

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1092

SPONSOR: Comprehensive Planning, Local and Military Affairs and Senator Sullivan

SUBJECT: Pinellas County

DATE: February 13, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper	Yeatman	CA	Favorable/CS
2.	_____	_____	RC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This CS reenacts Part III of chapter 75-489, L.O.F., a special act that provides for the adoption of building codes for Pinellas County, grants an exception to section 136 of chapter 2000-141, L.O.F., which repealed special acts relating to building codes, and authorizes the Pinellas County Construction Licensing Board to act as the countywide compliance review board, notwithstanding general law requirements to establish such review board by interlocal agreement.

This bill amends Part III of chapter 75-489, L.O.F.

**II. Present Situation:**

**Background**

Building codes establish minimum safety standards for the design and construction of buildings by addressing such issues as structural integrity; mechanical, plumbing, electrical, lighting, heating, air conditioning, ventilation, fireproofing, and exit systems; safe materials; energy efficiency; and accessibility by persons with physical disabilities. In doing so, these regulations protect lives and property, promotes innovation and new technology, and helps ensure economic viability through the availability of safe and affordable buildings and structures.

The reform of Florida's building codes system has been an issue within the construction industry for many years. It was not until Florida endured back-to-back natural disasters - Hurricane Andrew in August 1992, the "Storm of the Century" in March 1993, Tropical Storms Alberto and Beryl in the Summer of 1994, and Hurricanes Erin and Opal during the 1995 Hurricane Season - that the building code system's effectiveness took on statewide significance for the construction industry and all of the stakeholders in the building codes system, including local

governments, the banking and real estate industries, the insurance industry, labor unions, state agencies, manufacturers, and Florida's citizens. While it was fortunate that these storms set no records with respect to loss of life, they (particularly Andrew) did break all records for insured losses. This was a direct cause of Florida's insurance crisis in the 1990's, which essentially affected every homeowner in the state.

In 1996, Governor Lawton Chiles established a Building Codes Study Commission to evaluate Florida's building codes system and develop recommendations to reform and improve it. The Governor appointed 28 members to the study commission, representing diverse stakeholders in the system, including building officials, local government officials, banking and real estate interests, the disabled, the design and construction industries, building owners, state agencies, and the general public. In 1998, the study commission issued its findings and proposed a building codes system with the following characteristics:

- A single, statewide building code that would govern all technical requirements for Florida's public and private buildings and take into account appropriate local variations such as the following: climatic conditions, soil types, termites, weather-related events, and risks associated with coastal development;
- Local enforcement of the statewide building code, with updates and amendments accomplished by a newly constituted state-level entity;
- State review of decisions of local officials or boards of appeal, and state authority to issue binding interpretations to ensure statewide consistency;
- Strengthened enforcement and compliance to ensure accountability through expanded education and training of all participants involved in building construction, clear and precise definition of roles and responsibilities, and discipline; and
- A strong product evaluation and approval process which is responsible, streamlined, and affordable, and which promotes innovation and new technology.

The 1998 Legislature considered the findings and recommendations of the study commission and enacted major legislation reflecting a majority of its proposals. Chapter 98-287, L.O.F., implemented many of the study commission's recommendations, to include the development of a statewide unified building code.

On February 14, 2000 the commission adopted the Florida Building Code as an administrative rule and submitted it, together with proposed conforming amendments to the Florida Statutes, to the 2000 Legislature for consideration. The commission also adopted the South Florida Building Code for application in Miami-Dade and Broward Counties.

In response, the Legislature directed the commission to incorporate specific changes to the adopted Florida Building Code, and directed the commission to recommend a statewide product approval system to the Legislature by February 2001. [Chapter 2000-141, L.O.F.]

In the 2001 session, the Legislature delayed implementation of the Florida Building Code from July 1, 2001, to January 1, 2002. In addition, it adopted recommendations of the commission providing for a state product approval system and other issues relating to the Florida Building Code. [Chapter 2001-186, L.O.F.]

In the 2001 special session “C”, the Legislature enacted ch. 01-372, L.O.F., to delay the effective date of the Florida Building Code to March 1, 2002.

### **Local Amendments to the Code**

The Florida Building Code grants the Florida Building Commission the authority to interpret the code, hear appeals of local interpretations, and amend the code on a yearly basis. With some restrictions, local governments may adopt more stringent requirements to the code.

Section 553.73(4)(b)7., F.S., provides that any county or municipality wishing to make local technical amendments to the Florida Building Code must “by interlocal agreement establish a countywide compliance review board to review” such amendments. The compliance review board is responsible for determining whether such amendment is in compliance with the local amendment procedures specified in s. 553.73(4)(b), F.S. The local government may appeal the decision of the compliance review board to the commission.

### **Pinellas County Construction Licensing Board**

Part III of chapter 75-489, L.O.F., as amended, is intended to provide for uniform building codes and uniform life safety codes for Pinellas County. Currently, section 28 of ch. 75-489, L.O.F., as amended, adopts the Standard Building Code, the NFPA Natural Gas Code 54 and NFPA L.P. Gas Code 58, the National Electric Code, the Standard Mechanical Code, the Standard Plumbing Code, and the National Fire Protection Association Life Safety Code 101.

Section 29 of ch. 75-489, L.O.F., as amended, authorizes the Pinellas County Construction Licensing Board (Board) to adopt future editions of the codes referenced in section 28. The section also authorizes the Board to amend the codes referenced in section 28, and establishes a process for the adoption of such amendments.

Section 30 of ch. 75-489, L.O.F., as amended, provides that the codes adopted by the Board “shall be exclusively controlling in the construction of all buildings and structures within Pinellas County...”

Section 31 of ch. 75-489, L.O.F., as amended, preempts the inspection and enforcement of the codes to the county.

Subsection (1) of section 32 of ch. 75-489, L.O.F., as amended, directs the Board to establish four Boards of Adjustment and Appeals as follows:

- A plumbing, mechanical and gas board;
- An electrical board;
- A board of adjustment for the Standard Building Code; and
- A life safety and fire code board of adjustment.

Subsection (2) of section 32 of ch. 75-489, L.O.F., as amended, provides a process for submission of appeals before the four Boards of Adjustment and Appeals.

Section 33 of ch. 75-489, L.O.F., as amended, authorizes the respective Boards of Adjustment and Appeals to interpret its respective code adopted for the county. The subsection provides that

final decisions of the Board or any Board of Adjustment and Appeals shall be subject to review in the circuit court of the judicial circuit in and for Pinellas County.

**Chapter 2000-141, L.O.F.**

Section 136 of chapter 2000-141, L.O.F., provides, in part, that the act is intended as a comprehensive revision of the regulation by counties and municipalities of the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings. Therefore, the section states, any sections or provisions of any special act governing those activities by any general purpose local government is hereby repealed.

**III. Effect of Proposed Changes:**

**Section 1** reenacts and revises Part III of chapter 75-489, L.O.F., a special act governing the adoption and enforcement of building codes in Pinellas County.

Subsection 27 of the act, which provides legislative intent, is amended to add language providing that the act is intended to provide for continuing uniformity of building codes by placing sole authority for making technical amendments to the code, applicable within the boundaries of Pinellas County, with the Pinellas County Construction Licensing Board (Board). This is an exception to s. 553.73(4)(b)7., F.S., which requires that any county or municipality wishing to make local technical amendments to the Florida Building Code must “by interlocal agreement establish a countywide compliance review board to review” such amendments.

Section 28 of the act, which provides for the adoption of codes, is amended to replace references to the model codes with references to the Florida Building Code and Florida Fire Prevention Code.

Section 29 of the act, which addresses the adoption of and amendments to building codes, is amended to delete language authorizing the Board to adopt editions of the codes referenced in section 28. New language is included to:

- require local amendments be subject to s. 553.73(4), F.S., which addresses local technical amendments to the Florida Building Code;
- provide that for the purposes of section 553.73, F.S., and ch. 98-287, L.O.F., as amended by ch. 98-419, L.O.F., and ch. 2001-186, L.O.F., the Board is the sole local governing body authorized to make amendments to the Florida Building Code or the Florida Fire Prevention Code;
- provide that the Board is deemed to be the countywide compliance review board for Pinellas County as required by s. 553.73(4)(b)7., F.S., which requires the creation of a countywide compliance review board;
- specify that the Board is the local administrative board for the provision of interpretations upon request of local building officials and for the resolution of conflicts or interpretations between local building officials and local fire code enforcement officials; and
- specify that decisions of the Board are final as they relate to local code interpretations or local amendments, subject to appeal to the Florida Building Commission.

Sections 30 and 31 of the act, which relate to the applicability of the code county wide, and the preemption of the inspection and enforcement of the code to the county, are republished. In addition, section 30 is amended to clarify that municipalities in the county are prohibited from adopting technical amendments to the code.

Section 32 of the act is amended to replace references to previous codes with references to the Florida Building Code, to clarify the authority of the four Boards of Adjustment and Appeals, and to clarify that decisions of these boards are subject to appeal to the Florida Building Commission.

Section 33 of the act is amended to delete language providing that final decisions of the Board or any Board of Adjustment and Appeals are to be subject to review in the circuit court of the judicial circuit in and for Pinellas County. New language is inserted to provide that such final decisions are subject to review by the Florida Building Commission or the Florida Fire Marshal.

**Section 2** of the CS provides a severability clause.

**Section 3** provides that the act shall take effect March 1, 2002, and if it does not become a law on or before that date, it will take effect upon becoming a law and operate retroactively to March 1, 2002.

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

A. Municipality/County Mandates Restrictions:

None.

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:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Notice for this local bill was published December 7, 2001, in the Tampa Bay Review, Pinellas County.

**VIII. Amendments:**

None.

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

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