

FSPA Bill Tracking Report
By Kari Hebrank
April 5, 2009

Overview

In an effort to plug a \$6 billion budget hole, Week Five and Six of the Session resulted in the first draft of budget numbers for the appropriation committees. The Senate budget approach includes dollars from the Indian gaming compact and a \$1 increase in the cigarette tax as well as \$1 per ounce tax on cigars, snuff and chew, while the House focuses more on the federal stimulus dollars and fee increases. Both chambers tackled a myriad of controversial issues including workers' compensation, renewable energy, growth management, commuter rail and corporate income tax increases. Of importance to FSPA members, workers' compensation attorney fee cap legislation passed the full House, construction defects and impact fees moved forward in both chambers and FSPA's initiative on unlicensed contractor activity passed its first senate committee.

****Swimming Pool Resolution***

SR 1334 by Detert (R-Venice)/HR by Nehr (R-Tarpon Springs)

These resolutions recognize the importance of FSPA in educating pool contractors, building officials and consumers on swimming pool safety measures and designate April as "Swimming Pool Safety Month."

STATUS: SR 1334 will be read on the Senate Floor on April 16th.

**** Corporate Income Tax Glitch Fix***

SB 1112 by Altman (R-Melbourne)/HB 459 by Cannon (R-Winter Park)

SB 1112 corrects the bonus depreciation and Section 179 expensing provisions that were inadvertently omitted from last year's corporate income tax "piggyback bill" to comply with federal law.

STATUS: Governor Crist signed SB 1112 on March 17 which will keep FSPA members from unnecessarily paying increased corporate income taxes.

**** Workers' Compensation***

SB 2072 by Richter (R-Fort Myers)/HB 903 by Flores (R-Miami)

These must-pass bills address the limitation on attorney fees to correct a Supreme Court ruling in *Murray vs. Mariner* that overturned the 2003 workers compensation reform measures relative to "reasonable" attorney fees due to ambiguity with the term "reasonable."

STATUS: HB 903 passed the full House by a vote of 84-35 on March 31. SB 2072 was debated in S. Judiciary but was temporarily postponed by Chairman Sen. Constantine in an effort for the business community and trial bar to work out a compromise. SB 2072 will be back before the Judiciary committee on April 15.

CALL TO ACTION: Contact the S. Judiciary Committee and urge a "YES" vote on SB 2072. Sen. Baker- baker.carey.web@flsenate.gov; Sen. Joyner-- joyner.arthenia.web@flsenate.gov; Sen. Ring--ring.jeremy.web@flsenate.gov; Sen. Gelber-- gelber.dan.web@flsenate.gov; Sen. Fasano-fasano.mike.web@flsenate.gov; Sen. Peaden-- peaden.durell.web@flsenate.gov; Sen. Haridopolos—

haridopolos.mike@flsenate.gov; Sen. Richter-richter.garrett.web@flsenate.gov;
Chairman, Sen. Constantine--constantine.lee.web@flsenate.gov.

***Arbitration**

SB 2192 by Ring (D-Margate) / HB 1135 by Poppell (R-Titusville)

These unfriendly bills provide that mandatory arbitration is void and unenforceable except as provided by federal law.

STATUS: Thanks to FSPA members and others in the business community, HB 1135 was amended to be more favorable, however it appears that these bills are dead for Session.

***Automatic Service Contracts**

SB 660 by Justice (D-St. Petersburg)/HB 15 by McBurney (R-Jacksonville)

SB 660 and its companion requires anyone who sells services to consumers to clearly disclose automatic renewal provisions contained in service contracts for services sold or leased to consumers.

STATUS: SB 660 passed S. Banking & Insurance on April 1 and moves to Judiciary next. HB 15 is still awaiting action in Civil Justice & Courts Policy Committee.

***Homeowner Warning Notice/Unlicensed Contractor Activity**

SB 1422 by Baker (R-Eustis)/SB 674 by Constantine (R-Altamonte Springs)/ HB 1327 by Gonzalez (R-Hialeah Gardens)

An initiative spearheaded by FSPA and endorsed by the Construction Coalition to curb unlicensed contractor activity, these bills strengthen the existing disclosure statement for any property owner who applies for a residential owner-builder building permit by requiring applicants to read and sign off on a multi-page form warning homeowners of the serious legal and financial liabilities they face when acting as their own home-improvement contractor.

STATUS: On April 1, SB 1422 was combined with SB 674 by Sen. Constantine and passed S. Regulated Industries unanimously. SB 674 clarifies “specialty contractor” by removing the term “local” from Chapter 489, F.S., to avoid confusion. Since HB 1327 has not been heard in its first committee of reference, FSPA successfully lobbied Rep. Plakon to have the language added to HB 425, the DBPR agency bill.

CALL TO ACTION: Thank Rep. Plakon for adding the homeowner warning language to the DBPR bill. Plakon.scott@myfloridahouse.gov.

*** Growth Management/Dept. of Community Affairs**

SB 360 by Bennett (R-Bradenton)/ SB 362 by Bennett

HB 7049 by Dorworth (R-Heathrow) and Military & Local Affairs Committee (formerly PCB MLA 09-01)/ HB 7127 by Hukill (R-Port Orange) and Economic Development & Community Affairs Committee (formerly EDCA 09-02))

HB 7049 would merge the Dept. of Community Affairs with the Dept. of State effective July 1, 2010; however the senate companion, SB 360 does not include moving the Dept. of Community Affairs. HB 7127, formerly EDCA 09-02, replaces HB 7049 as the House companion to SB 360. Both bills address growth management issues such as transportation concurrency, transportation concurrency exception areas, proportionate fair

share, alternative review processes for local government comprehensive plans, and a streamlined plan amendment process. HB 7127 also includes a provision to extend construction, building permits, development orders and environmental permits for a period of 2 years. SB 362 also includes many of the same growth management and concurrency provisions, but is more draconian in its approach and is not supported by the Dept. of Community Affairs.

STATUS: SB 360 passed the full Senate by a vote of 32-8 on April 2. HB 7127 is waiting to be re-referred. SB 362 passed S. Community Affairs on April 6 by a 7-2 vote and moves to S. Environmental Preservation & Conservation on April 14.

****Impact Fees***

SB 580 by Haridopolos (R-Melbourne)/HB 227 by Aubuchon (R-Cape Coral)

These bills require that the challenger of an impact fee prove their case by a preponderance of the evidence rather than the current preferential standard of “fairly debatable,” hence, providing a level playing field for builders and developers when challenging local government and school boards impact fee calculations.

STATUS: SB 580 passed S. Judiciary on April 1 and moves to S. Finance & Tax on April 15; HB 227 was reported favorably by H. Economic Development & Community Affairs on April 1 and is now on Second Reading on the H. Calendar.

****Public Swimming & Bathing Facilities***

SB 1910 by Gardiner (R-Orlando)/HB 1011 by Precourt (R-Winter Garden)

These bills direct the Dept. of Health to assign specific functions relating to the regulation of public swimming facilities to certain special districts that have qualified engineering personnel, a.k.a., Reedy Creek at Disney World.

STATUS: To date, there has been no action on these proposals.

****Swimming Pool Enclosures/Insurance***

SB 2384 by Fasano (R-New Port Richey)/HB 1157 by Bogdanoff (R-Ft. Lauderdale)

Creates the Florida Hurricane Protection Program within the Florida Hurricane Catastrophe Fund and specifically states that no coverage will be provided for swimming pool enclosures. These bills are intended to develop a “wind insurance pool” as a replacement for Citizens Insurance.

STATUS: These bills appear dead this Session. SB 2384 has not been heard and HB 1157 has not moved since it was discussed on March 24. FSPA has a commitment from Sen. Fasano to remove the swimming pool enclosures prohibition if the bills advance.

****Beach Water Contamination—Public Swimming Pool Definition***

SB 1296 by Bennett (R-Bradenton)/ HB 707 by Rep. Aubuchon (R-Cape Coral)

These bills require the Dept. of Health to notify the local government and the local office of the Dept. of Environmental Protection when it issues a health advisory against swimming in beach waters due to elevated levels of bacteria. By adding a definition for beach water under chapter 514, F.S., it also corrects a cross-reference for the public swimming pool definition under chapter 515, F.S.

STATUS: SB 1296 will be heard in General Government Appropriations on April 15.

HB 707 passed General Government & Health Care Appropriations on March 30 and is now on Second Reading on the H. Calendar. FSPA continues to monitor these bills.

***Cranes**

SB 1654 by Altman (R-Melbourne)/HB 923 by Evers (R-Milton)

Both proposals preempt the regulation of “hoisting equipment” used in construction, demolition or excavation work to the state, thus avoiding a plethora of local ordinances regulating the use of construction cranes. State regulation is consistent with OSHA requirements.

STATUS: No action on these bills this week. SB 1654 goes to S. Regulated Industries first; HB 923 is in H. Military & Local Affairs.

***Construction Bonds/Lien Law**

SB 560 by Bennett (R-Bradenton)/HB 299 by Tobia (R-Melbourne)/SB 466 by Wise

These proposals make significant changes to construction bonds and lien law provisions, including payment bond, notice of commencement, warning to owner and lien process.

STATUS: SB 560 passed S. Regulated Industries on April 1 and is now in S. Community Affairs. The companion, HB 299 appears to be buried in H. Governmental Affairs Policy Committee due to objections raised by Associated General Contractors on the “prevailing party” attorneys’ fees provisions in the bill.

***Construction Defects**

SB 2064 by Altman (R-Melbourne)/HB 709 by Aubuchon

SB 2064 and its companion revise the construction defects law to clarify notice procedures and opportunity to repair construction defects and specify there are no construction lien rights for destructive testing.

STATUS: SB 2064 passed S. Regulated Industries on April 1 and travels to S. Judiciary. HB 709 passed H. Insurance, Business & Financial Affairs on March 27 and H. Criminal & Civil Justice Policy Council on March 31. HB 709 is now on Second Reading on the H. Calendar.

***Department of Business & Professional Regulation (DBPR)**

SB 2262 by Gaetz (R-Ft. Walton Beach)/HB 425 by Plakon (R-Longwood)

These bills modify several programs under the Dept. of Business & Professional Regulation in an effort to eliminate unnecessary regulatory burdens for licensed individuals or those applying for licensure. HB 425 was amended to eliminate the archaic building code core course requirement for contractors and to replace “occupational license” references to “business tax receipt.” The bills also delete the term “local” from specialty contractor to eliminate confusion.

STATUS: SB 2262 will heard in S. Regulated Industries on April 14. HB 425 is in Government Operations Appropriations Committee. FSPA will be amending the bills to include the homeowner warning notice (SB 1422).

***Foreclosed Homes/Property Tax Exemption**

SJR 532 by Lynn (R-Ormond Beach)/HJR 97 by Domino (R-Juno Beach)

In order to eradicate the abundance of foreclosed homes in our state, these measures propose an amendment to the State Constitution to provide first-time homestead property owners with an additional homestead exemption equal to 50 percent of the property's just value in the first year, limited to \$250,000. The proposals reduce the amount of the additional homestead exemption over a five-year phase-out period. Voters will have to approve the bills in November 2010.

STATUS: HJR 97 passed H. Finance & Tax Council on April 7. SJR 532 is on the S. Finance & Tax agenda for April 15.

****Sales Tax Exemptions/Constitutional Amendments***

SB 2576 by Lynn (R-Daytona Beach)/HB 1163 by Hukill (R-Port Orange)

These bills would require the Joint Legislative Sunset Committee to periodically review existing sales and use tax exemptions and would require consideration of a service tax on a myriad of service categories, including business and construction services.

STATUS: No action to date on these proposals and since the Senate Finance & Tax Chairman announced his committee would not have time for a review of sales tax exemptions, it appears unlikely that these bills will advance this year.

****Solar Energy Center/Solar Products***

SB 1380 by King (R-Jacksonville)

SB 1380 was initially filed as a “shell bill” but was amended in committee to direct the Solar Energy Center to increase its fees for an amount that will cover its costs and deletes the requirement that solar systems offered for sale in Florida be certified as meeting Florida’s standards. **The bill was also amended to specify that the manufacture, sale, training and supervision of the installation of solar products and system components do not require a separate license if :** 1) the person who manufactures and sells solar products or solar systems clearly states to the consumers, in writing, that he or she is not acting as a licensed contractor for the purpose of installing such products or systems, and that all products, or system components meet the standards set forth in the national and state electrical code; and, 2.) the services of an electrical, plumbing, solar or pool contractor, appropriately licensed, certified or registered under chapter 489, is retained to install such products or systems and the contractor for the installation must obtain all required permits and building code inspections.

STATUS: No action on SB 1380 which sits in S. Commerce. A House companion has not emerged.

****Assessed Value of Property with Renewable Energy Devices***

PCB EUP 09-01 by H. Energy & Utilities Policy Committee

This proposed committee bill (PCB) enacts the constitutional amendment requiring that any improvements to residential facilities for the purpose of improving the property’s resistance to wind damage or the installation of a renewable energy device may not be included in the assessed value of the property. The bill spells out the specific improvements and devices eligible.

STATUS: No action on this proposal this week and a senate companion has yet to surface. PCB EUP 09-01 passed the H. Energy & Utilities Committee on March 24.

****Energy Glitch Bill***

PCB EUP 09-03 by H. Energy & Utilities Policy Committee

This proposal “tweaks” the statutes relative to alternative energy and energy efficiency. **Importantly for FSPA members, the bill includes language drafted by FSPA and FLSEIA to limit local governments to requiring a single permit, permit application and fee for the installation of a single solar system that is covered by a single warranty and requires the permit fee to be based on the time required to review the application and the permit.** Other provisions address permitting for biofuel processing, renewable energy generation and bioenergy cultivation activities; land classifications for solar energy facilities and biofuel processing facilities under the same ownership; replaces outdated references to the Florida Dept. of Environmental Protection with the new Florida Energy & Climate Commission (FECC); amends the definition of renewable energy; removes the requirement for solar electrical generating facilities to receive certification under the Florida Electrical Power Plant Siting Act; adds inspection charge for ethanol fuels; and, directs the FECC to report on energy efficiency practices for low-income households and rental housing.

STATUS: No movement this past week on the House energy package.

****Renewable Portfolio Standard-Energy***

SB 1154 by Sen. King (R-Jacksonville)

SB 1154 is intended to implement the Public Service Commission’s (PSC) Renewable Portfolio Standard (RPS) which came out of the Governor’s executive order for 20% renewable energy by the year 2020. SB 1154 strays from the PSC’s recommended rule by including nuclear energy in the mix of “renewables,” allowing for a 25% allocation for nuclear, and reducing solar and wind energy allocations from 75% to 50%. SB 1154 also includes many of the provisions from the House energy bill.

STATUS: SB 1154 passed S. Communications, Energy & Public Utilities on March 31 by a 6-3 vote and sailed past S. Environmental Preservation & Conservation on April 5 after amending out the 1cent gas tax provision that would have helped fund renewable energy technologies.

****Building Codes/Product Approval***

SB 2100 by Bennett

SB 2100 is an omnibus bill that addresses a number of building code and product approval issues. Specifically, the bill includes the following provisions:

- Provides that heat sensors and electronic sensor updates for existing elevators may not be enforced on elevators in condominiums issued a certificate of operation by the department as of July 1, 2008, until such time as the elevator is replaced; this does not apply to any building for which a building permit was issued after July 1, 2008;
- Allows for uniform lock box that contains the keys to all elevators in a building which allow public access in lieu of re-keying the elevators; the uniform lock box master key may be issued only to the fire department;
- Eliminates the requirement for existing homes covered by Citizens’ insurance and valued at \$750K or more to provide opening protection consistent with the Code;

- Manufactured building inspections, fee payment and recertification revisions;
 - Adds equivalency of standards to the acceptable criteria for “glitch” building code amendments;
 - Adds specific needs of Agency for Health Care Administration when agency rules must be updated to reflect federal requirements for hospitals, hospice facilities and nursing homes to acceptable criteria for “glitch” building code amendments;
 - Specifies the Florida Building Code does not apply to temporary housing for prisoners;
 - Prohibits requiring an existing air conditioning system installed on a roof be raised 18 inches up from the installed surface until such time as the system is replaced;
 - Clarifies ethics for members of technical advisory committees, workgroups and advisory committees when representing clients before each;
 - Grants rule authority for commission relative to establishing voting requirements, such as super majority, for commission actions;
 - Provides for alternative plan review and inspection process for certain inspections;
 - Eliminates the archaic building code core course requirement for all licensees;
 - Allows for payment of fees for product approval to be made directly to the program administrator;
 - Provides a 10-day expedited product approval process for products that contain a certification mark or listing with products immediately added to the approved product approval list and a subsequent ratification by the commission’s program oversight committee;
 - Adds the International Association of Plumbing & Mechanical Officials to the statutory list of approved evaluation services;
 - Clarifies the carbon monoxide alarm requirements;
 - Eliminates the 5-year inspection by engineers of condominium improvements;
 - Authorizes the commission to charge a fee for non-binding interpretations;
- STATUS:** SB 2100 will be heard in S. Regulated Industries on April 14. We still expect a proposed committee bill on the House side.