

*FSPA Scores Successful Session  
May 7, 2009  
By Kari Hebrank*

**Overview**—Budget conference negotiations finally ended on Monday, May 4, after a weekend of back and forth between appropriations' chairs on the \$65 billion plan. The 2009 Regular Legislative Session was extended for another week in order to resolve the budget differences, allow time to print the budget and provide for the mandatory 72-hour waiting period prior to a final vote. The gaming conference reached agreement on May 6 which will provide additional revenue for the state. All in all, the Legislature passed the least amount of bills since the 1992 Session---196 general bills---reflective of the state of the economy and the huge focus on the state budget.

**FSPA scored an extremely successful Session with its top legislative priority passing the Legislature--the homeowner warning bill which was crafted by FSPA to prevent unlicensed contractor activity. Additionally, other victories include workers' compensation legislation to cap attorneys' fees; impact fees burden of proof legislation; affordable housing bill; growth management reform which includes a two-year extension on all permits and development orders; and a bill to help eliminate the abundance of foreclosed homes through reduced property taxes.**

*Note: Bills marked PASSED still await approval by the Governor.*

**\*Swimming Pool Resolution**

**SR 1334 by Detert (R-Venice)/HR 9055 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:** Both the House and Senate resolutions and FSPA members were recognized on the floor of their respective chambers on April 16 and the resolutions were spread upon the House and Senate Journals.

**\*Residential Properties/Community Associations**

**SB/880 by Fasano (R-New Port Richey)/HB 27 by Ambler (R-Tampa)**

These bills make changes to laws regulating both condominiums and homeowner associations.

**STATUS:** HB 27 was amended on the House floor to include a requirement that all new residential construction that requires mandatory membership in a condominium, cooperative, or homeowner association to comply with the **federal Virginia Graeme Baker Pool & Spa Safety Act**. **FSPA supported this amendment that simply cited the federal law, which is consistent with the ANSI/APSP-7 Suction Entrapment Avoidance Standard currently in effect for new residential pool construction under the Florida building code.** HB 27 as amended passed the full House by a vote of 115-2 on April 23 and was awaiting action in Senate Messages. SB 880 was on Special Order to be taken up and amended with similar language, but in the waning days of session the bill continued to be temporarily postponed. **These bills DIED awaiting action by the**

**Senate floor.** The good news is even without the reference to the federal VGB Act, Florida is already requiring all new residential pool construction to be built in accordance with ANSI/APSP-7, consistent with the federal law. FSPA appreciates Representative Ambler's efforts in highlighting the importance of pool safety in his bill.

**\* 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. Passage of HB 903 will mean reduced workers' compensation rates for employers.

**STATUS: PASSED.** HB 903 passed the full House 84-35 and the Senate by a vote of 22-16. Initially, the companion, SB 2072 was amended by the Senate to include a bad provision to exempt attorneys for first responders in workers' compensation cases from the statutory limitations on attorneys' fees, and as such was amended onto HB 903 and sent to the House where it was stripped off. On May 1, HB 903 returned to the Senate for final passage where it passed "clean" on a vote of 22-16. Senate President Atwater did a yeoman's job in ensuring passage of HB 903 to limit attorneys' fees in workers' comp cases. **Many thanks to FSPA members who contacted their legislators to urge passage of HB 903!**

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

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

An initiative designed to curb unlicensed contractor activity as part of the FSPA legislative agenda, 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: PASSED.** SB 674/1422 was amended into the DBPR bill (HB 425 by Plakon) which passed the full House on April 28 and passed the Senate 37-0 on April 30. The stand-alone bill, SB 674/1422 was approved by the Senate on April 27 by a vote of 38-0 and died in House Messages.

**\* Affordable Housing**

***SB 1040 by Bennett (R-Bradenton)/HB 161 by Aubuchon (R-Cape Coral)***

These proposals are aimed at stimulating affordable housing by authorizing counties to use tax revenues to provide workforce, affordable and employee housing.

**STATUS: PASSED.** HB 161 passed the full House by a vote of 114-0 on April 27 and was awaiting action in Senate Messages but was caught up in procedural rules, so Sen. Bennett amended HB 161 onto the growth management bill, SB 360, and the bill passed the Senate on a 30-7 vote and the House by a vote of 78-37.

**\*Impact Fees**

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

Legislation that began as an initiative to level the playing field for the burden of proof standard when impact fees are challenged, was favorably amended to place a two-year freeze on all impact fees. **Unfortunately, the Senate would not agree to the two-year freeze, so HB 227 was amended to remove the two-year freeze on impact fees.**

**STATUS: PASSED.** HB 227 passed the House on April 17 by a vote of 92-26 and was substituted for SB 580 in the Senate, where the bill passed minus the freeze by a vote of 26-11. HB 227 was returned to the House for final approval and passed overwhelmingly by a vote of 107-10.

***\*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: PASSED.** HB 707 passed the House 115-0 on April 27 and was sent to the Senate where the bill was substituted for SB 1296 and passed 40-0 on April 30. HB 707 was amended to include SB 1910/HB 1011 which allows Reedy Creek (Disney World) to regulate their public swimming facilities.

***\*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. The bills were revised to be more narrowly drawn to relate more specifically to Reedy Creek rather than all special districts.

**STATUS: PASSED.** SB 1910 was amended onto SB 1296 which was substituted for HB 707 and passed both the House and Senate.

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

***SB 2100 by Bennett (R-Bradenton)/HB7143 by Williams (R-***

SB 2100 is a comprehensive bill that deals with several building code and product approval issues. Among other provisions, the bill will reduce the time period for product approvals from the current 4 month process down to 10 days; will add equivalency of standards to the criteria for determining glitch amendments; and, adds the International Association of Plumbing & Mechanical Officials to the list of approved product evaluation entities. SB 2100 also grants rule authority for the commission to establish voting requirements, such as super majority, for commission actions, authorizes the commission to charge a fee for non-binding interpretations, and eliminates the archaic building code core course requirement for all licensees.

**STATUS: FAILED TO PASS SENATE.** Passed the House twice, but failed to be taken up on the Senate floor. SB 2100 was withdrawn from S. Banking & Insurance and General Government Appropriations but was held up in the Rules Committee. HB 7143 was amended to reinstate the opening protection requirement for homes valued at \$750K

or more and insured by Citizens' property insurance, passed the House on a 117-0 vote, and was awaiting action in Senate Messages. Sen. Bennett tried to amend the bill onto SB 682 by Fasano, but the Rules staff objected and he was forced to withdraw the amendment. In a last ditch effort to pass the bill, it was amended onto SB 682 after it was sent to the House and it passed the House 115-1, but the Senate adjourned before the returning Message could be taken up.

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

***SB 360, SB 362, and SB 1306 by Bennett (R-Bradenton)***

***HB 7127 by Hukill (R-Port Orange) and Economic Development & Community Affairs Committee***

These growth management bills address 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.

**STATUS: PASSED.** SB 360 bounced back and forth between both chambers with a plethora of amendments flying, including one to add the affordable housing bill; SB 360 ultimately passed both the Senate and House on a final vote of 30-7 and 78-37 respectively. SB 360 also includes a two-year extension on all permits and development orders.

***\*Construction Defects***

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

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: PASSED.** SB 2064 passed the Senate on April 27 by a margin of 37-0 and was substituted for HB 709 in the House and passed the House 118-0 on April 29.

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

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

These bills revamp the Dept. of Business & Professional Regulation in an effort to eliminate unnecessary regulatory burdens for licensed individuals and applicants.

**STATUS: PASSED.** HB 425 passed the full House on April 28 and was substituted for SB 2262 and passed the Senate on April 30 by a vote of 37-0. HB 425 includes the homeowner warning language to stop unlicensed contractor activity.

***\*Property Insurance***

***SB 1950 by Richter (R-Fort Myers)/HB 1495 by Nelson (R-Orlando)***

These bills make reforms to property insurance provisions and specifically require a 10% rate increase for Citizen's property insurance holders to move the company to more of an actuarially sound entity.

**STATUS: PASSED.** The House initially wanted a 20% increase while the Senate was fighting for a 5% limit; eventually, a compromise of a 10% increase moved the bill forward. The House approved the measure 80-35 while the Senate voted 32-6.

***\*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:** These bills never received traction and DIED in committee.

***\*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:** These bills DIED in committee.

***\*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:** FAILED TO PASS HOUSE. SB 1154 passed the Senate 37-1 but the House refused to take up the measure.

***\*Cranes***

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

These bills preempt the regulation of "hoisting equipment" used in construction, demolition or excavation work to the state, consistent with OSHA requirements.

**STATUS:** These bills DIED in committee.

***\*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:** These bills DIED in committee.