertheless, an agency’s ultimate decision must be made on the basis of long-term cost-effectiveness.¹²

⁸ HB 7135 (Chapter 2008-227, L.O.F.)

⁹ Section 255.252(2), F.S.

¹⁰ Section 255.253(7), F.S.

¹¹ This section applies to all county, municipal, school district, water management district, state university, community college, and state court buildings the architectural plans of which are commenced after July 1, 2008.

¹² http://www.dms.myflorida.com/business_operations/real_estate_development_management/facilities_management/sustainablebuildings_and_energy_initiatives.

The Department's Rules pertaining to sustainable building ratings¹³ implement the statutes by requiring all agencies that are designing, constructing, or renovating a facility to perform a life-cycle cost analysis for at least three distinct energy-related designs that progressively meet and exceed the minimum energy performance requirements of the particular sustainable building rating or national model green building code adopted by the agency. The Department then evaluates this life-cycle cost analysis for technical correctness and completeness.¹⁴ According to the Department, these Rules allow the agencies sole discretion as it pertains to the selection of a sustainable building rating or national model green building code.

The following are basic, brief descriptions of the four statutorily-authorized sustainable building rating systems:

- **Leadership in Energy and Environmental Design (LEED)** is a “voluntary, consensus-based, market-driven” program that provides third-party verification of green buildings [and] addresses the entire lifecycle of a building. LEED projects have been established in 135 countries.... For commercial buildings and neighborhoods, to earn LEED certification, a project must satisfy all LEED prerequisites and earn a minimum 40 points on a 110-point LEED rating system scale.¹⁵
- **International Green Construction Code (IgCC)** is the “first model code to include sustainability measures for the entire construction project and its site - from design through construction, certificate of occupancy and beyond. The new code is expected to make buildings more efficient, reduce waste, and have a positive impact on health, safety and community welfare....” The IgCC “creates a regulatory framework for new and existing buildings, establishing minimum green requirements for buildings and complementing voluntary rating systems, which may extend beyond baseline of the IgCC. The code acts as an overlay to the existing set of *International Codes*....”¹⁶
- **Green Globes** is a web-based program for green building guidance and certification that includes an onsite assessment by a third party. “Green Globes offers a streamlined and affordable...way to advance the overall environmental performance and sustainability of commercial buildings. The program has modules supporting new construction...[and]...existing buildings.... It is suitable for a wide range of buildings from large and small offices, multi-family structures, hospitals, and institutional buildings such as courthouses, schools, and universities.”¹⁷
- The **Florida Green Building Coalition (FGBC)** is a nonprofit corporation “dedicated to improving the built environment, [whose] mission is to lead and promote sustainability with environmental, economic, and social benefits through regional education and certification programs. FGBC was conceived and founded in the belief that green building programs will

¹³ Chapter 60D, F.A.C.

¹⁴ Rule 60D-4.004(1)(c)1 and 2, F.A.C.

¹⁵ <http://new.usgbc.org/leed>.

¹⁶ <http://www.iccsafe.org/cs/igcc/pages/default.aspx>.

¹⁷ <http://www.thegbi.org/green-globes/>.

be most successful if there are clear and meaningful principles on which ‘green’ qualification and marketing are based.”¹⁸

The Department of Management Services (DMS) has adopted the LEED rating system for new construction and renovation projects and then goes even further by evaluating life-cycle costs.¹⁹ Florida has 16.1 million acres of forest almost all of which is planted in Southern Pines. In comparison Florida has only about 198 acres of LEED Certified forests. DMS’s adoption of LEED precludes Florida wood products from being used in Florida publicly-owned buildings.²⁰

III. Effect of Proposed Changes:

Section 1 amends s. 255.20, F.S., to include state agencies in the requirement of local bids and contracts, for the construction of public bridges, buildings and other structures, to use lumber, timber and other forest products produced and manufactured in Florida if such products are available and their price, fitness, and quality are equal.

Section 2 amends s. 255.2575, F.S., to prohibit state agencies from excluding in its selection of a building rating system or national green building code any of the following: a sustainable building rating system, national model green building code, or Green Plumbing Mechanical Code Supplement and appendices as published by the International Association of Plumbing and Mechanical Officials.

Section 3 provides for an effective date of July 1, 2013.

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.

¹⁸ <http://www.floridagreenbuilding.org/home>.

¹⁹ Department of Management Services, *Sustainable Buildings and Energy Initiatives*, available at http://www.dms.myflorida.com/business_operations/real_estate_development_management/facilities_management/sustainable_buildings_and_energy_initiatives (last accessed February 26, 2013).

²⁰ February 27, 2013, email from staff of the Florida Forestry Association and a representative from Plum Creek Timber Company (on file with the Senate Committee on Community Affairs).

B. Private Sector Impact:

Florida-based lumber and timber companies may see an increase in State of Florida purchases should their products be equal in price, fitness, and quality.

C. Government Sector Impact:

The State of Florida may be purchasing more timber from companies within the state.

VI. Technical Deficiencies:

According to the Department of Management Services analysis of SB 578, “Section 2 of the bill is a little ambiguous in that it can be read to contradict the requirements to adopt a sustainable building system or national model green building code. Given the requirement to adopt a system or green building code, it could create confusion among agencies on how they would do so without excluding other systems or green building codes. The bill is also ambiguous as to the application of the Green Plumbing Mechanical Code Supplement and the Florida Building Code to such projects.”²¹

VII. Related Issues:

None.

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

²¹ Department of Management Services, *SB 578 Bill Analysis* (February 11, 2013) (on file with the Senate Committee on Community Affairs).