

FSPA Bill Tracking Report
By Kari Hebrank
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Overview

The fourth week of Session provided some committees with a plethora of bills to hear, while others still were keeping very limited agendas. Of importance for FSPA members, the bad arbitration bill was amended to be acceptable; a building code bill moved forward that removes the archaic core course requirement; solar permitting provisions were added to the House energy proposal; and, workers' compensation legislation took another step towards final passage in the House.

****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."

**** 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. As amended, the bill requires taxpayers to add back to taxable income their "bonus depreciation" and then amortize the amount added back over seven years of reductions to taxable income.

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 was debated extensively on the House floor on March 26, and Rep. Planas offered a detrimental alternative amendment that was defeated by a vote of 45-69. HB 903 was rolled to Third Reading, ready for final passage next week. SB 2072 was thoroughly discussing in S. Banking & Insurance on March 25 and narrowly passed the committee before time ran out.

****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 is still in S. Banking & Insurance. HB 15 is awaiting action in Civil Justice & Courts Policy Committee.

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

SB 1422 by Baker (R-Eustis)/ 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. They require 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: No action on these bills last week. SB 1422 is ready for S. Regulated Industries and HB 1327 goes to Military & Local Affairs first in the House. FSPA is looking for other vehicles to move these bills.

CALL TO ACTION: Contact Rep. Hukill (Dorothy.hukill@myfloridahouse.gov) and urge her to agenda HB 1327 in Military & Local Affairs; also contact Sen. Jones (Jones.dennis.s13@flsenate.gov) and ask him to place SB 1422 on S. Regulated Industries agenda.

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

SB 360 by Bennett (R-Bradenton)/ HB 7049 (formerly PCB MLA 09-01 by Dorworth (R-Heathrow) and Military & Local Affairs Committee/ EDCA 09-02 by Hukill (R-Port Orange)

HB 7049, formerly PCB MLA -09-01 (PCB) 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. 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 7049 also includes a provision to extend construction, building permits, development orders and environmental permits for a period of 3 years.

STATUS: HB 7049 was revised to become PCB EDCA 09-02 in H. Economic Development & Community Affairs on March 25. The provision to move the department was removed and the extended permitting provision was reduced to two years instead of three years. The PCB passed the committee. On the senate side, SB 360 passed S. Ways & Means on March 19 by a vote of 14-3 and was rolled to Third Reading in the Senate on March 24. SB 360 will be available for final passage by the Senate on April 2, the next time the Senate is in session.

****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. Community Affairs and is now in S. Judiciary; HB 227 passed H. Military & Local Affairs on March 4 and H. Civil Justice & Courts on March 17 and travels to H. Economic Development & Community Affairs next.

****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: No action last week on these bills. HB 1011 will be heard in H. Health Care Regulation Policy Committee and the senate companion travels to S. Community Affairs.

****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: SB 2384 goes to S. Banking & Insurance first and Sen. Fasano has agreed to remove the prohibition on swimming pool enclosures if the bill starts moving; HB 1157 was workshopped in H. Insurance, Business & Financial Affairs on March 24 where lawmakers peppered the bill sponsor with questions. It is unlikely that these bills will pass this Session.

****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: No action this week on these bills. SB 1296 unanimously passed S. Environmental Preservation & Conservation on March 17. HB 707 was reported favorable by H. Natural Resources Appropriations on March 19. 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: SB 1654 goes to S. Regulated Industries first; HB 923 unanimously passed H. Insurance, Business & Financial Affairs on March 24 and travels to 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: No action last week on these bills. SB 560 will be heard in S. Regulated Industries on April 1; HB 299 goes to H. Governmental Affairs Policy Committee.

****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: No action yet on SB 2064. HB 709 unanimously passed H. Civil Justice & Courts on March 17 and goes to H. Insurance, Business & Financial Affairs on March 27.

****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.

STATUS: HB 425 was amended in General Government Policy Committee on March 17 to eliminate the archaic building code core course requirement for contractors and to replace “occupational license” references to “business tax receipt.” The bill was also amended to eliminate the term “local” from specialty contractor to eliminate confusion. HB 425 passed unanimously and moves to Government Operations Appropriations. SB 2262 will be up first in S. Regulated Industries. FSPA has been working to amend 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. Economic Development & Community Affairs on March 25. SJR 532 passed S. Community Affairs on March 17 and is now in S. Finance & Tax.

****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: The senate bill has been referred to S. Finance & Tax; the House bill kicks off in H. Finance & Tax.

****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: SB 1380 passed S. Communications, Energy & Public Utilities and moves to S. Commerce. To date, there is not a House companion.

****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: PCB EUP 09-01 passed the H. Energy & Utilities Committee unanimously 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: PCB EUP 09-03 was amended slightly and passed H. Energy & Utilities Committee on March 24.

****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 unanimously passed S. Community Affairs on March 24. Expect a proposed committee bill on the House side.