

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/CS/HB 725 Permit Fees

**SPONSOR(S):** Government Accountability Committee; Careers & Competition Subcommittee; Local, Federal & Veterans Affairs Subcommittee; Williamson and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1144

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 1 N, As CS	Renner	Miller
2) Careers & Competition Subcommittee	13 Y, 0 N, As CS	Brackett	Anstead
3) Government Accountability Committee	19 Y, 0 N, As CS	Renner	Williamson

### SUMMARY ANALYSIS

The Florida Building Codes Act provides 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 jurisdiction in protection of the public's health, safety, and welfare. Under current law, local governments must enforce the Florida Building Code, issue building permits, and post each type of building permit application on its website.

The bill requires the governing bodies of counties and municipalities to post permit and inspection fee schedules and building permit and inspection utilization reports on their websites by December 31, 2019. After December 31, 2019, the governing body of a local government that provides a schedule of fees must update its building permit and inspection utilization report before making any adjustments to the fee schedule. Finally, the bill establishes reporting requirements.

The bill does not have a fiscal impact on the state. The bill has an indeterminate, but likely insignificant, fiscal impact on local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### 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.<sup>1</sup>

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. The Governor eventually 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 enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code, and that first edition replaced all local codes on March 1, 2002.<sup>2</sup> The current edition of the Florida Building Code is the sixth edition, which is referred to as the 2017 Florida Building Code.<sup>3</sup>

Part IV of ch. 553, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the 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.<sup>4</sup>

The Florida Building Commission was statutorily created to implement the Florida Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 27-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Florida Building Code.<sup>5</sup> The Commission reviews the International I-Codes and the National Electric Code every three years to determine if the Florida Building Code needs to be updated.<sup>6</sup>

##### Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.<sup>7</sup>

Every local government must enforce the Florida Building Code and issue building permits.<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 government enforcing agency or from such

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<sup>1</sup> 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](http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf) (last visited Jan. 20, 2018).

<sup>2</sup> *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 Jan. 20, 2018).

<sup>3</sup> Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Jan. 20, 2018).

<sup>4</sup> See s. 553.72(1), F.S.

<sup>5</sup> Section 553.74, F.S.

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

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

<sup>8</sup> Sections 125.56(1), 125.01(1)(bb), and 553.80(1), F.S.

persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.<sup>9</sup>

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.<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. The Florida Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections. In addition to required inspections, a local building official may require other inspections of any work to ensure it complies with the Florida Building Code.<sup>12</sup>

### Local Government Fees

Each local government entity may provide a schedule of reasonable inspection fees<sup>13</sup> in order to defer the costs of inspection and enforcement of the Florida Building Code.<sup>14</sup> A local government entity that issues building permits must post each type of building permit application on its website. Completed applications must be submitted electronically to the local enforcement agency building department, which must provide accepted methods of electronic submission. 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>15</sup>

A 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>16</sup> The basis for the fee structure must relate to the level of service provided by the local government.<sup>17</sup> Fees charged must be consistently applied.<sup>18</sup>

Local enforcement agencies, independent special districts,<sup>19</sup> or dependent special districts<sup>20</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 pursuant to ch. 553, F.S.; or
- Providing, recording, or filing evidence of workers' compensation insurance coverage required by ch. 440, F.S.<sup>21</sup>

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<sup>9</sup> See sections. 125.56(4)(a) and 553.79(1), F.S.

<sup>10</sup> Section 202 of the Sixth edition of the Florida Building Code (Building).

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

<sup>12</sup> Sections 110.1, 107, and 110.3, Sixth edition of the Florida Building Code (Building).

<sup>13</sup> See, e.g., Broward County website on *Impact and Concurrency Fees*, available at

<http://www.broward.org/Planning/Development/FAQs/Pages/Impact-and-Concurrency-Fees.aspx> (accessed Dec. 27, 2017).

<sup>14</sup> Sections 125.56(2), 166.222, and 553.80(7), F.S.

<sup>15</sup> Sections 125.56(4)(b) and 553.79(1)(b), F.S.

<sup>16</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>17</sup> Section 553.80(7), F.S.

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

<sup>19</sup> Section 189.012(3), F.S., defines an "independent special district" as having a governing board comprised of members which are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality. Additionally, a district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

<sup>20</sup> A dependent special district has a governing board comprised of members that are identical in membership to, or all appointed by or any removable at will by, the governing body of a single county or municipality, or the district budget may be affirmed or 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>21</sup> Section 553.80(7)(d), F.S.

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 that establish standards for the design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.<sup>22</sup>

### **Effect of Proposed Changes**

The bill requires the governing bodies of counties and municipalities to post permit and inspection fee schedules and building permit and inspection utilization report on their websites.

The governing body of a local government providing a schedule of reasonable fees must post its building permit and inspection utilization report on its website by December 31, 2019. The report must be based on information available in the most recently completed financial audit. After December 31, 2019, the governing body of a local government providing a schedule of fees must update its building permit and inspection utilization report on its website before making any adjustments to the fee schedule.

The report must include the following information:

- 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 re-inspections, building permit processing, and building code enforcement.
- Number of building permits requested and the number of permits issued.
- Number of building inspections and re-inspections 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 and revenue derived from fines pursuant to s. 553.80(7), F.S.
- When applicable, investment earnings derived from the local government’s investment of revenue derived from fees and fines pursuant to s. 553.80(7), F.S.
- Balances carried forward by the local government and balances refunded by the local government pursuant to s. 553.80(7), F.S.

### **B. SECTION DIRECTORY:**

Section 1. amends s. 125.56, F.S., requiring the governing body of a county to post its permit and inspection fee schedules and building permit and inspection utilization report on its website.

Section 2. amends s. 166.222, F.S., requiring the governing body of a municipality to post its permit and inspection fee schedules and building permit and inspection utilization report on its website.

Section 3. amends s. 553.80, F.S., requiring a governing body of a local government to post its permit and inspection utilization reports on its website by a specified date; providing requirements for the governing bodies; providing reporting requirements.

Section 4. provides an effective date of July 1, 2018.

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<sup>22</sup> Section 553.71(5), F.S.  
**STORAGE NAME:** h0725e.GAC  
**DATE:** 2/2/2018

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate. Local governments that do not currently post permit information on their website may have to expend funds to revise their existing websites in order to meet the reporting requirements in the bill.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires local governments to post their permit and inspection fee schedules and building permit and inspection utilization reports on their websites. This may result in additional expenditures to comply with the statute. However, an exemption may apply because the fiscal impact is likely to be insignificant since local governments currently are required to post each type of building permit application on their websites.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 10, 2018, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment adds the permit and inspection fee schedule requirements in s. 125.56, F.S., which only applies to a board of commissioners of a county, to municipalities with authority under s. 166.222, F.S., to avoid confusion as to the applicability of the new requirements to non-county local governments.

On January 23, 2018, the Careers & Competition Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Provides that the governing body of a local government with a schedule of reasonable fees must post its building permit and inspection utilization report on its website instead of posting a link to the report on its website.
- Provides that the governing body of a local government must post its building permit and inspection utilization report on its website by December 31, 2019.
- Provides that a governing body of a local government must amend its building permit and inspection utilization report before adjusting its fee schedule.
- Removes the provision that a building permit and inspection utilization report must include the costs related to the review of building fire inspections.
- Replaces the term “implement” with “enforce.”

On February 1, 2018, the Government Accountability Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Made conforming changes.
- Specified that after December 31, 2019, the governing body of a local government providing a schedule of fees must update its building permit and inspection utilization report on its website before making any adjustments to the fee schedule.

This analysis is drafted to the committee substitute as approved by the Government Accountability Committee.