

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.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: CS/CS/SB 860

INTRODUCER: Regulated Industries Committee; Community Affairs Committee and Senator Brandes and others

SUBJECT: Florida Building Code

DATE: March 28, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Fav/CS
2.	Kraemer	McSwain	RI	Fav/CS
3.			AP	
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 860 makes numerous changes to ch. 468, F.S., to address the shortage of building code inspectors and plans examiners.

Specifically, the bill creates an internship path for certification as a building code inspector or plans examiner.

The bill also requires the Florida Building Code Administrators and Inspectors Board to issue a provisional certificate to any building code inspector or plans examiner who meets certain eligibility requirements. Furthermore, a person may perform the duties of a plan examiner or building code inspector for 120 days if he or she submits a provisional certificate application and is under the direct supervision of a certified building code administrator. Under current law, the provisional certificate and the authorization to perform plan examiner and building code inspector duties may be issued only to newly employed or promoted building code inspectors and plans examiners.

The process by which revisions are made to the Florida Building Code is revised by the bill. Current law requires the Florida Building Commission (Commission) to revise the Florida Building Code every three years to automatically adopt the most recent versions of the International Code Council I-Codes (I-Codes) and the International Energy Conservation Code

(IECC) into the foundation of the Florida Building Code. Additionally, under current law, amendments and modifications to the Florida Building Code only remain in effect until the effective date of a new edition of the Florida Building Code.

Under the new process, the Commission will start with the current Florida Building Code and evaluate the changes made in the I-Codes and the IECC and adopt the changes the Commission deems appropriate. However, the Commission must maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction. If amendments or modifications are made to the Florida Building Code, those amendments and modifications will be carried forward until the next edition of the Florida Building Code. The Florida Building Code updating process will remain on a three-year cycle.

The bill also requires the Commission to adopt the Florida Building Code by a three-fourths vote of the members present.

The bill has a minimal negative fiscal impact to state government and to the revenue from the General Revenue service charge. See Section V, Fiscal Impact Statement.

The bill provides for an effective date of October 1, 2017.

II. Present Situation:

The Florida Building Code and the Florida Building Commission

In 1974, Florida adopted a state minimum building code law requiring all local governments to adopt and enforce a building code that would ensure minimum standards for the public's health and safety. Four separate model codes were available that local governments could consider and adopt. In that system, 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.¹

In 1996, a study commission was appointed to review the system of local codes created by the 1974 law and to make recommendations for modernizing the entire system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and an enhanced oversight role for the state in 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. In 2004, for the second edition of the Florida Building Code, the state adopted the International Code Council's I-Codes.² All subsequent Florida Building Codes have been adopted utilizing the I-Codes as the base code. The most recent Florida Building Code is the fifth

¹ 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 (last visited Mar. 24, 2017).

² The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." The ICC publishes I-Codes: a complete set of model comprehensive, coordinated building safety and fire prevention codes, for all aspects of construction, that have been developed by ICC members. All 50 states have adopted the I-Codes.

edition which is referred to as the 2014 Florida Building Code. The 2014 Florida Building Code went into effect June 30, 2015.³

The Florida Building Commission (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 responsible for the development, maintenance, and interpretation of the Florida Building Code.⁴ The Commission also approves products for statewide acceptance. Members are appointed by the Governor and confirmed by the Senate and include design professionals, contractors, and government experts in the various disciplines covered by the Florida Building Code.⁵

Most substantive issues before the Commission are vetted through a workgroup process where consensus recommendations are developed and submitted by appointed representative stakeholder groups in an open process with several opportunities for public input.

According to the Commission,

General consensus is a participatory process whereby, on matters of substance, the members strive for agreements which all of the members can accept, support, live with or agree not to oppose. In instances where, after vigorously exploring possible ways to enhance the members' support for the final decision on substantive decisions, and the Commission finds that 100 percent acceptance or support is not achievable, final decisions require at least 75 percent favorable vote of all members present and voting.⁶

Building Code Cycle

Pursuant to s. 553.73(7)(a), F.S., the Commission must update the Florida Building Code every 3 years. When updating the Florida Building Code, the Commission is required to use the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, the International Residential Code, and the International Electrical Code. These I-Codes form the foundation codes of the updated Florida Building Code.

Any amendments or modifications to the foundation codes found within the Florida Building Code remain in effect only until the effective date of a new edition of the Florida Building Code, every 3 years.⁷ At that point, the amendments or modifications to the foundation codes are removed, unless the amendments or modifications are related to state agency regulations or are related to the wind-resistance design of buildings and structures within the high-velocity

³ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Mar. 24, 2017).

⁴ See <http://www.myfloridalicense.com/dbpr/bcs/buildingcomm.html> (last visited Mar. 24, 2017).

⁵ Section 553.74, F.S.

⁶ Florida Building Commission, Florida Building Commission Consensus-Building Process, *available at* http://www.floridabuilding.org/fbc/commission/FBC_0608/Commission/FBC_Discussion_and_Public_Input_Processes.htm (last visited Mar. 24, 2017).

⁷ Section 553.73(7)(g), F.S.

hurricane zone of Miami-Dade and Broward Counties, which are carried forward into the next edition of the Florida Building Code.

When a provision of the current Florida Building Code is not part of the foundation codes, an industry member or another interested party must resubmit the provision to the Commission during the Florida Building Code adoption process in order to be considered for the next edition of the Florida Building Code.⁸

Amendments between Cycles

Section 553.73(8), F.S., authorizes the Commission to approve amendments pursuant to the rule adoptions procedure in ch. 120, F.S., which are needed to address:

- Conflicts within the updated Florida Building Code;
- Conflicts between the updated Florida Building Code and the Florida Fire Prevention Code adopted pursuant to ch. 633, F.S.;
- Unintended results from the integration of the previously adopted Florida-specific amendments;
- Equivalency of standards;
- Changes to or inconsistencies with federal or state law; or
- Adoption of an updated edition of the National Electrical Code if the Commission finds that delay of implementing the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety, and welfare.

However, the Commission may not approve amendments that would weaken the construction requirements relating to wind resistance or the prevention of water intrusion.

The Commission may also approve technical amendments to the Florida Building Code once a year for statewide or regional application if the amendment:⁹

- Is needed in order to accommodate the specific needs of Florida.
- Has a reasonable and substantial connection with the health, safety, and welfare of the general public.
- Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.
- Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.
- Does not degrade the effectiveness of the Florida Building Code.

The 6th Edition of the Florida Building Code

The Commission is currently conducting its rule development process for the 6th edition of the Florida Building Code. Under s. 553.73(7)(e), F.S., a rule updating the Florida Building Code does not take effect until six months after the publication of the updated Florida Building Code.

⁸ Section 553.73(7)(g), F.S.

⁹ Section 553.73(9), F.S.

The 6th edition of the Florida Building Code is tentatively expected to go into effect on December 31, 2017.¹⁰

The 6th edition of the Florida Building Code will incorporate the latest version of the I-Codes (2015). The next edition of the I-Codes will be the 2018 I-Codes.

Voting Processes for the Technical Advisory Committees and the Commission

Under s. 553.73(3)(b), F.S., in order for a technical advisory committee to make a favorable recommendation to the Commission, the proposal must receive a three-fourths vote of the members present at the meeting, and at least half of the regular members must be present in order to conduct the meeting.

Rule 61G20-2.002(7), Florida Administrative Code, provides a similar requirement for votes taken by the Commission. Specifically, the rule provides that “[t]he decision of the Commission to approve a proposed amendment shall be by 75% vote. Those proposals failing to meet the vote requirement shall not be adopted.”

Building Code Administrators, Plans Examiners, and Inspectors Certifications

Building Code Inspector and Plans Examiner

In order to take the examination for building code inspector or plans examiner certification, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

- **Option 1:** Demonstrate 5 years of combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought.
- **Option 2:** Demonstrate 4 years of a combination of postsecondary education in the field of construction or a related field and experience, with at least 1 year of experience in construction, building code inspection, or plans review.
- **Option 3:** Demonstrate 4 years of a combination of technical education in the field of construction or a related field and experience, with at least 1 year of experience in construction, building code inspection, or plans review.
- **Option 4:** Currently hold a standard certificate as issued by the Florida Building Code Administrators and Inspectors Board (FBCAIB), or a fire safety inspector license issued pursuant to ch. 633, F.S.; have a minimum of 3 years of verifiable full-time experience in inspection or plan review; and satisfactorily complete an approved building code inspector or plans examiner training program of at least 100 hours but not more than 200 hours in the certification category sought.
- **Option 5:** Demonstrate a minimum of 2 years combined experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a firesafety inspector, or construction; and the completion of an approved training program in the field of building code inspection or plan review of at least 200 hours but not more than

¹⁰ 6th Edition (2017) FBC Code Update Development Tasks, *available at* http://www.floridabuilding.org/fbc/thecode/2017_Code_Development/Timelines/FBC_WorkplanOption1-2015.pdf (Last visited March 14, 2017).

300 hours in the certification category sought, with at least 20 hours but not more than 30 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificate holder.

- **Option 6:** Currently hold a standard certificate issued by the FBCAIB or a firesafety inspector license if the person also:
 - Has at least 5 years of verifiable full-time experience as a building code inspector, plans examiner, or licensed firesafety inspector; and
 - Satisfactorily completes a building code inspector or plans examiner classroom training course or program that provides between 200 and 300 hours in the certification category sought, except for one-family and two-family dwelling training programs which are required to provide between 500 and 800 hours of training as prescribed by the FBCAIB.¹¹

The FBCAIB must accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom component of the training program.¹²

Under s. 468.609(7), F.S., the FBCAIB is required to provide for the issuance of provisional 1-year certificates for certain newly employed or promoted building code inspectors or plans examiners; and to provide appropriate levels of such provisional certificates.

Additionally, a newly employed or hired person may perform the duties of the plans examiner or building code inspector for 120 days if a provisional certificate application has been submitted and the newly employed or hired person is under the direct supervision of a certified building code administrator who holds a standard certification and who has found the person qualified for a provisional certificate.¹³

Building Code Administrator

In order to take the examination for building code administrator certification, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

- **Option 1:** Demonstrate 10 years of combined experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least 5 years of experience in supervisory positions; or
- **Option 2:** Demonstrate 10 years of a combination of experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least 5 years of supervisory experience, and postsecondary education in the field of construction or related field, of which no more than 5 years may be applied. The individual must have also completed between 20 and 30 hours training in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificate holder.¹⁴

¹¹ Section 468.609(2), F.S.

¹² *Id.*

¹³ Section 468.609(7)(d), F.S.

¹⁴ Section 468.609(3), F.S.

Private Providers

Section 553.791(1)(i), F.S., defines “private provider” as a licensed engineer or a licensed architect who performs inspections on residential buildings in certain circumstances and, for additions and alterations under 1,000 square feet, the term also applies to individuals who hold a standard license under part XII of Chapter 468.

Private providers are authorized to contract with property owners and local building departments to conduct plans review and building code inspections.¹⁵

Construction Industry Workforce Task Force

Single-family building permit activity, an indicator of new construction, reached its peak in Florida in 2005. During the recent recession, new construction declined significantly, bottoming out in 2009. New construction has increased in recent years, but there are anecdotal reports that contractors are having a hard time finding skilled labor.

Because of the skilled labor shortage, the Legislature created the Construction Industry Workforce Task Force within the University of Florida M.E. Rinker, Sr., School of Construction Management in 2016.¹⁶ The goals of the task force were to:

- Address the critical shortage of individuals trained in building construction and inspection.
- Develop a consensus path for training the next generation of construction workers in the state.
- Determine the causes for the current shortage of a trained construction industry work force and address the impact of the shortages on the recovery of the real estate market.
- Review current methods and resources available for construction training.
- Review the state of construction training available in K-12 schools.
- Address training issues relating to building code inspectors to increase the number of qualified inspectors.

The task force consisted of 23 members, representing various construction industries and the Legislature. The task force elected a chair from among its members. The University of Florida M.E. Rinker, Sr., School of Construction Management was required to provide assistance to the task force in carrying out its responsibilities.

The task force submitted a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives in January 2017, which states that the construction and building profession is attracting fewer construction related workers.¹⁷ Florida requires five years of construction trade experience in order to obtain an inspector license.¹⁸ Given the stringent educational requirements, contractors often prefer working in the construction trades rather than becoming inspectors.

¹⁵ DBPR, Legislative Bill Analysis for SB 860, pp. 2-3, (March 9, 2017)

¹⁶ Chapter 2016-129, s. 31, Laws of Fla.

¹⁷ Florida Workforce Taskforce Report, prepared by the University of Florida, p. 12, available at <http://www.cce.ufl.edu/wp-content/uploads/2016/12/6-Florida-Construction-Workforce-Taskforce-Address-training-issues-among-building-code-inspectors-to-increase-the-number-qualified-1.pdf> (Taskforce Report)(last visited Mar. 24, 2017).

¹⁸ Section 468.609(2)(c)1., F.S.

In its final report, the taskforce recommended the development of the following initiatives:

- Creating an Alternative Internship Certification Program to the current standard qualifications;
- Adding residential inspector and plan examiner categories for all trades;
- Expanding the provisional and 120-day periods beyond newly hired or promoted staff;
- Authorizing interagency service agreement inspections and plan examination for standard certified building officials across jurisdictions with populations 50,000 or fewer;
- Having the FBCAIB streamline the application for certification process by providing for an electronic application process and combining the examination registration with the provisional application;
- Providing high school education guidance material for construction related careers;
- Supporting higher education code curriculum in engineering, architecture, and construction management degrees; and
- Comprehensively studying the compensation for building code compliance personnel.¹⁹

Construction Contracting

The Construction Industry Licensing Board (CILB) within the DBPR is responsible for licensing and regulating the construction industry in this state.²⁰ The CILB is divided into two divisions with separate jurisdictions:

- Division I is comprised of the general contractor, building contractor, and residential contractor members of the CILB. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.
- Division II is comprised of the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the CILB. Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.

A specialty contractor is one whose scope of work and responsibility is limited to a particular phase of construction as detailed in an administrative rule adopted by the CILB. Jurisdiction is dependent on the scope of work and whether Division I or Division II has jurisdiction over such work in accordance with the applicable administrative rule.²¹

The CILB is authorized to:

- Reprimand or place licensees on probation;
- Revoke, suspend, or deny the issuance or renewal of a certificate or registration;

¹⁹ See the Taskforce Report, *supra* note 17 at page 14.

²⁰ See s. 489.107, F.S.

²¹ For example, specialty swimming pool contractors have limited scopes of work for the construction of pools, spas, hot tub, and decorative or interactive water displays. See Fla. Admin. Code R. 61G4-15.032 (2016).

- Require financial restitution to a consumer for financial harm directly related to a violation;
- Impose an administrative fine not to exceed \$10,000 per violation;
- Require continuing education; or
- Assess costs associated with investigation and prosecution.²²

Pool/Spa Contractors

Three types of pool/spa contractors may be licensed in Florida, including commercial pool/spa contractors, residential pool contractors, and swimming pool/spa servicing contractors.²³ Each type of contractor may engage in the scope of work specified s. 489.105(3), F.S., as follows:

- For commercial pool/spa contractors, the scope of work involves, but is not limited to, the *construction, repair, and servicing of any swimming pool, or hot tub or spa, whether public, private, or otherwise, regardless of use.*²⁴
- For residential pool/spa contractors, the scope of work involves, but is not limited to, the *construction, repair, and servicing of a residential swimming pool, or hot tub or spa, regardless of use.*²⁵
- For swimming pool/spa servicing contractors means a contractor whose scope of work involves, but is not limited to, the *repair and servicing of a swimming pool, or hot tub or spa, whether public or private, or otherwise, regardless of use.*²⁶

²² See s. 489.129(1)(a) - (q), F.S., for the acts that may result in the imposition of discipline by the CILB.

²³ See ss. 489.105(3)(j), (k), and (l), F.S.

²⁴ The scope of work for commercial pool/spa contractors also includes the installation, repair, or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior finishes, the installation of package pool heaters, the installation of all perimeter piping and filter piping, and the construction of equipment rooms or housing for pool/spa equipment, and also includes the scope of work of a swimming pool/spa servicing contractor. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. See s. 489.105(3)(j), F.S.

²⁵ The scope of work for residential pool/spa contractors also includes the installation, repair, or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior finishes, the installation of package pool heaters, the installation of all perimeter piping and filter piping, and the construction of equipment rooms or housing for pool/spa equipment, and also includes the scope of work of a swimming pool/spa servicing contractor. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. See s. 489.105(3)(k), F.S.

²⁶ The scope of work includes the repair or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior refinishing, the reinstallation or addition of pool heaters, the repair or replacement of all perimeter piping and filter piping, the repair of equipment rooms or housing for pool/spa equipment, and the substantial or complete draining of a swimming pool, or hot tub or spa, for the purpose of repair or renovation. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, substantial or complete disassembly, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure *unless the usage involves construction, modification, substantial or*

A license is not required for the cleaning of a pool or spa in a way that does not affect the structural integrity of the pool or spa or its associated equipment.

Specialty Swimming Pool Contractors

Specialty swimming pool contractors have limited scopes of work for the construction of pools, spas, hot tub, and decorative or interactive water displays, including:

- Swimming Pool Layout Specialty Contractors are limited to the layout, shaping, steel installation, and rough piping;
- Swimming Pool Structural Specialty Contractors are limited to the shaping and shooting of gunite, shotcrete, concrete, or similar product mix, and installation of fiberglass shells and vinyl liners);
- Swimming Pool Excavation Specialty Contractors are limited to excavation and earthmoving);
- Swimming Pool Trim Specialty Contractors are limited to the installation of tile and coping, and decorative or interactive water displays or areas that use recirculated water, including waterfalls and spray nozzles;
- Swimming Pool Decking Specialty Contractors are limited to the construction and installation of concrete flatwork, pavers and bricks, retaining walls, and footings;
- Swimming Pool Piping Specialty Contractors are limited to the installation of piping or the installation of circulating, filtering, disinfecting, controlling, or monitoring equipment and devices for pools, spas, hot tubs, and decorative or interactive water displays or areas; and
- Swimming Pool Finishes Specialty Contractors are limited to the coating or plastering of the interior surfaces.²⁷

III. Effect of Proposed Changes:

Section 1 reorders and amends s. 468.603, F.S. to revise the terms “building code administrator” or “building official” to include any person under contract with a municipal or county government with specified building construction regulation responsibilities. One person employed or under contract by each municipal or county government as a certified building code administrator or building official may be authorized to perform any plan review or inspection.

The term “building code inspector” is revised to include any person under contract with a local government or state agency with specified building construction responsibilities.

The term “residential plans examiner” is created to mean a person who is qualified to determine whether plans submitted for purposes of obtaining building and other permits comply with the applicable residential building, plumbing, mechanical, electrical, gas, energy, accessibility, and other construction codes.

According to the Department of Business and Professional Regulation (DBPR), the bill will replace the existing voluntary category for one- and two-family dwelling plans examiners set

complete disassembly, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. See s. 489.105(3)(1), F.S.

²⁷ See Fla. Admin. Code R. 61G4-15.032 (2016).

forth in Rule 61G19-6.016(6), Florida Administrative Code, with a residential plans examiner license.²⁸ The DBPR anticipates that the majority of residential plans examiner licenses will be issued to individuals working for governments.²⁹

Section 2 amends s. 468.609(2), F.S., to provide an additional internship path for persons to become eligible to take the examination for certification as a building code inspector or plans examiner.

A person who completes an inspector or plans examiner internship certification program that includes all of the following requirements will be eligible to take the examination:

- Passing an International Code Council administered examination in the category sought before beginning a four-year internship while employed full time by a Florida municipality, county, or other governmental jurisdiction under the direct supervision of a standard certified, government employed, sponsoring building official. A related vocational or college degree attained or verifiable on-the-job experience may reduce the required internship period year-for-year, but it may not be reduced to less than one year.
- Passing the Florida Principles and Practice exam before completing the internship period.
- Passing a Florida Building Code Administrators and Inspectors Board (FBCAIB) approved 40-hour code training in the category sought before completing the internship period.
- Obtaining a favorable recommendation from the sponsoring building official after completing the internship period.

The bill also requires the Florida Building Code Administrators and Inspectors Board (FBCAIB) to provide for the issuance of a provisional certificate, valid for one year, to any building code inspector or plans examiner (newly employed or not) who meets the eligibility requirements in s. 468.609(2), F.S., as revised by the bill. Under current law, a person may perform the duties of a plan examiner or building code inspector for 120 days if the person submits a provisional certificate application and is under the direct supervision of a certified building code administrator who holds a standard certification and has found the person qualified for a provisional certificate. At present, the provisional certificate is available only for newly employed or promoted building code inspectors and plans examiners.

The FBCAIB must by rule:

- Establish a procedure to determine reciprocity for an International Code Council examination administered by another state. According to DBPR, the FBCAIB already recognizes ICC administered examinations regardless of where they were taken and passed.³⁰
- Authorize candidates for the inspector or plans examiner internship program under s. 468.609(2)(c)7., F.S., to:
 - Perform duties during the first 120 days after initial application submittal to the FBCAIB.
 - Apply for a one-year provisional certificate before completing the internship period if the candidate has not passed the Florida Principles and Practice exam or 40-hour code training course.

²⁸ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 860, dated Mar. 9, 2017, (on file with Senate Committee on Regulated Industries) at page 5.

²⁹ *Id.*

³⁰ *Id.*

- Apply for a standard certification at least 30 days but not more than 60 days before completing the internship period.
- Develop a form to authorize candidates for the inspector or plans examiner internship program to transfer approved partial internship periods completed in other jurisdictions.
- Develop an electronic application for standard certification of interns who successfully complete the inspector or plans examiner internship program.
- Establish minimum standards for, and a procedure to determine the eligibility of, internships for candidates to obtain certification under the inspector or plans examiner internship program.

After achieving initial standard certification, a person may seek additional certifications in other categories by completing additional noncurrent internship programs when passing an International Code Council examination, passing a FBCAIB approved 40-hour code training, and completing an additional one-year, full-time internship in the respective category sought. Any person holding a standard certification may seek additional certifications.

Section 3 amends s. 468.617, F.S., to provide that a county or municipal government, school board, community college board, state university, or state agency is not prohibited from entering into a contract with any person or entity for the provision of building code administrator or building code official services. Under current law, such local governments were authorized to enter into a contract for building code inspection services only.

Section 4 amends s. 468.8313, F.S., to provide that the DBPR may review and approve home inspectors exams by a nationally recognized entity. However, the examinations must meet the standards defined by rule and certified by the DBPR in order to be approved.

Section 5 amends s. 489.113(3), F.S., to provide that pool/spa contractors are not required to subcontract electrical work for the installation, replacement, disconnection, or reconnection of power wiring on the load side of the dedicated existing electrical disconnecting work. Current law requires that unless a contractor holds a state certificate or registration in a trade category, all electrical work must be subcontracted (as must all mechanical, plumbing, roofing, sheet metal, swimming pool, and air-conditioning work). Pool/spa contractors, however would continue to be required to subcontract all electrical work that requires the installation, removal, replacement, or upgrading of a circuit breaker. The bill provides that the revised subcontracting requirement for pool/spa contractors does not apply to other contractor classifications or professions.

Section 6 amends s. 553.73, F.S., to require the Commission to use the 6th edition of the Florida Building Code, and subsequent editions, as the foundation for the Florida Building Code. The Commission is required to consider whether the Florida Building Code needs to be revised and to adopt code revisions by rule. When evaluating potential revisions to the Florida Building Code, the Florida Building Commission must review, rather than automatically adopt, the I-Codes every three years. The Commission also must review the International Energy Conservation Code; however, the Commission must maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction pursuant to s. 553.901, F.S.

Amendments and modifications, other than local amendments under s. 553.73(4), F.S., to the Florida Building Code will now remain effective when a new edition of the Florida Building Code is published.

The bill removes references to Florida-specific amendments because the entire building code will now be Florida-specific. The bill also makes other conforming and clarifying changes in terminology.

Section 7 amends s. 553.76, F.S., to require the Commission to adopt the Florida Building Code, and amendments thereto, by a three-fourths vote of the members present at a meeting.

Section 8 amends s. 553.791, F.S., to expand the definition of the term “private provider” to include a person licensed as a building code administrator under part XII of chapter 468. As a result, building code administrators are now authorized to contract with property owners and local building departments to conduct plans review and building code inspections.

Sections 9 and 10 amend ss. 471.045 and 481.222, F.S., respectively, to conform cross-references.

Section 10 provides an effective date of October 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article III, s. 6 of the State Constitution requires that a bill must pertain to a single subject that is briefly stated in the bill’s title. Courts have interpreted this to mean that all provisions of a bill must be “properly connected” to the subject of the bill in a “natural or logical” way.

The bill contains provisions dealing with the regulation of pool/spa contractors and the circumstances in which certain electrical work may or may not be subcontracted by such contractors. The relating to clause in CS/CS/SB 830 provides that the bill relates to the “Florida Building Code.” The single subject clause may be implicated as to whether the regulation of pool/spa contractors has a “natural and logical” connection.

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

None.

B. Private Sector Impact:

Under CS/CS/SB 860, builders and building code officials may benefit from the increased continuity of the Florida Building Code and increased transparency of the code adoption process.

C. Government Sector Impact:

The bill would require the Department of Business and Professional Regulation (DBPR) to make several modifications to its Versa: Regulation and Versa: Online systems in order to implement the internship programs for building code inspectors and plans examiners.³¹ The bill may also require changes to OnBase routing. However, the DBPR states that these changes can be made using existing resources.

The Florida Building Commission will have to review each change to the I-Codes and the IECC individually rather than approving wholesale changes to the Florida Building Code.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 468.603, 468.609, 468.617, 468.8313, 553.73, 553.76, 553.791, 471.045, and 481.222 of the Florida Statutes.

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

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

CS/CS by Regulated Industries Committee on March 28, 2017:

The committee substitute amends s. 489.113(3), F.S., to:

- Remove the requirement for pool/spa contractors to subcontract electrical work for the installation, replacement, disconnection, or reconnection of power wiring in certain circumstances;

³¹ *Id.*

- Require pool/spa contractors to subcontract all electrical work that requires the installation, removal, replacement, or upgrading of a circuit breaker; and
- Provide that the revised subcontracting requirement for pool/spa contractors does not apply to other contractor classifications or professions.

CS by Community Affairs Committee on March 14, 2017:

- Revises the terms “building code administrator,” “building official” and “building code inspector” to include persons under contract with the local government or state agency, in addition to employees of the local government or state agency. Current law states that these positions had to be employees of the government or agency.
- Removes a provision which authorized certain municipal or county employees to perform plan review or inspection as a certified building official under an interagency service agreement with a jurisdiction of population 50,000 or fewer.
- Requires the FBCAIB to establish minimum standards for, and a procedure to determine the eligibility of, internships for specified candidates.
- Clarifies that the DBPR may review and approve home inspector examinations by a nationally recognized entity only if those examinations meet the rule and certification standards of the DBPR.
- Changes the effective date of the bill from July 1, 2017, to October 1, 2017.
- Adds a provision that changes the process by which revisions are made to the Florida Building Code and requires the Commission to adopt the Florida Building Code by a three-fourth vote of the members present.

B. Amendments:

None.