

**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 Appropriations

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BILL: CS/CS/CS/SB 1044

INTRODUCER: Appropriations Committee; Agriculture Committee; Communications, Energy, and Public Utilities Committee; and Senator Simpson

SUBJECT: Building Construction Policies

DATE: April 25, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	<u>Fav/CS</u>
2.	<u>Weidenbenner</u>	<u>Becker</u>	<u>AG</u>	<u>Fav/CS</u>
3.	<u>Blizzard</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/CS/SB 1044 revises the statutes for the energy-related duties, powers, and functions of the Department of Agriculture and Consumer Services (DACS or department). Specifically the bill:

- Authorizes the department to promote all forms of renewable energy, not simply solar.
- Authorizes the Florida Energy Systems Consortium to participate with the department and other entities in aiding and promoting the commercialization of renewable energy.
- Authorizes the Commissioner of Agriculture to appoint a member of the Southern States Energy Board (SSEB).
- Repeals obsolete statutes creating the rebates for solar energy systems and energy efficient appliances, together with making conforming changes.
- Authorizes the department to post information on its website relating to alternative fueling stations and electric vehicle charging stations that are available to the public and
- Adds a representative of the Office of Energy within the department to the Florida Building Commission.

In addition, the bill:

- Gives local government the option of requiring a return receipt request when sending notices by certified mail to alleged violators of local codes and ordinances.
- Reduces the proof of experience required to obtain a license as a water well contractor.

- Provides that proof of worker's compensation may be presented electronically when an employer applies for a building permit, and that such proof may be submitted and retained electronically.
- Authorizes the Department of Health (DOH) to grant variances from the Florida Building Code relating to public swimming pools and public bathing places and requires building officials to recognize and enforce these variance orders.
- Requires an application to DOH for an operating permit for a public swimming pool before an application may be filed for a building permit.
- Specifies inspection criteria for construction or modification of manufactured buildings or building modules.
- Prohibits an agency or local government from requiring that existing mechanical equipment located on or above the surface of a roof be installed in compliance with the requirements of the Florida Building Code, except when the equipment is being replaced or moved during reroofing.
- Provides that make-up air is not required for range hood exhaust systems meeting specified criteria, in a single family dwelling.
- Authorizes building officials, local enforcement agencies, and the Florida Building Commission to interpret the Florida Accessibility Code for Building Construction and provides specific procedures for those interpretations.
- Allows site plans or building permits to be maintained at the worksite in the original form or in the form of an electronic copy.
- Revises education and training requirements for the Florida Building Code Compliance and Mitigation Program.
- Provides an additional fire safety alarm option for homeowners making renovations.
- Revises the requirements for a building energy-efficiency rating system.
- Exempts certain tents from the Florida Fire Prevention Code.
- Removes the requirement that a member of the Fire Code Interpretation Committee notify the committee that he or she is unable to respond to a request for a nonbinding interpretation of the Florida Fire Prevention Code, before an alternate can respond.
- Allows an owner of improved real property and the insurer of that property to explicitly agree in writing to make payment on any claim to a third party instead of the insured named in the policy.
- Provides an effective date of July 1, 2014, unless otherwise provided.

The bill does not appear to have a fiscal impact on state revenues or expenditures.

## **II. Present Situation:**

### **Office of Energy**

The Office of Energy is the state entity primarily responsible for non-regulatory energy matters, including coordinating with federal entities on energy issues, administering federal energy programs delegated to the state, and administering state energy rebate programs. The Office of Energy, currently located in the DACS, has been located in the Executive Office of the Governor, the Department of Community Affairs, and the Department of Environmental Protection.

Section 377.6015, F.S., provides the department's primary powers and duties relating to energy resources, including:

- Administering the Florida Renewable Energy and Energy-Efficient Technologies Grants Program;
- Developing policy for requiring grantees to provide royalty-sharing or licensing agreements with state government for commercialized products developed under a state grant;
- Administering the Florida Green Government Grants Act and setting annual priorities for grants;
- Administering specified information gathering and reporting functions;
- Administering the provisions of the Florida Energy and Climate Protection Act;
- Advocating for energy and climate change issues and provide educational outreach and technical assistance in cooperation with the state's academic institutions;
- Participating in the Public Service Commission's Florida Energy Efficiency and Conservation Act proceedings to adopt goals; and
- Adopting rules in order to implement these powers and duties.

Section 377.703, F.S., sets forth the following additional functions of the DACS relating to energy:

- Submission of an annual report to the Governor and Legislature reflecting its activities, which must include recommendations for energy conservation programs for the state;
- Promoting the development and use of renewable energy resources by:
  - Establishing goals and strategies for increasing the use of solar energy in this state;
  - Aiding and promoting the commercialization of solar energy technology, in cooperation with the Florida Solar Energy Center and other agencies;
  - Identifying barriers to greater use of solar energy systems in this state; and
  - In cooperation with specified entities, investigating opportunities for solar electric vehicles and other solar energy manufacturing, distribution, installation, and financing efforts which will enhance this state's position as the leader in solar energy research, development, and use; and
- Promoting energy conservation in all energy use sectors throughout the state.

### **Southern States Energy Compact**

Section 377.711, F.S., establishes Florida as a member of the Southern States Energy Compact. The compact is performed by the Southern States Energy Board (SSEB or board). The SSEB is a non-profit interstate compact organization created by state law in 1960 and consented to by Congress<sup>1</sup> with a broad mandate to contribute to the economic and community well-being of the southern region.<sup>2</sup> Its mission is to enhance economic development and the quality of life through innovations in energy and environmental policies, programs, and technologies. The board's membership includes sixteen southern states and two territories: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, U.S. Virgin Islands, Virginia, and West Virginia. Each jurisdiction is represented by the Governor and a legislator from the House and Senate. A

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<sup>1</sup> Public Laws 87-563 and 92-440.

<sup>2</sup> <http://www.sseb.org/about/> last accessed 2/20/2014.

Governor serves as the chair and legislators serve as vice-chair and treasurer. Ex-officio non-voting board members include a federal representative appointed by the President of the United States, the Southern Legislative Conference Energy and Environment Committee Chair, and the SSEB's executive director, who serves as secretary.

The SSEB pursues its mission through the creation of programs in the fields of energy and environmental policy research, development and implementation, science and technology exploration, and related areas of concern. The SSEB serves its members directly by providing assistance designed to develop effective energy and environmental policies and programs and represents its members before governmental agencies at all levels. The board's long-term goals are to:

- Perform essential services that provide direct scientific and technical assistance to state governments;
- Develop, promote, and recommend policies and programs on energy, environment, and economic development that encourage sustainable development;
- Provide technical assistance to executive and legislative policy-makers and the private sector in order to achieve synthesis of energy, environment, and economic issues that ensure energy security and supply;
- Facilitate the implementation of energy and environmental policies between federal, state, and local governments and the private sector;
- Sustain business development throughout the region by eliminating barriers to the use of efficient energy and environmental technologies; and
- Support improved energy efficient technologies that pollute less and contribute to a clean global environment while protecting indigenous natural resources for future generations.

Core funding for the board comes from the appropriations of its eighteen member jurisdictions. Each member's share of support is determined by a formula written into the original compact. The SSEB also is authorized to accept funds from any state, federal agency, interstate agency, institution, person, firm, or corporation provided those funds are used for the board's purposes and functions. In addition, the SSEB maintains an associate members program comprised of industry partners who provide an annual contribution to the board.

Section 377.712, F.S., provides for Florida's participation on the SSEB, including requiring the Governor, President of the Senate, and Speaker of the House of Representatives to each appoint one member to the SSEB.<sup>3</sup> The section also authorizes departments, agencies, and officers of the state and its subdivisions to cooperate with the SSEB if the activities have been approved by either the Governor or the Florida Department of Health.

### **Rebate Programs**

Section 377.802, F.S., provides the purpose of the Florida Energy and Climate Protection Act. Among these purposes is providing incentives for the purchase of energy-efficient appliances and rebates for solar energy equipment installations for residential and commercial buildings.

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<sup>3</sup> Currently the Florida members are Governor Rick Scott, Senator Anitere Flores, and Representative Jose Felix Diaz.

Section 377.806, F.S., creates the Solar Energy System Incentives Program. The program was created in 2006 and was administered by the Florida Energy Office within the Florida Energy and Climate Commission (FECC). The purpose of the program was to provide financial incentives (rebates on a portion of the purchase price) for the purchase and installation of solar energy systems that meet specified requirements. Rebates were available for both solar photovoltaic systems that produce electricity and solar thermal systems that produce heat. The amounts of the rebates were as follows:

- For a photovoltaic system, the rebate amount was \$4 per watt based on the total wattage rating of the system, with the maximum amount per system installation of:
  - \$20,000 for a residence and
  - \$100,000 for a place of business, a publicly owned or operated facility, or a facility owned or operated by a private, not-for-profit organization, including condominiums or apartment buildings.
- For a solar thermal system:
  - \$500 for a residence and
  - \$15 per 1,000 Btu up to a maximum of \$5,000 for a place of business, a publicly owned or operated facility, or a facility owned or operated by a private, not-for-profit organization, including condominiums or apartment buildings.
- For a solar thermal pool heater, the rebate amount was \$100 per installation.

The rebate was available only for the purchase and installation between July 1, 2006, and June 30, 2010, for new solar energy systems of two kilowatts or larger for a solar photovoltaic system. A photovoltaic system is a solar energy system that provides at least 50 percent of a building's hot water consumption for a solar thermal system, or a solar thermal pool heater. Application for a rebate had to be made within 120 days after the purchase of the solar energy equipment.

The FECC was to determine and publish the amount of rebate funds remaining in each fiscal year. The total dollar amount of all rebates issued was subject to the appropriations in any fiscal year for this program.

The Legislature provided annual funding for the program, as follows:

- FY 2006-07           \$2.5 million in general revenue
- FY 2007-08           \$3.5 million in general revenue
- FY 2008-09           \$5.0 million in general revenue
- FY 2009-10           \$14.4 million in federal American Recovery and Reinvestment Act (ARRA) 2009 funds

The program was more popular than anticipated. Additionally, the FECC did not announce that funds for the program had been depleted until several months after the fact. These factors contributed to a backlog of over 12,000 applications and approximately \$49 million of rebate applications had accumulated as of October 2010. The rebate applications dated as far back as June 2009.<sup>4</sup>

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<sup>4</sup> See [http://freshfromflorida.s3.amazonaws.com/Office\\_of\\_Energy\\_Annual\\_Report\\_2011.pdf](http://freshfromflorida.s3.amazonaws.com/Office_of_Energy_Annual_Report_2011.pdf). (last visited Mar. 27, 2014).

Section 377.807, F.S., authorized the FECC to develop and administer a consumer rebate program for residential energy-efficient appliances consistent with federal law.<sup>5</sup> The Office of Energy applied for federal funds for this rebate program and received a U.S. Department of Energy (USDOE) ARRA Stimulus Grant of \$17,585,000 to be used exclusively for ENERGY STAR appliance rebate programs. The rebate program consisted of two phases designed to focus on replacing appliances that provided savings in energy and water. In phase one, customers received a rebate for 20 percent of the value of their appliance. In addition, a bonus of \$75 was provided to customers to recycle old appliances. At the conclusion of phase one, \$2,531,143 million remained from the original grant. The USDOE suggested the Office of Energy use these funds and State Energy Program Grant funds to create a rebate program for air conditioning appliances. Phase two focused on residential central air conditioners and heat pumps. Customers received \$1,500 for a combination of replacing appliances and having a home duct test completed.<sup>6</sup>

### **Florida Energy Systems Consortium**

Section 1004.648, F.S., creates the Florida Energy Systems Consortium (FESC or consortium) to promote collaboration among experts in the State University System for the purposes of sharing energy-related expertise and assisting in the development and implementation of a comprehensive, long-term, environmentally compatible, sustainable, and efficient energy strategic plan for the state. The FESC is to focus on the research and development of innovative energy systems that will lead to alternative energy strategies, improved energy efficiencies, and expanded economic development for the state.

The FESC consists of all of the state universities and is administered by a director appointed by the president of the University of Florida. The director reports to the DACS. The consortium has an oversight board consisting of the vice president for research or other appropriate representative appointed by the university president of each member of the consortium. The oversight board is responsible for the technical performance and financial management of the FESC.

The goal of the FESC is to become a world leader in energy research, education, technology, and energy systems analysis through collaborative research and development across the State University System and the industry. In so doing, the FESC is to:

- Coordinate and initiate increased collaborative interdisciplinary energy research among the universities and the energy industry;
- Assist in the creation and development of a Florida-based energy technology industry through efforts that will expedite commercialization of innovative energy technologies by taking advantage of the energy expertise within the state university system, high-technology incubators, industrial parks, and industry-driven research centers;
- Provide a state resource for objective energy systems analysis;
- Develop education and outreach programs to prepare a qualified energy workforce and informed public; and

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<sup>5</sup> Chapter 2009-36, Laws of Florida.

<sup>6</sup> [http://freshfromflorida.s3.amazonaws.com/Office\\_of\\_Energy\\_Annual\\_Report\\_2011.pdf](http://freshfromflorida.s3.amazonaws.com/Office_of_Energy_Annual_Report_2011.pdf), pages 19-20, last accessed 2/21/1014.

- Solicit and leverage state, federal, and private funds for the purpose of conducting education, research, and development in the area of sustainable energy.

The statute creates a steering committee that is responsible for ensuring the success of the consortium's mission. The steering committee consists of the university representatives included in the Centers of Excellence proposals for the FESC and the Center of Excellence in Ocean Energy Technology-Phase II; a university representative appointed by the president of Florida International University; and a representative of the DACS.

The FESC must, by November 1 of each year, submit an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the DACS regarding its activities, including, but not limited to, education and research related to, and the development and deployment of, alternative energy technologies.

### **Florida Building Commission**

Section 553.74, F.S., creates the Florida Building Commission (commission), which develops the Florida Building Code, including the Energy Efficiency Code for Building Construction. The commission approves products for statewide acceptance and administers the Building Code Training Program. The commission is composed of 26 members, appointed by the Governor subject to confirmation by the Senate. The membership must be composed of:

- One architect registered to practice in this state and actively engaged in the profession;
- One structural engineer registered to practice in this state and actively engaged in the profession;
- One air-conditioning or mechanical contractor certified to do business in this state and actively engaged in the profession;
- One electrical contractor certified to do business in this state and actively engaged in the profession;
- One member from fire protection engineering or technology who is actively engaged in the profession;
- One general contractor certified to do business in this state and actively engaged in the profession;
- One plumbing contractor licensed to do business in this state and actively engaged in the profession;
- One roofing or sheet metal contractor certified to do business in this state and actively engaged in the profession;
- One residential contractor licensed to do business in this state and actively engaged in the profession;
- Three members who are municipal or district codes enforcement officials, one of whom is also a fire official;
- One member who represents the Department of Financial Services;
- One member who is a county codes 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 this state;
- One member of the manufactured buildings industry who is licensed to do business in this state and is actively engaged in the industry;

- One mechanical or electrical engineer registered to practice in this state and actively engaged in the profession;
- One member who is a representative of a municipality or a charter county;
- One member of the building products manufacturing industry who is authorized to do business in this state and is actively engaged in the industry;
- One member who is a representative of the building owners and managers industry who is actively engaged in commercial building ownership or management;
- 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 licensed to do business in this state and actively engaged in the profession;
- 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 and who is actively engaged in the distribution of natural gas in this state; and
- One member who shall be the chair.

The commission, which is housed within the Department of Business and Professional Regulation, is a 26-member technical body responsible for the development, maintenance and interpretation of the Florida Building Code. The commission also approves products for statewide acceptance and administers the Building Code Training Program.

### **Code Enforcement Notices**

Notices to alleged violators of local government codes and ordinances are governed by s. 162.12, F.S. Pursuant to s. 162.12(1), F.S., notices may be provided by:

- Certified mail to the address listed in the tax collector's office for tax notices, or to any other address provided by the property owner in writing to the local government for the purpose of receiving notices. For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the date of mailing, notice may be provided by posting as described in subparagraphs s. 162.12(2)(b)1. and 2., F.S.;<sup>7</sup>
- Hand delivery by the sheriff, code inspector, or other designated person;
- Leaving the notice at the violator's residence with any person residing there above the age of 15; or,
- For commercial premises, leaving the notice with the manager or other person in charge.<sup>8</sup>

In addition to the noticing provisions outlined in s. 162.12(1), F.S., the code enforcement board may serve notice through publication or posting methods.<sup>9</sup>

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<sup>7</sup> Relating to publication of notices and the physical posting of notices, respectively.

<sup>8</sup> See ss. 162.12(1)(b)-(d), F.S.

<sup>9</sup> See s.162.12(2), F.S.



## Pool Construction and Operation in Florida

The DOH estimates that there are approximately 37,000 public pools in Florida.<sup>10</sup> A “public swimming pool” or “public pool” is defined as:

A watertight structure of concrete, masonry, or other approved materials which is located either indoors or outdoors, used for bathing or swimming by humans, and filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment used in connection therewith. This term includes a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee and includes, but is not limited to, pools operated by or serving camps, churches, cities, counties, day care centers, group home facilities for eight or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type projects of five or more living units, such as apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks, and townhouses.<sup>11</sup>

A “public bathing place” is defined as:

A body of water, natural or modified by humans, for swimming, diving, and recreational bathing used by consent of the owner or owners and held out to the public by any person or public body, irrespective of whether a fee is charged for the use thereof. The bathing water areas of public bathing places include, but are not limited to, lakes, ponds, rivers, streams, artificial impoundments, and waters along the coastal and intracoastal beaches and shores of the state.<sup>12</sup>

In 2012, the Legislature determined that local building departments would have jurisdiction over permitting, plan reviews, and inspections of public swimming pools and public bathing places and that the DOH would continue to have jurisdiction over the operating permits for public swimming pools and public bathing places.<sup>13</sup> In order to operate or continue to operate a public swimming pool, a valid operating permit from DOH must be obtained. Application for an operating permit must include the following:

- Description of the source or sources of water supply, and the amount and quality of water available and intended to be used;
- Method and manner of water purification, treatment, disinfection, and heating;
- Safety equipment and standards to be used; and
- Any other pertinent information deemed necessary by the DOH.<sup>14</sup>

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<sup>10</sup> E-mail from DOH staff (March 27, 2014).

<sup>11</sup> Section 514.011(2), F.S.

<sup>12</sup> Section 514.011(4), F.S.

<sup>13</sup> Chapter 2012-184, Laws of Fla.

<sup>14</sup> Section 514.031(1), F.S.

If the DOH determines that the public swimming pool is, or may reasonably be expected to be, operated in compliance with state laws and departmental rules, the DOH will issue a permit. However, if the DOH determines that the pool is not in compliance with state laws and departmental rules, the DOH will deny the application for a permit. The denial must be in writing and must list the circumstances for the denial. Upon correction of those circumstances, the applicant may reapply for a permit.<sup>15</sup> The operating permit must be renewed annually and posted in a conspicuous place.<sup>16</sup>

### **Manufactured Buildings and Building Modules per the Florida Building Code**

Section 553.72, F.S., provides that the Florida Building Code (code) is “a single set of documents that apply to the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities in this state,” and its enforcement “will allow effective and reasonable protection for public safety, health, and general welfare for all the people of Florida at the most reasonable cost to the consumer.” The Florida Building Commission adopts requirements, within the Florida Building Code, for construction or modification of manufactured buildings and building modules, to address:<sup>17</sup>

- Submission to and approval by the department of manufacturers’ drawings and specifications, including any amendments.
- Submission to and approval by the department of manufacturers’ internal quality control procedures and manuals, including any amendments.
- Minimum inspection criteria.

“Manufactured building” or “modular building” means a closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured for installation or erection as a finished building or as part of a finished building, including, but not limited to, residential, commercial, institutional, storage, and industrial structures. The term includes buildings not intended for human habitation such as lawn storage buildings and storage sheds manufactured and assembled offsite by a manufacturer certified in conformance with this part, but does not include a mobile home.<sup>18</sup>

“Module” means a separately transported three-dimensional component of a manufactured building which contains all or a portion of structural systems, electrical systems, plumbing systems, mechanical systems, fire systems, and thermal systems.<sup>19</sup>

### **Florida Building Code Interpretation**

Section 553.775, F.S., authorizes the Florida Building Code to be interpreted by building officials, local enforcement agencies, and the commission, and provides specific procedures to be used when interpreting the code.

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<sup>15</sup> *Id.*

<sup>16</sup> Section 514.031(4), F.S.

<sup>17</sup> Section 553.37(1), F.S.

<sup>18</sup> Section 553.36(13), F.S.

<sup>19</sup> Section 553.36(15), F.S.

The Florida Accessibility Code for Building Construction (accessibility code), an element of the code, is adopted by the commission and prescribes requirements related to ensuring access for the disabled for new construction activity, including things such as ramps, door widths, and particular plumbing fixtures. The accessibility code combines requirements imposed by the federal regulations that implement the Americans with Disabilities Act and Florida-specific requirements described in part I of ch. 553, F.S.

In accordance with s. 120.565, F.S., the commission may render declaratory statements relating to the provisions of the accessibility code not attributable to the Americans with Disabilities Act Accessibility Guidelines. However, the accessibility code may not be interpreted by building officials, local enforcement agencies, and the commission.

### **Florida Building Code Compliance and Mitigation Program**

The department administers the Florida Building Code Compliance and Mitigation Program, which was created to develop, coordinate, and maintain education and outreach to people who are required to comply with the Florida Building Code and ensure consistent education, training, and communication of the code's requirements, including, but not limited to, methods for mitigation of storm-related damage.<sup>20</sup> The program is geared toward persons *licensed* in the design and construction industries, but does not address those *employed* in the design and construction industries. The services and materials under the program must be provided by a private, nonprofit corporation under contract with department.<sup>21</sup>

### **Building Energy-Efficiency Rating System**

In 1993, the Legislature enacted the Florida Building Energy-Efficiency Rating Act<sup>22</sup> in order to identify systems for rating the energy efficiency of buildings, and encourage the consideration of energy-efficiency rating systems in the market.<sup>23</sup> The current statutory definition of such a rating system specifically relies upon identification by “the Residential Energy Services Network, the Commercial Energy Services Network, the Building Performance Institute, or the Florida Solar Center.”<sup>24</sup> Information about a building's energy-efficiency must be provided to a prospective purchaser of real property, if available. Prior to contracting for construction, renovation, or acquisition of a public building, the building must be rated pursuant to the system provided for in s. 553.995, F.S. Public bodies proposing to contract must consider energy-efficiency ratings when comparing contract alternatives.<sup>25</sup>

## **III. Effect of Proposed Changes:**

**Section 1** amends s. 162.12, F.S., to give local government the option of requiring a return receipt request when sending notices by certified mail to alleged violators of codes and ordinances.

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<sup>20</sup> Section 553.841(2), F.S.

<sup>21</sup> Section 553.841(3), F.S.

<sup>22</sup> Chapter 93-249, s.12, Laws of Fla.

<sup>23</sup> Section 553.991, F.S.

<sup>24</sup> Section 553.993(3), F.S.

<sup>25</sup> Section 553.997(1), F.S.

**Section 2** amends s. 373.323, F.S., to reduce the proof of experience required to obtain a license as a water-well contractor.

**Section 3** amends s. 377.6015, F.S., to remove language stating that the Department of Agriculture and Consumer Services (DACS) is to represent Florida in the Southern Energy Compact.

**Section 4** amends s. 377.703, F.S., regarding the additional duties of the DACS relating to energy by:

- Adding a requirement that the department's annual report to the Governor and the Legislature contain recommendations on energy efficiency as well as the current recommendations on energy conservation;
- Changing the requirements relating to the department's duties to promote solar energy to the promotion of renewable energy; and
- Adding the Florida Energy Systems Consortium to the list of entities the DACS is to cooperate with, in aiding and promoting the commercialization of renewable energy.

**Section 5** amends s. 377.712, F.S., to authorize the Commissioner of Agriculture to appoint a member of the Southern States Energy Board, increasing the Florida membership to a total of four. Current law authorizes departments, agencies, and officers of this state, and its subdivisions to cooperate with the board in the furtherance of any of its activities pursuant to the compact, provided such proposed activities have been made known to and approved by either the Governor or the Department of Health. The bill changes the approval portion of this provision to approval by either the Governor or the Governor's appointee to the Board.

**Section 6** amends s. 377.801, F.S., to change the designated sections of the statute that may be cited as the "Florida Energy and Climate Protection Act," conforming to the repeal of some sections previously included as part of that act.

**Section 7** amends s. 377.802, F.S., to delete language that refers to the solar energy and energy-efficient appliance rebate programs as the existing statutes creating these rebates are repealed in section 9 of the bill.

**Section 8** amends s. 377.803, F.S., to delete definitions contained in the Florida Energy and Climate Protection Act for the terms: "solar energy system," "solar photovoltaic system," and "solar thermal system."

**Section 9** repeals sections 377.806 and 377.807, F. S., creating the solar energy and energy-efficient appliance rebate programs. These programs are no longer operational.

**Section 10** creates s. 377.815, F.S., to authorize the DACS to post information on its website relating to alternative fueling stations and electric vehicle charging stations that are available to the public.

**Section 11** amends s. 440.103, F.S., to allow proof that compensation has been secured for an employer's employees, which is required as a condition of applying for a building permit, to be

shown electronically or physically. It also cross references s. 553.79(19), F.S., and states that site plans or building permits may be maintained at the worksite in the original form or in the form of an electronic copy.

**Section 12** amends s. 514.0115, F.S., to allow the department, pursuant to procedures adopted in department rule, to grant variances from the provisions of the Florida Building Code relating to public swimming pools and bathing places when the owner establishes that compliance would be a hardship.

**Section 13** amends s. 514.03, F.S., to require those desiring to construct, develop, or modify a public swimming pool to apply to the DOH for an operating permit before applying for a building permit. This section takes effect October 1, 2014.

**Section 14** amends s. 514.031, F.S., to create additional requirements for an application for an operating permit for a public swimming pool. This section takes effect October 1, 2014.

**Section 15** amends s. 553.37, F.S., to add inspection criteria that must be adopted by the Florida Building Commission within the Florida Building Code. The criteria require the approved inspection agency to do the following:

- Observe the first building built, or the first unit assembled with components, and all its subsystems, after certification of the manufacturer;
- Continue observation of the manufacturing process until the agency determines that the manufacturer's quality control program and the plans approved by the agency will result in a building and components that meet or exceed the applicable Florida Building Code requirements;
- Thereafter, with respect to manufactured buildings, inspect each module produced at least once during the manufacturing process and to inspect at least 75 percent of the subsystems of each module; and
- Inspect at least 75 percent of the manufactured building components or 20 percent of storage sheds that are not designed for human habitation and that have a floor area of 720 square feet or less.

**Section 16** amends s. 553.721, F.S., to delete obsolete language.

**Section 17** amends s. 553.73, F.S., to prohibit an agency or local government from requiring that existing mechanical equipment located on or above the surface of a roof comply with the requirements of the Florida Building Code relating to roof-mounted mechanical units except when the equipment is being replaced or is being removed during reroofing. The bill also provides that, in a single-family dwelling, make-up air is not required for range hood exhaust systems capable of exhausting either 400 cubic feet per minute or less or more than 400 cubic feet per minute but no more than 800 cubic feet per minute, if there are no gravity vent appliances within the conditioned living space of the structure.

**Section 18** amends s. 553.74, F.S., to add one member to the Florida Building Commission who is a representative of the DACS' Office of Energy. The bill specifies the additional member be appointed by the Governor, and encourages the Commissioner of Agriculture to recommend a list of candidates for consideration.

**Section 19** amends s. 553.77, F.S., to require building officials to recognize and enforce variance orders issued by Department of Health (DOH) relating to public swimming pools.

**Section 20** amends 553.775, F.S., to authorize building officials, local enforcement agencies, and the commission to interpret the accessibility code and to remove language restricting declaratory statements to Florida-specific requirements of the accessibility code.

**Section 21** amends s. 553.79, F.S., to allow site plans or building permits to be maintained at the worksite in the original form or in the form of an electronic copy. The section also prohibits a local enforcing agency from issuing a building permit to construct, develop, or modify a public swimming pool without proof of application, whether complete or incomplete, for an operating permit. A certificate of completion or occupancy may not be issued until the operating permit is issued. The local enforcing agency shall conduct their review of the building permit application upon filing and in accordance with this chapter. The local enforcing agency may confer with the DOH, if necessary, but may not delay the building permit application review while awaiting comment. This section takes effect October 1, 2014.

**Section 22** amends s. 553.80, F.S., to make a technical change.

**Section 23** amends s. 553.841, F.S., to revise education and training requirements of the Florida Building Code Compliance and Mitigation program. In addition to maintaining a thorough knowledge of the code, participants in the design and construction industry should have a thorough knowledge of:

- Code compliance and enforcement;
- Duties related to consumers;
- Project completion; and
- Compliance of design and construction to protect against consumer harm and storm damage.

The bill also contains a legislative finding that there is a need for the program to provide education and outreach concerning compliance with the Florida Fire Prevention Code, construction plan and permitting requirements, and construction liens. The bill further expands the program to include methods for design and construction compliance.

**Section 24** amends s. 553.883, F.S., to provide that one-family and two-family dwellings and townhouses that are undergoing a repair may use smoke alarms with a non-removable, non-replaceable, 10-year battery, instead of hardwiring a smoke alarm into the electrical system. Effective January 15, 2015, a battery-powered smoke alarm that is newly installed or replaces an existing battery-powered smoke alarm must be powered by a nonremovable, nonreplaceable battery that powers the alarm for at least 10 years. All fire alarms, smoke detectors, smoke alarms, and ancillary components that are electronically connected to a system as part of an Underwriters Laboratories listed centrally-monitored fire alarm station are exempt from these battery requirements.

**Section 25** amends s. 553.993, F.S., to revise the definition of the term “building energy-efficiency rating system” to require that the system include:

- The ability to provide reliable and scientifically-based analysis of a building’s energy consumption or energy features;

- The ability to compare similar building types in similar climate zones;
- Use of standard calculations, formulas, and scoring methods;
- National applicability;
- Clearly defined and researched baselines or benchmarks;
- Ratings that are performed by qualified professionals;
- A labeling and recognition program with specific criteria or levels;
- Residential program benchmarks that must be consistent with national building standards and home energy rating standards; and
- At least one level of oversight performed by a group of professionals with subject matter expertise in energy efficiency, energy rating, and evaluation methods.

**Section 26** amends s. 633.202, F.S., to exempt tents 30 feet by 30 feet or smaller from the Florida Fire Prevention Code.

**Section 27** amends s. 633.212, F.S., to remove the requirement that a member of the Fire Code Interpretation Committee must notify the committee that he or she is unable to respond, before an alternate member can respond to a request for a nonbinding interpretation.

**Section 28** amends s. 713.32, F.S., to allow an owner of improved real property and the insurer of that property to explicitly agree in writing to make payment on any claim to a third party. Currently, the insurer must pay the insured named in the policy.

**Section 29** provides that, except as otherwise provided, this bill takes effect July 1, 2014.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article III, section 6 of the Florida Constitution provides that “Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title.” The title of CS/CS/CS/SB 1044 states the bill relates to “building construction policies.” CS/CS/CS/SB 1044 includes items relating to both building construction and energy policy that may implicate the requirements of Article III, section 6 of the state constitution.

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

None.

**B. Private Sector Impact:**

CS/CS/CS/SB 1044 provides that a building energy-efficient rating system require at least one level of oversight performed by an organized and balanced group of professionals with subject matter expertise in energy efficiency, energy rating, and evaluation methods. This new requirement may create jobs for some professionals, but may exclude others operating under the current rating system, resulting in business and job loss.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 162.12, 373.323, 377.6015, 377.703, 377.712, 377.801, 377.802, 377.803, 553.74, 440.103, 514.0115, 514.03, 514.031, 553.37, 553.721, 553.73, 553.74, 553.77, 553.775, 553.79, 553.80, 553.841, 553.883, 553.993, 633.202, 633.212, and 713.32.

This bill creates section 377.815 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 377.806 and 377.807.

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

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

**CS/CS/CS by Appropriations on April 24, 2014:**

The Committee Substitute:

- Incorporates the provisions of CS/CS/SB 1106, relating to building construction, water well contractor licensing, public swimming pools, and payment of insurance proceeds on claims for damages to improved real property.



- Revises the method of appointment of a representative of the Department of Agriculture and Consumer Services to the Florida Building Commission.
- Authorizes an appointee of the Governor to approve proposed activities relating to the Southern States Energy Compact.

**CS/CS by Agriculture on March 31, 2014:**

A section of the CS made certain duties of the Florida Solar Energy Center permissive instead of mandatory and it removed the requirement that all solar systems manufactured or sold in Florida must be certified by the Florida Solar Energy Center. The CS/CS removes those provisions of the bill which will keep the present law “as is.”

**CS by Communications, Energy, and Public Utilities on March 11, 2014:**

Corrects technical deficiencies identified in the pre-meeting bill analysis on the original bill and makes other technical changes.

B. Amendments:

None.