

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 592

INTRODUCER: Senator Sobel

SUBJECT: Florida Building Code

DATE: March 23, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	<b>Pre-meeting</b>
2.	_____	_____	EP	_____
3.	_____	_____	FP	_____

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**I. Summary:**

SB 592 provides that any amendments or modifications adopted within the Florida Building Code relating to local government water conservation practices or design criteria do not expire.

The bill provides an effective date of July 1, 2015.

**II. Present Situation:**

Chapter 553, F.S., titled the “Florida Building Codes Act,” establishes the Florida Building Commission (FBC). The FBC updates the Florida Building Code (code) every 3 years by selecting the most current versions of model codes to serve as the basis for the new edition of Florida’s code. During the triennial code adoption process, FBC staff integrates provisions that have been previously adopted by the commission in prior code editions that are related to state agency regulation,<sup>1</sup> wind-resistance design of buildings in the high velocity hurricane zone<sup>2</sup> and other provisions required for consistency with statute.

The Florida Building Commission has never adopted any amendments or modifications to the code related to local government water conservation practice or design criteria.

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<sup>1</sup> Section 553.73(7)(g), F.S., provides that “Amendments or modifications related to state agency regulations which are adopted and integrated into an edition of the Florida Building Code shall be carried forward into the next edition of the code, subject to modification as provided in this part.”

<sup>2</sup> *Id.* Amendments or modifications related to the wind-resistance design of buildings and structures within the high-velocity hurricane zone of Miami-Dade and Broward Counties which are adopted to the code do not expire, but are carried forward into the next edition of the code, subject to review or modification.

## Local Government Amendments

Local governments may adopt amendments to the administrative provisions of the FBC, subject to these limitations:<sup>3</sup>

- Local amendments must be more stringent than the minimum standards of the code;
- Local amendments must be transmitted to the FBC within 30 days after enactment; and
- The local government must make the amendments available to the general public in a usable format.

Pursuant to s. 553.73(4)(b), F.S., local governments may adopt amendments to the technical provisions of the code which apply solely within the jurisdiction of the local government. To adopt a technical amendment, a local government:

- Must provide that the amendment has more stringent requirements than those specified in the code;
- May not be make technical amendments more than once every 6 months;
- Must make a determination, following a public hearing which has been advertised in a newspaper of general circulation at least 10 days before the hearing, that there is a need to strengthen the requirements of the code;<sup>4</sup>
- Cannot make additional requirements that are discriminatory against materials, products, or construction techniques of demonstrated capabilities;
- Cannot make additional requirements that introduce a new subject not addressed in the code;<sup>5</sup>
- Must include a fiscal impact statement which documents the costs and benefits of the proposed amendment;<sup>6</sup> and
- Must transmit any amendment to the FBC within 30 days. The commission shall maintain copies of all such amendments in a format that is usable and obtainable by the public. Local technical amendments shall not become effective until 30 days after the amendment has been received and published by the commission.

Local government amendments do not apply to state or school district owned buildings, manufactured buildings or factory-built school buildings approved by the commission, or prototype buildings approved pursuant to s. 553.77(3), F.S.<sup>7</sup>

## Rescission of Modifications

Modifications adopted in the prior versions of the code are discarded unless resubmitted by a proponent with supporting information required by statute. Pursuant to s. 553.73(7)(g), F.S., if amendments that expire are resubmitted through the FBC code adoption process, the amendments must specifically address whether:

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<sup>3</sup> Section 553.73(4)(a), F.S.

<sup>4</sup> “The determination must be based upon a review of local conditions by the local governing body, which review demonstrates by evidence or data that the geographical jurisdiction governed by the local governing body exhibits a local need to strengthen the Florida Building Code beyond the needs or regional variation addressed by the Florida Building Code, that the local need is addressed by the proposed local amendment, and that the amendment is no more stringent than necessary to address the local need.” Section 553.73(4)(b)(1), F.S.

<sup>5</sup> Section 553.73(4)(b)(3), F.S.

<sup>6</sup> Section 553.73(4)(b)(9), F.S.

<sup>7</sup> Section 553.73(4)(c), F.S.

- The proposed amendment’s provisions are addressed in the applicable international code;<sup>8</sup>
- The amendment demonstrates that the geographical jurisdiction of Florida exhibits a need to strengthen the foundation code beyond the needs or regional variations addressed by the foundation code, and why the proposed amendment applies to this state; and
- The proposed amendment was submitted or attempted to be included in the foundation codes to avoid resubmission to the code amendment process.

Similarly, s. 553.73(4)(b)(6.), F.S., states that any amendment to the code adopted by a local government:

shall be effective only until the adoption by the commission of the new edition of the Florida Building Code every third year. At such time, the commission shall review such amendment for consistency with the criteria in paragraph (9)(a) and adopt such amendment as part of the Florida Building Code or rescind the amendment. The commission shall immediately notify the respective local government of the rescission of any amendment. After receiving such notice, the respective local government may readopt the rescinded amendment pursuant to the provisions of this paragraph.

### III. Effect of Proposed Changes:

**Section 1** amends s. 553.73, F.S., to provide that amendments or modifications adopted within an edition of the code that relate to local government water conservation practices or design criteria do not expire. Although the FBC has never adopted any amendments or modifications to the code relating to “local government water conservation practice or design criteria,” any such amendments or modifications in the future would be rolled forward into successive editions of the code, subject to review or modification, without any action necessary by the proponents.

**Section 2** provides an effective date of July 1, 2015.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

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<sup>8</sup> Id. If the proposed amendment has been addressed in the international code in a substantially equivalent manner, the FBC may not include the proposed amendment in the foundation code.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The DBPR analyzed the bill and noted the effect on local governments if the FBC adopts water conservation requirements within the code.<sup>9</sup> If adopted within the code, the water conservation requirements would restrict a local government's ability to amend or modify those requirements, such that:<sup>10</sup>

- Any amendment must be more stringent than that contained within the code;
- Provisions may only be modified once every 6 months; and
- The local government must adhere to the designated procedures to adopt the modification.

**VI. Technical Deficiencies:**

The bill proposes to add language to s. 553.73(7)(g), F.S., the subsection dealing with the FBC code adoption process. It is unclear whether the bill would only apply to amendments made through the FBC code adoption process. If the intent of the bill is to prevent automatic rescission of amendments made through the local adoption process, the bill language should be added to s. 553.73(4)(b)(6.), F.S.

**VII. Related Issues:**

Any proposed modifications to the building code relating to water conservation will be required to meet all criteria for inclusion within the Florida Building Code, in particular, that the modification is required to accommodate the specific needs of the state.<sup>11</sup>

**VIII. Statutes Affected:**

This bill substantially amends section 553.73 of the Florida Statutes.

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

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

None.

<sup>9</sup> Dep't of Business and Professional Regulation, *Legislative Bill Analysis of SB 592*, at 4 (Feb. 13, 2015).

<sup>10</sup> Section 553.73(4)(b), F.S.

<sup>11</sup> Dep't of Business and Professional Regulation, *Legislative Bill Analysis of SB 592*, at 4 (Feb. 13, 2015).

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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