1989

Session Law 89-139

Florida Senate & House of Representatives

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S 225  GENERAL BILL/CS/1ST ENG by Community Affairs; Health Care (Similar H 1414)

Plumbing/Regulation; (SUNDOWN) designates certain provisions as Fla. Plumbing Control Act; requires persons who wish to engage in plumbing in counties in which there is no county plumbing inspector to give bond; provides that all municipalities, regardless of size, are subject to county plumbing inspection unless exempted by board of county commissioners; repeals provision re advisory council to Health Division, etc. Amends Ch. 553; repeals 553.09. Appropriation: $45,108. Effective Date: 10/01/89.

02/10/89 SENATE Prefiled
02/17/89 SENATE Referred to Health Care; Community Affairs
02/20/89 SENATE On Committee agenda—Health Care, 03/08/89, 9:00 am, Room—A
03/08/89 SENATE Comm. Report: Favorable with 2 amendment(s) by Health Care; Now in Community Affairs
04/04/89 SENATE Introduced, referred to Health Care; Community Affairs—SJ 26; Comm. Report: Favorable with 2 amendment(s) by Health Care—SJ 60; Now in Community Affairs—SJ 60; On Committee agenda—Community Affairs, 04/06/89, 1:15 pm. Room—C—(LL—32)
04/06/89 SENATE Comm. Report: CS by Community Affairs, placed on Calendar—SJ 117
04/11/89 SENATE CS read first time—SJ 118
04/18/89 SENATE Withdrawn from Calendar, rereferred to Appropriations—SJ 175
05/03/89 SENATE Extension of time granted Committee Appropriations
05/12/89 SENATE On Committee agenda—Appropriations, 05/16/89, 2:00 pm. Room—A—(LL—37)
05/16/89 SENATE Comm. Report: Favorable with 2 amendment(s) by Appropriations, placed on Calendar—SJ 380
05/24/89 SENATE Placed on Special Order Calendar—SJ 402; CS passed as amended; YEAS 34 NAYS 0—SJ 442
05/25/89 HOUSE In Messages
06/01/89 HOUSE Received, placed on Calendar; Read second time; Read third time; CS passed; YEAS 111 NAYS 0—HJ 1056
06/01/89 HOUSE Ordered enrolled—SJ 691
06/12/89 HOUSE Signed by Officers and presented to Governor
06/27/89 HOUSE Approved by Governor; Chapter No. 89—139

NOTES: Above bill history from Division of Legislative Information's FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST
1. Williams
2. Bradley
3. Barrett
4. 

STAFF DIRECTOR
Wilson
Buck
Smith

REFERENCE
1. HC
2. CA
3. AP
4. 

ACTION
Fav/2 amend.
Fav/CS
Fav/2 amend.

SUBJECT: Plumbing/Regulation (Sundown)

BILL NO. AND SPONSOR: CS/SB 225 by Community Affairs; Health Care

I. SUMMARY:

A. Present Situation:

Chapter 553, Florida Statutes, establishes building construction standards. Part I of chapter 553 is the "Florida Plumbing Control Act of 1951." The purpose of this act, as stated in section 553.02, Florida Statutes, is "to promote the public health and safety in this state by the regulation of plumbing contractors and plumbing." This act also provides definitions, bonding of plumbing contractors, various exemptions, a State Plumbing Code to be adopted by rule of the Department of Health and Rehabilitative Services (HRS), plumbing permits, inspection fees, and inspectors at the county, municipality, and district levels of government. Section 553.09, Florida Statutes, provides for the Advisory Council for Uniform Interpretation of the State Plumbing Code.

Part IV of chapter 553, Florida Statutes, is the "Florida Building Codes Act," and is under the authority of the Department of Community Affairs (DCA). The purpose and intent of this act, as stated in section 553.72, Florida Statutes, "...is to provide a mechanism for the promulgation, adoption, and enforcement of state minimum building codes which contain standards flexible enough to cover all phases of construction and which will allow reasonable protection for public safety, health, and general welfare for all the people of Florida at the most reasonable cost to the consumer." These building code activities of DCA encompass building construction responsibilities for Parts IV through IX of chapter 553, Florida Statutes, relating to manufacture buildings, accessibility by handicapped persons, state minimum building codes, thermal efficiency, energy conservation and standards for radon resistant buildings. To assist DCA with its rulemaking, study, and interpretation of State Minimum Building Codes, section 553.74, Florida Statutes, creates the Board of Building Codes and Standards. This 17-member board, appointed by the Governor, has as one of its members a plumbing contractor licensed in Florida. The department provides administrative and staff support for the board and is responsible for the implementation of all decisions of the board.

Pursuant to the Sundown Act, the Advisory Council for Uniform Interpretation of the State Plumbing Code is scheduled to expire October 1, 1989. Following the guidelines established in section 11.611, Florida Statutes, a review has been conducted of this advisory council. The council has not been functional since the mid to late 1950s. The review concluded: that section 553.09, Florida Statutes, creating the Advisory Council for Uniform Interpretation of the State Plumbing Code, be repealed; that Part I of chapter 553 be revised to specify that the State Plumbing Code rulemaking authority be given to
DCA rather than HRS; and that the Board of Building Codes and Standards be given the statutory authority to establish a committee of the board to address plumbing code interpretations, if the board identifies the need for additional assistance and expertise in making decisions regarding the State Plumbing Code.

B. Effect of Proposed Changes:

Senate Bill 225 repeals the Advisory Council for Uniform Interpretation of the State Plumbing Code; transfers authority for the State Plumbing Code from HRS to the Board of Building Codes and Standards which is staffed by the DCA; authorizes the board to establish an advisory committee if assistance is needed in making decisions regarding the State Plumbing Code; removes antiquated references to population size of areas; provides saving clauses for existing rules and substitution of parties in administrative and judicial proceedings; and provides an effective date.

Sectional Analysis

Section 1. Amends section 553.01, Florida Statutes, to update the reference to the name of Part I of chapter 553, Florida Statutes.

Section 2. Amends section 553.04, Florida Statutes, relating to the bonding of plumbing contractors, to delete outdated reference to city and town sizes.

Section 3. Amends section 553.041, Florida Statutes, relating to exemptions from bonding requirements, to clarify conditions for exemptions.

Section 4. Amends section 553.05, Florida Statutes, relating to county plumbing inspectors, to delete outdated reference to city and town sizes and clarify wording.

Section 5. Amends section 553.06, Florida Statutes, 1988 Supplement, to transfer rulemaking for the State Plumbing Code from HRS to the Board of Building Codes and Standards (in keeping with the fact that all other construction industry standards are the responsibility of DCA); to recognize the existence of existing plumbing codes other than the State Plumbing Code; and to clarify reference to lead pipes.

Sections 6 and 7. Amend sections 553.07 and 553.08, Florida Statutes, to delete outdated reference to city and town sizes.

Section 8. Amends section 553.11, Florida Statutes, to clarify applicability of Part I of chapter 553 and to clarify a statutory cross-reference.

Section 9. Amends subsection (2) of section 553.77, Florida Statutes, 1988 Supplement, relating to the powers of the Board of Building Codes and Standards, to authorize the board to appoint an advisory committee consisting of at least five plumbing contractors licensed in Florida to assist the board in plumbing code interpretations, if such assistance is needed by the board.

Section 10. Provides that State Plumbing Code rules which are in effect on October 1, 1989, remain in effect until altered, amended, or revoked.

Section 11. Provides for substitution of parties in administrative and judicial proceedings.
Section 12. Repeals section 553.09, Florida Statutes, relating to the Advisory Council for Uniform Interpretation of the State Plumbing Code.

Section 13. Provides an effective date of October 1, 1989.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:
None.

B. Government:
Under HRS, there are no staff or funds specifically for implementation of the State Plumbing Code. The county health departments are part of the HRS system and those staff persons typically handle concerns related to the plumbing code.

According to DCA, additional resources would be required to handle the transition of responsibility for the state plumbing code which will include adoption of a new rule and which is expected to involve an evaluation of the current code and revisions in order to update it. The DCA estimates that additional resources would be needed at the following level:

<table>
<thead>
<tr>
<th>Category</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>OPS pos. (6 mon. phase-in)</td>
<td>$12,285</td>
</tr>
<tr>
<td>Professional consulting</td>
<td>20,000</td>
</tr>
<tr>
<td>Expenses</td>
<td>12,823</td>
</tr>
<tr>
<td>Total</td>
<td>$45,108</td>
</tr>
</tbody>
</table>

The DCA anticipates reevaluating the staffing requirement after the transfer of the plumbing code is complete and requesting a full-time position if the workload requires it.

III. COMMENTS:

A DCA recommended alternative to transferring administration of the State Plumbing Code would be to phase out the code, requiring entities using it to adopt the Standard Plumbing Code, the South Florida Plumbing Code, or the EPCOT Plumbing Code. Currently, only a few small counties use the State Plumbing Code. However, the code is also used, along with the Standard Plumbing Code, as a basis for the examination required for certification as a plumbing contractor pursuant to chapter 489, F.S. The ramifications for plumber certification of phasing out the code are unclear.

Neither this bill nor the Senate version of the General Appropriations Act provides funds to implement the provisions of this bill.

A similar proposal, HB 1414, has been filed in the House by Representative Rudd.

IV. AMENDMENTS:

#1 by Appropriations:
Appropriates $45,108 to the Department of Community Affairs to administer this act.

#2 by Appropriations:
Title Amendment.
I. SUMMARY:

HB 1414 would update part I, Plumbing, chapter 553, Building Construction Standards. Language would be clarified, obsolete and duplicate language would be eliminated, and technical changes would be made.

A. PRESENT SITUATION:

Chapter 553, part I, is known as the Florida Plumbing Control Act of 1951, which regulates plumbing contractors and plumbing. Terms are defined, bond requirements are set, employment qualifications and duties of plumbing inspectors are provided for, a state plumbing code is adopted, requirements of boards of county commissioners with respect to fees, permits, and inspections are detailed, an advisory council is created, penalties for violations are set out, limitations are defined, and the Water Conservation Act is created.

B. EFFECT OF PROPOSED CHANGES:

HB 1414 would modernize part I, chapter 553. For example, it retitles the chapter as the Florida Plumbing Act, eliminating the words "of 1951" and updates the chapter by eliminating a minimum population requirement of 7500 in order to subject a city to plumbing inspection. Similarly, it deletes the words "cities and towns" in favor of the word "municipalities."

The bill would amend the form of bond set out in section 553.04 by eliminating the population requirement of 7500 and providing that plumbing work done in a municipality must satisfy the municipal plumbing inspector or plumbing work done in a district must satisfy the district plumbing inspector.

The bill would amend section 553.06 by transferring
administrative responsibility for the State Plumbing Code from the Department of Health and Rehabilitative Services to the Board of Building Codes and Standards of the Department of Community Affairs and would add the provision that plumbing work done in counties that have not adopted the Standard Plumbing Code, the South Florida Plumbing Code, or the EPCOT Plumbing Code shall, after September 30, 1990, conform to the requirements of the State Plumbing Code.

Section 553.11 would exempt from the Florida Plumbing Control Act any county, municipality or district in which the Standard Plumbing Code, the South Florida Plumbing Code, or the EPCOT Plumbing Code is in effect.

The bill would repeal section 553.09, which created the Advisory Council for Uniform Interpretation of the State Plumbing Code, a group that has been inactive for over 30 years, and would provide in lieu thereof that the Board of Building Codes and Standards may, if it determines that assistance is needed to interpret the State Plumbing Code, appoint an advisory committee.

Section 10 would provide that the State Plumbing Code rules in effect on October 1, 1989, shall remain in effect until altered, amended, or repealed by law.

Lastly, section 11 would provide that the act not affect any judicial or administrative proceeding relating to functions transferred from the Department of Health and Rehabilitative Services to the Board of Building Codes and Standards pending on October 1, 1989, and that the board would be substituted for the Department of Health and Rehabilitative Services as a party in interest.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects: 1989-90

   OCO
   $5,675

2. Recurring or Annualized Continuation Effects:

   DCA OPS (1 position) $21,038
   Expenses Professional Consulting 20,000

3. Long Run Effects Other Than Normal Growth:
The Department of Community Affairs, in their fiscal impact statement, noted that if their "workload increase does not diminish then a full time position may be requested next fiscal year."

   General Revenue Fund $46,713

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:
   1. Non-recurring or First Year Start-Up Effects:
      None.
   2. Recurring or Annualized Continuation Effects:
      None.
   3. Long Run Effects Other Than Normal Growth:
      None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:
   1. Direct Private Sector Costs:
      None.
   2. Direct Private Sector Benefits:
      None.
   3. Effects on Competition, Private Enterprise, and Employment Markets:
      None.

D. FISCAL COMMENTS:
   None.

III. LONG RANGE CONSEQUENCES:
   None.

IV. COMMENTS:
   A need for changes to part I, chapter 553, came to light with the discovery that review of section 553.09, Florida Statutes, which
created the Advisory Council for Uniform Interpretation of the State Plumbing Code, had been inadvertently overlooked for many years. A sundown review was conducted pursuant to section 11.611, Florida Statutes; it recommends repeal of section 553.09, Florida Statutes. The Senate Committee on Health Care has also recommended the repeal of section 553.09, Florida Statutes.

Recommended textual changes to chapter 553, Florida Statutes, allow the chapter to address contemporary issues relating to building construction standards.

V. FINAL ACTION:

HB 1414 died on the calendar. Similar provisions were passed by the Legislature in CS/SB 225, which was approved by the Governor on June 27, 1989, chapter 89-139, Laws of Florida.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE: Preparing by: Staff Director:

SECOND COMMITTEE OF REFERENCE: Preparing by: Staff Director:

APPROPRIATIONS: Preparing by: Staff Director: