

**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:** PCS/CS/SB 1144 (175328)

**INTRODUCER:** Appropriations Committee (Recommended by Appropriations Subcommittee on Finance and Tax); Community Affairs Committee; and Senator Perry

**SUBJECT:** Permit Fees

**DATE:** February 26, 2018

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<u>Recommend: Fav/CS</u>
3.	<u>Gross</u>	<u>Hansen</u>	<u>AP</u>	<u>Pre-meeting</u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/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 December 31, 2019, the governing body of a local government must publish its building permit and inspection utilization report on its website. After December 31, 2019, a local government must update the report prior to amending its building permit and inspection fee schedule. The report must use the most recently completed financial audit.

The bill does not affect state revenues or expenditures. Municipalities and counties may incur costs related to the implementation of this act.

The bill takes effect July 1, 2018.

**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.<sup>1</sup>

### **Enforcement of the Florida Building Code**

The board of county commissioners of each county is authorized to enforce the Building Code and issue building permits.<sup>2</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 and paying reasonable fees as set forth in a schedule of fees adopted by the board.<sup>3</sup>

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.<sup>4</sup> A county that issues building permits must post each type of building permit application on its website.<sup>5</sup> Completed applications must be submitted electronically to the county or local enforcement agency building department, which must provide accepted methods of electronic submission.<sup>6</sup> 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.<sup>7</sup>

### **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.<sup>8</sup>

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.<sup>9</sup> 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.<sup>10</sup> The basis for the fee structure must relate to the level of service provided by the local government.<sup>11</sup> Fees charged must be consistently applied.<sup>12</sup>

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

<sup>2</sup> Sections 125.56(1) and 125.01(1)(bb), F.S.

<sup>3</sup> Section 125.56(4)(a), F.S.

<sup>4</sup> Sections 125.56(2) and 166.222, F.S.

<sup>5</sup> Section 125.56(4)(b), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Section 553.79(1), F.S.

<sup>9</sup> Section 553.80(1), F.S.

<sup>10</sup> 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.

<sup>11</sup> Section 553.80(7), F.S.

<sup>12</sup> *Id.*

Local enforcement agencies, independent special districts,<sup>13</sup> or dependent special districts<sup>14</sup> 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.<sup>15</sup>

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.<sup>16</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 125.56, F.S., to require the governing body of a county authorized to issue fees under this section or s. 553.80, F.S., to post its building permit and inspection fee schedule and its building permit and inspection report required under s. 553.80(7), F.S., on its website.

**Section 2** amends s. 166.222, F.S., to require the governing body of a municipality authorized to issue fees under s. 553.80, F.S., to post its building permit and inspection fee schedule and its building permit and inspection report required under s. 553.80(7), F.S., on its website.

**Section 3** amends s. 553.80, F.S., to require the governing body of a local government to publish its building permit and inspection report on its website by December 31, 2019. After December 31, 2019, a local government must update the report prior to amending its building permit and inspection fee schedules. The report must use the most recently completed financial audit.

Additionally, the report must include:

- Direct and indirect costs incurred by the local government to enforce the Florida Building Code, including costs related to:
  - The review of building plans.
  - Building inspections.
  - Building reinspections.
  - Building permit processing.
  - Building code enforcement.

<sup>13</sup> 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.

<sup>14</sup>A 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>.

<sup>15</sup> Section 553.80(7)(d), F.S.

<sup>16</sup> Section 553.71(5), F.S.

- Number of building permits requested.
- Number of building permits issued.
- Number of building inspections and reinspections conducted.
- Number of personnel employed by the local government to enforce the Florida Building Code, issue building permits, and conduct inspections.
- Salary and related employee benefit costs incurred by the local government to enforce 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.
- When applicable, 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 4** provides an effective date of July 1, 2018.

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

##### **A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(a), of the Florida Constitution provides that no county or municipality is bound by any general law that requires the expenditure of money unless the legislature determines that the law fulfills an important state interest and the bill is passed by a two-thirds vote of the membership of each house of the Legislature.

This bill requires local governments to revise their websites and post their permit and inspection fee schedules and their building permit and inspection utilization report on their websites, which may require expenditures. However, the mandates requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2017-2018 is approximately \$2.05 million or less.<sup>17,18,19</sup>

In so far as a county or municipality currently provides a schedule of reasonable permit and inspection fees on its website, the fiscal impact of this bill may be insignificant.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

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<sup>17</sup> FLA. CONST. art. VII, s. 18(d).

<sup>18</sup> Based on the Demographic Estimating Conference's population estimate adopted on December 5, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf>.

<sup>19</sup> 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).

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

None.

**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 their websites. Some local governments that do not currently post documents on their websites may have to make an initial expenditure of funds to revise their existing website to include the ability to post permit and inspection fee schedules as well as a report on the local government's website.

**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.)

**Recommended CS/CS by Appropriations Subcommittee on Finance and Tax on February 5, 2018:**

The committee substitute:

- Removes the requirement that the building permit and inspection report, which must be posted on the local government's website, be accessible through a link.
- Clarifies that local governments must post on their websites the building and inspection utilization report by December 31, 2019.
- Clarifies that after December 31, 2019, any local government that intends to amend its schedule of fees shall first update its building permit and inspection utilization report.

- Requires local governments to use information available in the most recently completed financial audit as the basis for the building permit and inspection utilization report.
- Replaces the term “implement the Florida Building Code” with “enforce the Florida Building Code,” which is consistent with current law.
- Removes “building fire inspections” as a requisite in the required report.

**CS by Community Affairs Committee on January 16, 2018:**

- Adds the permit and inspection fee schedule requirements to s. 166.222, F.S., so that the permit and inspection fee schedule requirements for municipalities are properly placed in the municipality chapter of the Florida Statutes.

**B. Amendments:**

None.