
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 7, 1998 Revised: _____

Subject: Single Statewide Building Code

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This Committee Substitute for SB's 1190 & 868 establishes the Florida Building Code (FBC), a single statewide building code and codifies many of the recommendations of the Governor's Building Codes Study Commission. This CS provides that:

- The Board of Building Codes and Standards is reconstituted as the Florida Building Commission;
- The Department of Insurance is required to adopt the Florida Fire Prevention Code and the Life Safety Code;
- Upon initial adoption, the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code are deemed adopted by all local jurisdictions; with some restrictions, local governments may adopt more stringent requirements to the codes;
- Beginning in 2001, local governments shall assume expanded responsibilities for permitting, plans review and inspection of facilities that are currently reviewed by state agencies;
- The Florida Building Commission will create and administer a statewide product evaluation system;
- There will be a building code training program developed which will become part of current continuing education requirements for occupations related to construction and construction regulation;
- There will be disciplinary consequences related to material code violations for state-certified and registered contractors; and
- The Department of Business and Professional Regulation is required to implement an automated information system which tracks disciplinary actions taken against construction-related occupations on a statewide basis.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 125.69, 161.54, 161.56, 162.21, 166.0415, 455.2286, 468.609, 468.621, 468.627, 471.003, 471.005, 471.015, 471.017, 471.033, 481.215, 481.225, 481.2251, 481.313, 481.325, 489.103, 489.115, 489.117, 489.127, 489.129, 489.131, 489.1455, 489.513, 489.517, 489.531, 489.533, 489.5335, 489.537, 500.549, 553.06, 553.18, 553.19, 553.71, 553.72, 553.73, 553.74, 553.75, 553.76, 553.77, 553.79, 553.80, 553.801, 553.842, 627.351, 633.01, 633.025, 633.0215, 633.085, and 633.72.

II. Present Situation:

The Regulation of Building Designers, Contractors, and Inspectors

The Department of Business and Professional Regulation (DBPR), through its various professional boards, regulate businesses and individuals who design, build, and inspect the built environment. These boards are responsible for, among other things, establishing the qualifications for licensure and disciplining its members. Engineers are regulated pursuant to chapter 471, F.S. Architects, Interior Designers, and Landscape Architects are regulated pursuant to chapter 481, F.S.

Building code administrators, inspectors, and plans examiners are regulated pursuant to part XII of chapter 468, F.S. There are various categories and levels of certification for these positions. The regulation of these positions is funded by licensure fees and a nominal surcharge on every building permit. Local jurisdictions may retain up to 10 percent of this surcharge, and the remaining surcharge is used to fund the provisions of the building administrators and inspection program.

Construction and electrical contractors are regulated pursuant to part I and part II, of chapter 489, F.S., respectively. Both parts provide for two levels of licensure. *Certification* requires a state examination and prescribes certain experience requirements. Certified contractors may perform contracting services all over the state without having to meet additional local requirements relating to qualifications to practice. *Registration* allows an individual to perform contracting services only in the local jurisdictions in which licensure has been obtained, and except under very limited circumstances, are subject to discipline only from the local jurisdiction that issued the local license.

Board of Building Codes and Standards

Sections 553.74 - 77, F.S., govern the creation and responsibilities of the State Board of Building codes and Standards with the Department of Community Affairs (DCA). The board's general responsibilities include:

- Continually studying the operation of the State Minimum Building Codes and other laws relating to the construction of buildings, including manufactured buildings;
- Upon request, issuing advisory opinions relating to new technologies, techniques, and material;

- Upon request, issuing advisory opinions relating to the interpretation, enforcement, administration, or modification by local governments of the State Minimum Building Codes and the Florida Manufactured Building Act of 1979;
- Making recommendations and providing assistance regarding rules relating to handicapped accessibility; and
- Coordinating and cooperating with the Florida Fire Code Advisory Council for assistance and recommendation relating to fire safety code interpretations.

The board may also provide for the testing of materials, devices, and methods of construction; appoint experts, consultants, technical advisors, and advisory committees for assistance and recommendations relating to the State Minimum Building Codes; and appoint an advisory committee to provide assistance and recommendations relating to plumbing code interpretations, if necessary.

The board is composed of 17 members appointed by the Governor and confirmed by the Senate. The board includes, in part, an architect, structural engineer, mechanical contractor, electrical contractor, general contractor, plumbing contractor, and three representatives of local government code enforcement offices. The law requires local jurisdictions and state agencies that have code enforcement authority to adopt the state minimum building codes and other codes.

The State Minimum Building Codes

Chapter 553, F.S., provides the building construction standards for the state. These standards are incorporated in the Florida Plumbing Control Act; the Florida Electrical Code; the minimum standards for certain glass products; The Florida Manufactured Building Act of 1979; the Florida Americans With Disabilities Accessibility Implementation Act; the Trench Safety Act; the State Minimum Building Codes; the Florida Thermal Efficiency Code; the Florida Energy Conservation Standards Act; standards for radon-resistant buildings; and the Florida Building Energy-Efficiency Rating Act.

Part VII of chapter 553, F.S. provides the mechanism for the promulgation, adoption, and enforcement of state minimum building codes. Section 553.73, F.S., requires units of local government and state agencies that have code enforcement authority to adopt one of State Minimum Building Codes as its building code. However, a local jurisdiction may adopt, under certain conditions, more stringent requirements than are imposed by the State Minimum Building Code. The State Minimum Building Code consists of four model codes:

- The *Standard Building Code*, 1988 edition, which is published by the Southern Building Code Congress International (SBCCI);
- The Council of American Building Officials (CABO) *One and Two Family Dwelling Code (OTFDW)*, 1986 edition;
- The *South Florida Building Code*, 1988 edition, which has been adopted by Dade County and Broward County; and

- The *EPCOT Building Code*, 1982 edition, which was developed and adopted by the Reedy Creek Improvement District, the local government which controls the property surrounding and including Walt Disney World in Orange and Osceola counties.

Dade and Broward counties use amended versions of the *South Florida Building Code*. The *Standard Building Code* has been adopted by the remaining 65 Florida counties and all cities in those counties.

Section 553.73(3), F.S., allows the board to designate, by rule, all or part of an updated or revised version of a model code as a State Minimum Building Code.

Section 553.73(6), F.S., requires each municipality and county in the state and each state agency with statutory authority to regulate building construction to enforce the specific model code it adopts. Subsection (7) specifies that the following structures are not regulated by the State Minimum Building Code: nonresidential farm buildings; temporary buildings used exclusively for construction purposes; mobile homes used as temporary offices, with the exception of issues relating handicapped accessibility.

Minimum Fire Safety Code

The Division of State Fire Marshal of the Department of Insurance is responsible for the areas of fire prevention, fire education, and fire investigation. Section 633.01, F.S., specifies that the powers and duties of the State Fire Marshal are vested in the head of the Department of Insurance. Furthermore, this section grants the State Fire Marshal broad powers of rule making authority to protect the health, safety, and welfare of the public provided that consideration is given to generally accepted standards of fire safety.

Section 633.022, F.S., provides that the Department of Insurance must establish uniform fire safety standards that apply to:

- State-owned and state-leased buildings;
- Hospitals, nursing homes, assisted living facilities, correctional facilities, public schools, transient public lodging establishments, public food service establishments, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, and self-service gasoline stations.

Section 633.025, F.S. requires each municipality, county, and special district with fire safety responsibilities to adopt a minimum fire safety standard to operate in conjunction with the state minimum building code adopted pursuant to s. 553.73, F.S. Local governments may choose from one of the following fire safety codes:

- The *Standard Fire Safety Code*, 1985 or subsequent edition, as adopted by the Southern Building Code Congress International (SBCCI);

- The *EPCOT Fire Prevention Code*;
- The *National Fire Protection Association (NFPA) Pamphlet 1*, 1985 edition or subsequent edition; or
- The *South Florida Fire Prevention Code*.

Local governments may adopt more stringent requirements than are imposed by the State Minimum Fire Safety Code. In addition, local governments may establish alternative requirements on a case-by-case basis, in order to meet special situations arising from historic, geographic, or unusual conditions, if the alternative requirements result in a level of protection to life, safety, or property equal to or greater than the applicable minimum fire safety standards.

Section 633.085, F.S., provides that the State Fire Marshal must inspect all state-owned and state-leased buildings on a recurring basis as established by rule. Furthermore all plans for construction of any new, or renovation or alteration of any existing state-owned building, are subject to the review and approval of the State Fire Marshal.

Code Enforcement by State Agencies

Several state agencies have limited code adoption, plan review, construction permitting and inspection, and code enforcement responsibilities for public facilities:

- Pursuant to s. 235.26, F.S., the *Department of Education* (DOE) is responsible for developing and enforcing the Uniform Building Code for Public Educational Facilities Construction. The code is applicable to K-12 and community college facilities. Typically, school districts submit construction documents to DOE for review.
- Pursuant to s. 255.25, F.S., the *Department of Management Services* (DMS), Division of Building Construction, has permitting authority over the construction, renovation, and repair of all state owned buildings.
- Pursuant to s. 255.30, F.S., DMS has delegated to the *Department of Corrections* (DOC), Design and Permitting Section, Bureau of Facilities Services, the responsibility for the development and administration of DOC construction projects, which include all new construction, repairs and renovation projects for prison facilities. DMS and the State Fire Marshal review plans, inspect facilities, and issue certificates of occupancy.
- Pursuant to s. 509.032(2)(d), F.S., the DBPR, Division of Hotels and Restaurants, has the responsibility for approving public food service establishment facility plans. The Division also has the responsibility, pursuant to s. 399.05, F.S., for permitting and inspecting most elevators in operating throughout the state.
- Pursuant to s. 320.823, F.S., the *Department of Highway Safety and Motor Vehicles* (DHSMV), Bureau of Mobile Home and RV Construction, is responsible for administering and enforcing license requirements for manufacturers of mobile homes or recreational vehicles.
- Pursuant to s. 395.0163 and 400.23(2)(a), F.S., the *Agency for Health Care Administration* (AHCA), Office of Plans and Construction, is responsible for reviewing and approving plans for the design and construction of all licensed and certified hospitals, nursing homes, and ambulatory surgical centers.

Several other State Departments have limited responsibilities in setting standards or inspecting facilities for specific programmatic areas. These departments include: *the Department of Health, Office of Environmental Health Programs*; the *Department of Agriculture and Consumer Services, Division of Food Safety*; the *Department of Environmental Protection*; the *Public Service Commission*; and the *Department of Children and Families*.

GOVERNOR'S BUILDING CODES STUDY COMMISSION (BCSC)

On July 31, 1996, the Governor issued an Executive Order establishing the *Governor's Building Codes Study Commission (BCSC)*. The commission was charged to "evaluate the current effectiveness of, and through general consensus among the commission members, recommend any necessary steps to reform the Florida building code system." The commission was to "look at the overall inventory of building codes and standards controlling the quality of Florida's build environment, the administration of these codes and standards, and issues relating to code compliance."

The twenty-eight members of the commission included representatives from the Florida Senate and House of Representatives, state agencies, local governments, building officials, design and construction industry, insurance industry, banking industry, and union organizations. The commission met monthly from September 1996 through December 1997. The commission issued a preliminary report in January 1997 and issued a final report in December 1997.

The commissions report, titled *Five Foundations for a Better Built Environment*, outlined findings in three major areas: code development and adoption; code administration and enforcement; and code compliance. The commission found that the manner in which the building code.

. . . system has developed has resulted in a patchwork of technical and administrative processes which allow for too many people to determine what codes are used, how those codes are administered and enforced, and interpreted, and to what level the participants in the system are educated, trained and disciplined.

Code Development & Adoption

The combination of incorporating revisions to the five minimum state building codes and delays in adoption of these revisions by local governments result in delays in implementing the most recent and effective code available. This condition, together with additional codes and standards promulgated by various state agencies, "present a confusing array of codes and standards applicable to Florida's Built Environment. This scheme of development and adoption has caused differences to occur from city to city and county to county in the applicable minimum codes and standards."

Code Administration

The present building code system allows local governments to adopt *amendments to building code*. The commission found that local governments "routinely do not follow the prescriptions" for adopting amendments set forth in the statutes. In addition, local governments "typically" adopt

amendments to the administrative provisions of the code, as opposed to technical provisions, and “several (local governments) have amended the provisions relating to required inspections to reduce the number of inspections.” As for technical amendments, “the Commission was unable to identify a single unique local condition that would warrant a more stringent requirement and that could not be handled in a single code. . . .”

Code Enforcement

The commission report listed a number of findings related to code enforcement:

- Current processes used to conduct *plan review and inspection* have caused several problems:
 - There are “differences of opinion” as to the role of the building and fire officials in performing plan reviews and inspections;
 - The current system does not provide any baseline plan review and inspection requirements; and
 - There is confusion over what codes and standards apply.
- While building codes contain general provisions relative to *maintenance* of existing buildings, most local governments “do not adopt any specific maintenance programs, mostly due to the workload such a program would produce. . . .”
- Product manufacturers claim that Dade County’s *product approval process*, unique among Florida counties, is “unnecessarily duplicative and . . . extraordinarily expensive.”
- While the process by which an individual *challenges* interpretations of building and fire officials “works fairly well,” the process for obtaining relief through a petition for writ of certiorari, “does not provide a quick, simple resolution to the more difficult and potentially costly interpretations.”
- The number of codes “alone with the inconsistencies in the administration and enforcement of the codes, serve to undermine rebuild efforts after a natural disaster such as a hurricane.”

Code Compliance

The commission found that “too few building officials were too often relied upon to find and correct too many design and construction deficiencies that developed too frequently in the work performed on the job-site.” In addition, there is a general shortage of qualified supervisors to ensure construction meets code standards. Licensing responsibilities are “fragmented among numerous agencies and offices at both the state and local levels” and those not required to be licensed are not accountable to the state or local government.

In the area of *licensing and discipline*, the commission noted that the current dual contractor licensing system (state licensing and local registration) is “confusing and nonuniform” and has resulted in inefficiencies and “unnecessary duplication of efforts.” The commission also noted that the “same situation occurs for building code enforcement officials, where state agency inspectors are licensed separately from local building inspectors,” and that there is a “general lack of uniform procedures, training, and minimum qualification requirements.” Finally, the

commission found that “three critical participants” in the system are not licensed: the residential designer, the superintendent and the general construction worker.

BCSC Recommendations

As stated in their report, the BCSC developed the following criteria to apply in evaluating the current Building Code System: the system must protect the health, safety and welfare of the citizens of Florida and must

- Be simple to use and clearly understood;
- Be uniform and consistent in its administration and application;
- Be flexible;
- Be affordable; and
- Promote innovation and new technology.

Upon finding that the current Building Code System did not meet the adopted criteria, the commission recommended a system with the following characteristics:

- A single, comprehensive statewide building code;
- Enforcement of the code will be accomplished by local officials;
- The code will be updated by a state level board on a 3-year cycle; local governments will be able to submit amendments to the code to address specific local concerns;
- Decisions by local officials or Boards of Appeal will be reviewable by the State Level Board, and the State Board decisions will be binding;
- There will be a “strengthened enforcement and compliance program based on a clear and precise definition of roles and responsibilities for all participants in the system and reinforced with expanded education, training and discipline; and
- There will be a strong product evaluation and approval process, “which is responsible, but streamlined and affordable and which will promote innovation and new technology.”

III. Effect of Proposed Changes:

This bill establishes the FBC, a single statewide building code and codifies many of the recommendations of the Governor’s Building Codes Study Commission.

The following is a section by section description of CS/SB’s 1190 & 868.

Sections 1-5 amend ss. 125.69, 161.54(11), 161.56, 162.21(7), and 166.0415(5), F.S., to include conforming references to the FBC. These provisions are effective January 1, 2001.

Section 6 creates s. 455.2286, F.S., to require the DBPR to implement, by November 1, 1999, an automated information system for all certified or registered engineers, architects, interior designers, landscape architects, construction contractors, electrical contractors, alarm system contractors, and septic tank contractors, to provide instant notification to local building departments and other interested parties regarding the status of certification or registration. The

information system must include an indication of whether the certification or registration is active; any current failure to meet the terms of any final action by a licensing authority; any ongoing disciplinary cases that are subject to public disclosure; and whether there are any outstanding fines. The system may be internet-based.

Section 7 amends s. 468.609(2), F.S., to require applicants for building code administrators and inspectors certification exam successfully complete the core curriculum and specialized or advanced module course work approved by the Florida Building Commission, as part of the Building Code Training Program specified in s. 553.841, F.S. If the certifying authority agrees, the applicant may submit proof of completion of the course work within 6 months after certification.

Section 8 amends s. 468.621(1), F.S., to provide that “failing to execute the duties and responsibilities for enforcing the Florida Building Code” constitute grounds for disciplinary actions against licensed building code administrators and inspectors, effective January 1, 2001.

Section 9 amends s. 468.627(7), F.S., to require certified building code administrators or inspectors to provide proof that, during each biennium since the issuance or renewal of the certificate, they have completed the specialized or advanced course work approved by the Florida Building Commission for the appropriate licensing category sought. This course work is a part of the biennial 14 classroom hours of continuing education required under this subsection.

Section 468.627(8), F.S., is created to require each certified building code administrator or inspector to provide the Florida Building Code Administrators and Inspectors Board proof of completion of the core curriculum courses, or passing the equivalency test of the Building Code Training Program, within 2 years after commencement of the program.

Section 10 amends s. 471.005(6), F.S., to change the definition of “engineering” by removing language relating to teaching of the principles and methods of engineering design.

Section 11 repeals s. 471.015(5)(a)3., F.S., thereby removing the ability of an engineer seeking licensure by endorsement to qualify for a license when the engineer possesses a doctorate degree in engineering and has 3 years teaching experience, at the baccalaureate level or higher, after receiving the degree.

Section 12 creates s. 471.017(3), F.S., to specify additional requirements, commencing in 2002, for the renewal of the engineer’s license. Engineers designing buildings, structures, and facilities covered by the FBC must submit proof that they participated in continuing education courses, or pass an equivalency test, relating to building code core curriculum or training programs.

Section 13 creates s. 471.033(1)(l), F.S., to provide that committing a material violation of the FBC is grounds for disciplinary action. Section 471.033(4), F.S., is created to require that upon recommendation by a local jurisdiction that the *licensed engineer* has committed a material violation of the FBC and failed to correct such violation within a reasonable time, the Board of

Professional Engineers must impose one or more of the following penalties: remedial education or training, or probation, or license suspension or revocation. Both provisions are effective January 1, 2001.

Section 14 creates s. 481.215(5), F.S., to require licensees provide the Board of Architecture and Interior Design (BAID) proof of completion of the core curriculum courses, or passing the equivalency test, within 2 years after commencement of the program or after initial licensure, whichever is later. Hours spent taking core curriculum courses count toward the number required for license renewal, and licensees passing the equivalency test can receive full credit for the core curriculum course hours. This section also creates s. 481.215(6), F.S., to require the BAID to require a specified number of hours in specialized or advanced courses approved by the Florida Building Commission, on any portion of the FBC, relating to the licensee's respective area of practice. Both provisions are effective January 1, 2001.

Section 15 creates s. 481.225(1)(l), F.S., to provide that committing a material violation of the FBC is grounds for disciplinary action. Section 481.225(4), F.S., is created to require that upon recommendation by a local jurisdiction that the *licensed architect* has committed a material violation of the FBC and failed to correct such violation within a reasonable time, the BAID must impose one or more of the following penalties: remedial education or training, or probation, or license suspension or revocation. Both provisions are effective January 1, 2001.

Section 16 creates s. 481.2251(1)(o), F.S., to provide that committing a material violation of the Florida Building Code is grounds for disciplinary action. Section 481.2251(3), F.S., is created to require that upon recommendation by a local jurisdiction that the *licensed interior designer* has committed a material violation of the FBC and failed to correct such violation within a reasonable time, the BAID must impose one or more of the following penalties: remedial education or training, or probation, or license suspension or revocation. Both provisions are effective January 1, 2001.

Section 17 amends s. 481.313, F.S., to specify additional requirements for the renewal of a landscape architect's license. Proposed subsection (3) requires that a license may not be renewed until proof is submitted that the licensee participated in continuing education (CE) courses to the extent required by the Board of Landscape Architects (BLA) during the 2 year period prior to application for renewal. Proposed subsection (4) requires the BLA to establish, by rule, criteria for the approval of CE courses and providers, and criteria for accepting alternative non-classroom CE's on an hour-for-hour basis. Proposed subsection (5) requires licensees to provide the BLA proof of completion of the core curriculum courses, or passing of the equivalency test, within 2 years after commencement of the program or after initial licensure, whichever is later. Hours spent taking core curriculum courses count toward the number required for license renewal, and licensees passing the equivalency test can receive full credit for the core curriculum course hours. Proposed subsection (6) authorizes the BLA to require a specified number of hours in specialized or advanced courses, approved the Florida Building Commission, on any portion of the FBC, relating to the licensee's respective area of practice. These provisions are effective January 1, 2001.

Section 18: creates s. 481.325(1)(m), F.S., to provide that committing a material violation of the Florida Building Code is grounds for disciplinary action. Section 481.325(4), F.S., is created to require that upon recommendation by a local jurisdiction that the *licensed landscape architect* has committed a material violation of the FBC and failed to correct such violation within a reasonable time, the BLA must impose one or more of the following penalties: remedial education or training, or probation, or license suspension or revocation. Both provisions are effective January 1, 2001.

Section 19 creates s. 489.103(17), F.S., to exempt residences built by Habitat for Humanity International from being subject to provisions of chapter 489, F.S. However HHI must obtain all necessary permits and required inspections, and must provide for supervision of all work by an individual with construction experience.

Section 20 creates s.489.115(4)(b)3., F.S., to require each certificate holder or registrant to provide the Construction Industries Licensing Board (CILB) proof of completion of the core curriculum courses, or passing of the equivalency test, within 2 years after commencement of the program or after initial certification or registration, whichever is later. Hours spent taking core curriculum courses count toward the number required for license renewal, and licensees passing the equivalency test can receive full credit for the core curriculum course hours.

Section 21 creates s.489.115(4)(b), F.S., to authorize the CILB to require a specified number of hours in specialized or advanced courses, approved by the Florida Building Commission, on any portion of the FBC, relating to the contractor's respective discipline, effective January 1, 2001.

Section 22 amends s. 489.117(4)(c), F.S., to require local jurisdictions to provide code violation information on registered contractors the CILB within 30 days after licensure or any disciplinary action.

Section 23 creates s. 489.127(1)(j), F.S., to provide that committing a material code violation of the Florida Building Code constitutes grounds for disciplinary action against construction contractors.

Section 24 creates s. 489.129(4), F.S., to require that upon recommendation by a local jurisdiction that the licensed contractor has committed a material violation of the FBC and failed to correct such violation within a reasonable time, the CILB must impose one or more of the following penalties: remedial education or training, or probation, or license suspension or revocation. This provision is effective January 1, 2001.

Section 25 amends s. 489.131(3)(e), F.S., to include references to the Florida Building Code as created in this bill. This provision is effective January 1, 2001.

Section 26 amends s. 489.1455(1), F.S., to expand the reciprocity standards a plumbing/pipe fitting, mechanical, or HVAC journeyman must meet to avoid registering for a license in another county. The contractor must satisfactorily complete specialized and advanced module course

work and core curriculum courses, approved by the Florida Building Commission, as part of the Building Code Training Program specific to the discipline, or successfully pass an equivalency test, and obtain certification, or provide proof of completion of the required course work within 6 month after certification.

Section 27 creates ss. 489.513(6) and (7), F.S., to provide that local jurisdictions are responsible for providing licensure and code violation and disciplinary information on registered contractors to the CILB within 30 days after licensure or any disciplinary action. The CILB is required to maintain such information on an automated information system as required in this bill DBPR and the CILB are not responsible for providing discipline to locally registered contractors tracked by this system.

Section 28 creates s. 489.517(3)(b), F.S., to require each certificate holder or registrant to provide the CILB proof of completion of the core curriculum courses, or passing of the equivalency test, within 2 years after commencement of the program or after initial certification or registration, whichever is later. Hours spent taking core curriculum courses count toward the number required for license renewal, and licensees passing the equivalency test can receive full credit for the core curriculum course hours. This section also creates s. 489.517(4), F.S., to require CILB to require a specified number of hours in specialized or advanced courses, approved the Florida Building Commission, on any portion of the FBC, relating to the contractor's respective discipline.

Section 29 amends s. 489.531(1), F.S., to provide that committing a material violation of the FBC is grounds for disciplinary action against *electrical contractors*.

Section 30 amends s. 489.533(1)(i), F.S., to remove obsolete language relating to violations of the building codes. In addition, s. 489.533(3), F.S., is created to require that upon recommendation by a local jurisdiction that the contractor has committed a material violation of the FBC and failed to correct such violation within a reasonable time, the Board of Electrical Contractors must impose one or more of the following penalties: remedial education or training, or probation, or license suspension or revocation, subject to certain conditions.

Section 31 amends s. 489.5335(1), F.S., to expand the reciprocity standards an electrical journeyman must meet, to avoid registering for a license in another county. The contractor must satisfactorily complete specialized and advanced module course work and core curriculum courses, approved by the Florida Building Commission, as part of the Building Code Training Program specific to the discipline, or successfully pass an equivalency test, and obtain certification, or provide proof of completion of the required course work within 6 months after certification.

Section 32 amends s. 489.537(3)(d), F.S., to include a reference to the FBC as created in this bill. This provision is effective January 1, 2001.

Section 33 amends s. 500.459(5)(d), F.S., to include a reference to the FBC as created in this bill. This provision is effective January 1, 2001.

Section 34 amends s. 553.06(1), F.S., to require the Florida Building Commission to adopt “all or parts of” updated or revised editions of the State Plumbing Code, rather than adopting the entire updated or revised versions.

Section 35 amends s. 553.18(2), F.S., relating to the minimum electrical standards, to reference to the FBC as created in this bill. This provision is effective January 1, 2001.

Section 36 amends s. 553.19, F.S., to delete an obsolete reference to the Department of Health and Rehabilitative Services, and to require the Florida Building Commission to update and maintain electrical standards consistent with the procedures established in s. 553.73, F.S.

Section 37 declares that, effective January 1, 2001, part VII of chapter 553, F.S., be entitled the “Florida Building Code.”

Section 38 amends s. 553.71(1), F.S., to redefine “Board” as the Florida Building Commission rather than the Board of Building Codes and Standards. Subsection (3) of s. 553.71, F.S., is amended to change the phrase “enforcement agency” to “state enforcement agency” and expand the definition of the phrase to specify that the state enforcement agency has the authority enforce the code which establish standards for design, erection, modification of buildings. The definition is also expanded to clarify that the agency has jurisdiction over public or private buildings, structures or facilities. Subsection (5) of s. 553.71, F.S., is amended to clarify that local enforcement agencies have jurisdiction to enforce the codes which establish standards for design, erection, modification of public or private buildings, structures or facilities.

Section 39 amends s. 553.72, F.S., to expand the intent language of the act, to state the following:

- The purpose of the Florida Building Codes Act is to provide a mechanism for “the uniform adoption, updating, amendment, interpretation, and enforcement of a single state building code, to be called the Florida Building Code, which consists of 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 to the enforcement” of such requirements;
- The FBC must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction; that the code should be flexible, not inhibit competition, and promote innovation and new technology;
- Local governments have the authority to inspect *all* buildings, structures and facilities within their jurisdiction, pursuant to chapters 125 and 166;
- The Florida Building Code be adopted, modified, updated, interpreted, and maintained by the Florida Building Commission and enforced by authorized state and local government enforcement agencies;

- The Florida Fire Prevention Code and Life Safety Code be adopted, modified, updated, interpreted, and maintained by the Department of Insurance and included by reference as sections in the Florida Building Code; and
- There be no conflicting requirements between the Florida Fire Prevention Code and the Life Safety Code and other provisions of the Florida Building Code or conflicts in their enforcement or interpretation. Conflicts are to be resolved through cooperation between the State Fire Marshal and the Florida Building Commission.

Section 40 amends ss. 553.73 (3) and (9), F.S., to change an inaccurate reference to a rule relating to coastal building zones and to include a reference to the Florida Building Commission as created by this bill.

Section 41 amends s. 553.73, F.S., effective January 1, 2001, by replacing the State Minimum Building Code with the Florida Building Code, and to require that:

- The Florida Building Commission, formerly known as the Board of Building Codes and Standards, is required to adopt the Florida Building Code - a comprehensive code that contains or incorporates by reference “all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules” except as otherwise provided;
- The technical portions of the Florida Accessibility Code for Building Construction (FACBC) are to be contained in its entirety in the Code, while the civil rights and technical portions remain as currently provided by law; revisions or amendments to the FACBC are considered adopted by the board as part of the Code; neither the board or any local government may revise or amend any standard of the FACBC;
- While the fire prevention and life safety codes are contained in the Code, they may only be adopted, modified, revised or amended, interpreted, and maintained by the Department of Insurance; nothing in the Code is to affect the statutory powers, duties, and responsibilities of any fire official or the Department of Insurance; and
- The responsibility for enforcement, interpretation, as well as regulation of the Code, is vested in a specified local board or agency.

Subsection (2) of s. 553.73, F.S., is amended to specify that the Code contain “provisions or requirements for public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, gas and radon systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, health care facilities, educational facilities, swimming pools, and correctional facilities.” In addition, this section clarifies that Code provisions are restricted to requirements related to types of materials used and construction methods and standards employed in “order to meet criteria specified in the Code.”

Subsection (3) of s. 553.73, F.S., is amended to specify that the commission must select from available national or international model codes, or other available building codes and standards

currently recognized by the laws of this state, to “form the foundation” for the Code. The commission may modify the selected codes or standards to accommodate the specific needs of the state. Standards and criteria in the selected model codes must be similarly incorporated by reference, and if the referenced standard or criterion requires amplification or modification to be appropriate for use in this state, only the amplification or modification will be specified in the Code. Finally, the Code must incorporate provisions that address regional and local concerns and variations.

Subsection (4)(a) of s. 553.73, F.S., is created to require local governments to comply with Code provisions establishing standards for issuance of certificates of occupancy, minimum number and types of inspections, and procedures for plan reviews and inspections. Paragraph (4)(b) of s. 553.73, F.S., is amended to authorize local governments to adopt “amendments to the technical provisions” of the Code for more stringent requirements than those specified in the Code.

Paragraphs (4)(a)-(c) of s. 553.73, F.S., are renumbered as subparagraphs (4)(b)1.- 3. of s. 553.73, F.S. Paragraph (d) of s. 553.73, F.S., is deleted, and subparagraphs (4)(b)4.- 9. of s. 553.73, F.S., are created to address the adoption and review of local amendments to the Code. These changes require that:

- Enforcing agencies to make all amendments available in a usable format;
- Technical amendments to the Code adopted by local governments be transmitted to the Florida Building Commission within 30 days; that amendments adopted by local governments are effective only until the adoption by the board of the new edition of the Florida Building Code every third year, at which time, the commission may either adopt the amendment as part of the Code or rescind the amendment, effective 90 days after the action; that if the amendment is rescinded, the board must notify the local government; that the local government may then readopt the rescinded amendment;
- Each county and city desiring to make local technical amendments to establish a compliance review board to review locally adopted amendments to the Code that are challenged by “any substantially affected party” to determine whether the amendment is in compliance with section 553.72, F.S.; that if the compliance review board determines that the amendment is not in compliance with section 553.72(4)(b), F.S., the compliance review board must notify the local government of the noncompliance and that the amendment is invalid and unenforceable until the local government corrects the amendment; that this decision of the compliance review board may be appealed by the local government to the Florida Building Commission;
- Local amendments include a fiscal impact statement which documents the costs and benefits of the proposed amendment. The statement shall include the impact to local government relative to enforcement and the impact to property and building owners, and industry, relative to the cost of compliance. The fiscal impact statement may not be used as a basis for challenging the amendment for compliance.
- The commission may review any amendments adopted pursuant to this subsection and make non-binding recommendations related to compliance of such amendments with this subsection.

Paragraph (4)(c) of s. 553.73, F.S., is created to provide that local technical amendments do not apply to state or district owned buildings, manufactured buildings approved by the commission or prototype buildings approved pursuant to s. 553.77(6), F.S.

Subsection (5) of s. 553.73, F.S., is created to require the Florida Building Commission to update the Code every 3 years. Once initially adopted, the Code is adopted for use statewide without subsequent adoption by local governments. When updating the Code, the board must “consider changes made by the adopting entity of any selected model code for any model code incorporated into the Florida Building Code by the board, the board’s own binding interpretations, and advisory opinions, appellate decisions, and approved statewide and local technical amendments.”

Subsection (7) of s. 553.73, F.S., is created to address technical amendments to the Code. Paragraph (7)(a) of s. 553.73, F.S., authorizes the commission to approve technical amendments to the Code once a year for statewide application upon a finding by a super majority vote of the commission that delaying the application of the amendment would be contrary to the health, safety, and welfare of the public or that the amendment provides an economic advantage to the consumer. Subparagraphs 1.- 4. of s. 553.73, F.S., set the guidelines that statewide technical amendments must follow. Paragraph (7)(b) of s. 553.73, F.S., requires a fiscal impact statement, and specifies the criteria for such statements, to accompany a statewide technical amendment.

Subsection (8) of s. 553.73, F.S., is created to expand the list of buildings, structures, and facilities exempted from the Code, to include buildings specifically regulated by the federal government and railroad and ancillary facilities.

Current subsection (7) of s. 553.73, F.S., is renumbered as subsection (9), and is amended to correct references to the appropriate codes and statutory cites. Subsection (10) of s. 553.73, F.S., is amended to correct references to the appropriate codes.

Subsection (11) of s. 553.73, F.S., is created to provide that the FBC does not apply to zoning requirements or land use requirements. Local code officials may not administer the code to prevent the siting of certain facilities.

Subsection (12) of s. 553.73, F.S., is created to clarify that the Agency for Health Care Administration will continue to carry out its federally mandated plan review and inspections of certain health care facilities.

Section 42 amends s. 553.74, F.S., to reconstitute the Board of Building Codes and Standards as the Florida Building Commission and expands the membership of the Board from 17 to 21 members. Changes include:

- Two, rather than three, members must be municipal or district codes enforcement officials;
- One member must represent the Department of Insurance, rather than a member from a state agency, other than DCA, empowered by law to enforce building codes;

- A representative of a municipality or a charter county;
- A representative of the building products manufacturing industry;
- A representative of the building owners and managers industry;
- A representative of the insurance industry; and
- A chairman, who shall serve at the pleasure of the Governor.

Section 43 amends s. 553.75, F.S., to replace references to the Board of Building Codes and Standards.

Section 44 amends s. 553.76, F.S., to replace references to the Board of Building Codes and Standards.

Section 45 creates s. 553.76(4), F.S., to allow the Florida Building Commission to adopt rules necessary to implement the FBC. This section also creates s. 553.76(5), F.S., to empower the commission to adopt and promote recommendations to “determine and ensure consistent, effective, and efficient enforcement and compliance” with the Code. These provisions take effect January 1, 2001.

Section 46 amends s. 553.77, F.S., to replace references to the Board of Building Codes and Standards with references to the Florida Building Commission.

Section 47 amends s. 553.77, F.S., to establish the responsibilities of the Building Code Commission. These new responsibilities include:

- Upon updating the code every 3 years, making recommendations to the Legislature as to statutes that should be revised to ensure consistency between the statutes and the Florida Building Code;
- Upon request, to issue prospective binding interpretations of the Code; which may be appealed pursuant to chapter 120 procedures;
- With some exceptions, to hear appeals of decisions by local jurisdictions;
- To determine the types of products requiring approval for local or statewide use and to provide for the evaluation of such products;
- To establish a mutual aid program, organized through the DCA, to address rebuilding efforts after a natural disaster;
- To maintain a list of interested parties for notice of rulemaking workshops and hearings;
- To coordinate with the state and local governments, industry, and other affected groups, the examination of the statutes and development of recommendations to “fulfill the responsibility” to develop a consistent, single code;
- To provide technical assistance to local building departments in order to implement policies that produce the most cost effective property insurance ratings; and
- To develop guidelines for local governments to use when pursuing privatization of building department functions.

Paragraph (2)(c) of s. 553.77, F.S., is deleted to repeal language relating to a plumbing contractor advisory committee.

Subsections (3) and (4) of s. 553.77, F.S., are renumbered as (2) and (3) and subsection (3) is amended to replace the phrase "private party" with "any substantially affected party." References to the State Board of Education and the Department of Management Services are deleted. Language relating to binding opinions by the Board of Building Codes and Standards for state agencies are deleted. Subsection (5) is renumbered as subsection (4).

Subsection (5) of s. 553.77, F.S., is created to direct the commission to develop a document which contains descriptions of the roles and responsibilities of occupations that interact with building codes.

Subsection (6) of s. 553.77, F.S., is created to authorize the commission to provide for plans review and approval of prototype buildings owned by public entities to be replicated throughout the state. Such prototypes would be exempt from additional review.

Changes to this section take effect January 1, 2001.

Section 48 creates s. 553.781, F.S., to address licensee accountability. Subsection (1) of s. 553.781, F.S., declares legislative intent as to licensee accountability. Subsection (2)(a) of s. 553.781, F.S., is created to provide that upon final determination by a local jurisdiction, based on clear and convincing evidence, that a licensee, certificate holder, or registrant has committed a material violation of the Florida Building Code, such local jurisdiction shall impose a fine of no less than \$500 and no more than \$5,000 per material violation of the Florida Building Code. In the case of professionals licensed by DBPR under chapter 455, F.S., a licensed engineer, architect, or contractor, the local jurisdictions must recommend remedial education or training, probation, or suspension or revocation of the license to the appropriate licensing authority. Paragraph (b) of s. 553.781, F.S., directs licensing authorities to report material code violations to the Board within 30 days after any action is taken.

Subsection (3) of s. 553.781, F.S., is created to provide that action taken against a licensee by a local jurisdiction that is not challenged within 45 days shall become a final action of the licensing authority.

Subsection (4) of s. 553.781, F.S., is created to require the DBPR to establish a system for local governments to report violations and disciplinary actions taken against licensees. In addition, the usage of any collected fines is outlined. Subsection (5) of s. 553.781, F.S., is created to require local jurisdictions to maintain records, accessible by the public, relating to material violations by licensees.

A material code violation is defined in this section as a violation which may reasonably result in physical harm to a person or significant damage to a building or its systems. These provisions are effective January 1, 2001.

Section 49 amends s. 553.79, F.S., to replace references to the Board of Building Codes and Standards with the Florida Building Commission..

Section 50 amends s. 553.79, F.S., to include the appropriate references that reflect the expansion of the scope of the Florida Building Code, and to address the review and approval of prototype buildings. Subsection (17) of s. 553.79, F.S., is created to provide that beginning in 2001, with limited exceptions, state agencies responsible for the construction or regulation of public and private buildings shall be subject to enforcement of the code by local jurisdictions. These changes are effective January 1, 2001.

Section 51 amends subsection (1) of section 553.80, F.S., to provide that plan review and building inspection fee revenues can only be used to enforce the code.

Section 52 amends s. 553.80, F.S., effective January 1, 2001 , to reflect changes resulting from adoption of the FBC. Local governments are granted the authority to charge a rate up to four times the fee of the first inspection, for re-inspections subsequent to the first re-inspection, and provides superseding language relating to charter counties. Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the code. Subsection (5) of s. 553.80, F.S., is created to require state and regional agencies with special expertise related to the Code to provide support to local governments upon request.

Section 53 creates s. 553.841, F.S., to establish the Building Code Training Program. This section:

- Declares the need for a Building Code Training Program;
- Directs the commission to develop a core curriculum and advanced module courses relating to the Florida Building Code;
- Directs the commission to develop the training program in consultation with various agencies;
- Allows the commission to enter into contracts with various providers to administer the program;
- Requires that, among other things, the program shall be accessible, affordable, meaningful, and financially self-sufficient;
- Requires that the commission develop, with DCA, DOI, and DBPR, a core curriculum and a set of advanced module course work;
- Specifies the information to be contained in the core curriculum and identifies the license categories impacted;
- Requires the commission to develop, with DBPR and respective licensing boards, an equivalency test for the core curriculum, for each category of license;
- Requires the commission, with DBPR, develop for use as continuing education units core module work for superintendents, journeyman and residential designers; and
- Requires the respective state boards and the State Fire Marshal to require specialized or advanced core modules as part of a continuing education program.

Section 54 requires the commission, in consultation with the relative state boards and other entities, to develop a program and standards for providing training to entry level construction workers. Subsection (2) directs the commission to develop a method for implementing these training programs. Subsection (3) directs the Board to present the implementation proposal to the Legislature in a report no later than January 31, 2000.

Section 55 creates s. 553.842, F.S., to address a system for product evaluation and approval. This section

- Directs the commission to develop a product evaluation and approval process and provides guidelines for the framework of such system;
- Requires the product evaluation and approval system to rely on regional, national and international consensus standards for demonstrating compliance with the Florida Building Code;
- Requires that products, methods or systems of construction that have been approved and certified by an approved quality control agency be permitted to be used statewide, without further evaluation;
- Provides that products may be approved by the commission for statewide use, or by local jurisdictions for use in that jurisdiction; however, statewide approval precludes further testing by the local jurisdiction;
- Outlines the manner in which approval of products or methods or systems of construction are to be achieved;
- Authorizes a building official to deny a product that has statewide approval based on a written report that the product application is inconsistent with the statewide approval; the product application denial is applicable pursuant to s. 553.77, F.S.;
- Provides that products which are custom fabricated or assembled will not require separate approval provided the component parts have been approved for the fabricated or assembled product's use;
- Allows building officials to appeal the required approval of a product to the commission;
- Provides decisions of local building officials are appealable to the local board of appeals, and then to the commission;
- Directs the commission to maintain a list of the approved products;
- Authorizes the commission to set reasonable fees and to enter into contracts; and
- Provides that products certified or approved for statewide or local use by an accepted testing facility prior to the effective date of this act, shall be deemed to be approved for use in this state.

Section 56 amends s. 627.351, F.S., to require the DOI to consider reports of the commission when evaluating building code enforcement for windstorm insurance coverage. This provision is effective January 1, 2001.

Section 57 amends s. 633.01, F.S., to clarify that conflicts between the building code and the fire code be resolved through coordination and cooperation between the commission and the State

Fire Marshal. In addition, subsection (8) is created to authorize DOI to issue binding interpretations of the Florida Fire Prevention Code and the Life Safety Code.

Section 58 creates s. 633.0215, F.S., relating to the Florida Fire Prevention Code. This section

- Requires the DOI to adopt the Florida Fire Prevention Code, which by reference contains all fire safety laws and rules relating to construction of buildings, structures and facilities;
- Requires DOI to adopt various fire prevention and life safety codes by reference;
- Stipulates that technical amendments adopted by local governments are effective only until the adoption by DOI of the new edition of the Fire Code every third year; at that time, DOI may either adopt the amendment as part of the Code or rescind the amendment, effective 90 days after the action; if the amendment is rescinded, DOI must notify the local government; the local government may then readopt the rescinded amendment;
- Requires DOI to update the Florida Fire Prevention Code every three years;
- Requires DOI to approve technical amendments to the Florida Fire Prevention Code outside of the 3-year update cycle of the code upon finding that a threat to life exists that warrants such action; and
- Stipulates that the Florida Fire Prevention Code does not apply to zoning requirements or land use requirements.

These provisions are effective January 1, 2001.

Section 59 amends s. 633.025, F.S., to provide that, effective January 1, 2001, the Florida Fire Prevention Code and the Life Safety Code adopted by the DOI be deemed adopted by local governments. Subsection (5) is renumbered subsection (4) and is amended to specify how local governments can adopt more stringent fire safety standards and conditions that must be satisfied to adopt such changes. Generally, the following apply:

- Local jurisdictions must determine, following a public hearing, that a more stringent fire safety standard is needed;
- These additional requirements cannot be discriminatory as to materials, products or construction techniques;
- Local jurisdictions must make all local technical amendments available to the public; and
- Local jurisdictions making amendments to the code must provide a means for any substantially affected party may challenge the validity of such amendments; with some exceptions, the challenging party is entitled to a hearing on the challenge within 45 days; and the burden of proof shall be on the challenging party.

Substantially affected parties may appeal the resolution of the challenge to DOI, who must determine if the amendment complies with this section.

Subsection (9) of s. 633.025, F.S., is created to provide that the Life Safety Code will not apply to newly constructed on and two family dwelling units.

Section 60 amends s. 633.085, F.S., to provide that state-leased buildings will no longer be inspected by the Department of Insurance.

Section 61 amends s. 633.72, F.S., to provide that DOI and the Florida Building Commission cooperate and consult on matters of consistency between codes.

Section 62 directs the commission to submit to the Legislature, before the 2000 regular session, for review and approval or rejection, the Florida Building Code adopted by the Commission. In addition, they are directed to prepare a list of recommendations of revisions to the Florida Statutes necessitated by adoption of the Florida Building Code, if the code is approved by the Legislature. Upon approval of the Florida Building Code by the Legislature, all existing local technical amendments adopted by local governments are repealed.

Section 63 directs the Department of Management Services to initiate a pilot project to evaluate the costs and benefits of installing an ozonation water treatment system.

Section 64 repeals s. 471.003(2)(f), F.S., which currently allows certain professors to be exempt from registering with DBPR as registered engineers, and s. 553.73(5), F.S., to remove language concerning local code requirements which will be made obsolete if this bill is enacted into law.

Section 65 repeals, effective January 1, 1999, s. 489.120, F.S., which pertains to DBPR's automated licensure status information system.

Section 66 repeals, effective January 1, 2001, s. 489.129(1)(d), F.S., which relates to the CILB's authority to discipline contractors for "Knowingly violating the applicable building codes or laws of the state or of any municipalities of counties thereof."

Section 67 requires that "upon approval by the Legislature of the adoption of the Florida Building Code the Florida Building Commission...", parts I, II, and III of chapter 553, F.S., which are the state plumbing, electrical, and glass codes, are repealed and the "public restroom equity" provision in s. 553.141, F.S., is transferred and renumbered as 553.86, F.S.

Section 68 provides that this act will take effect July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

While the bill does require cities and counties to assume additional code enforcement responsibilities, fee authority for provision of the services is provided in the bill and in current law. Therefore, the mandate restriction does not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The construction industry expects to realize significant cost savings as a result of adopting a statewide building code. The streamlined approach to code enforcement allows construction professionals to operate under essentially the same standards across the state.

C. Government Sector Impact:

DCA reports that it will need \$2.2 million over the next 2.5 years for development costs related to code development, product approval, code training, and other administrative requirements prior to adoption of the statewide building code. While these financial resources are now available in existing trust funds, DCA will need the authority to spend it.

DBPR reports that it will need \$0.5 million for start-up costs to fund the statewide reporting and tracking system required in this bill. DBPR also reports it will need \$0.4 million for development of a continuing education program for engineers and landscape architects.

Some state agencies will no longer be responsible for plan review, permitting, or inspecting state owned or leased facilities.

Some cities and counties will be required to expand their building inspection programs to comply with this bill. However, statutorily authorized fees will offset the cost of this expansion.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
