

**2008 Legislative Session Update
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(Please note: The effective date is contingent upon approval by the Governor.)

Energy

HB 7135 by Environment & Natural Resources Council

A 237-page comprehensive energy bill that:

- Encourages telecommuting by state agencies;
- **States that condominium governing documents cannot prohibit renewable energy devices and removes the 3-story height restriction for installation of solar collectors on residences;**
- Amends air quality, energy and land use goals of State comprehensive Plan;
- Extends the date and retains for 10 years the property tax exemption for renewable energy source devices installed on real property;
- Revises the sales tax exemption and investment tax credit for renewable energy technologies and renewable energy production tax credits;
- Revises the capital investment tax credit to include a new solar panel manufacturing facility that generates a minimum of 400 jobs within six months with an average salary of \$50K;
- Grants authority for easements on state uplands for construction of electric transmission lines;
- Requires all state and government facilities (city, county, court buildings, schools, water management district, state universities and community colleges) to be constructed and renovated to meet green building standards—LEED, Green Globes, Florida Green Building Coalition or a nationally-recognized, high performance green building rating system as approved by DMS;
- Creates recognition program for Green Schools;
- Creates the Climate-Friendly Preferred Products list to be used by state agencies;
- Requires “Green Lodging” designated hotels and facilities for state agency meetings/conferences;
- Requires state and government agencies to purchase fuel-efficient vehicles and to use ethanol and biodiesel;
- Requires DMS/DOT to conduct a biofuel analysis;
- Creates innovation incentive program for alternative and renewable projects
- Allows hybrid, low-emission and energy-efficient vehicles to use High Occupancy Vehicle lanes (HOV)
- Adds greenhouse gas emissions to MPO planning;
- Revises Public Service Commission (PSC) nominating process and jurisdiction over city utilities;
- Revises Florida Energy Efficiency + Conservation Act to allow efficiency and conservation investments, encourage the development of demand-side renewable energy and provide evaluation criteria to the PSC;
- Expands “biomass” to include waste, byproducts from agricultural and orchard crops, co-products from livestock, and poultry operations or from food processing;
- Requires investor-owned utilities to develop a net-metering program for customer-owned renewable generation by Jan. 1, 2009, and requires city utilities and rural electric co-ops that sell electricity at retail to develop a net-metering program;
- Directs the PSC to adopt a rule by Feb. 1, 2009, for a renewable portfolio standard requiring utilities to supply renewable energy to customers; the rule must be ratified by the Legislature;
- Allows PSC to provide cost-recovery and incentives for renewable energy providers;
- Grants alternative cost recovery mechanisms for Nuclear Power Plants;
- **Transfers Florida Energy Commission to Executive Office of the Governor and reconstitutes it as the Florida Energy & Climate Commission (FECC) comprised of nine members, seven appointed by the Governor for 3-year terms; one appointed by Agriculture Commissioner**

and one by Chief Financial Officer;

- PSC Nominating Council submits names for FECC seats;
- Creates the Florida Green Government Grants Act for the FECC to award grants to local governments to develop programs that achieve green standards;
- Creates the Florida Climate Protection Act, a Cap & Trade Regulatory Program to be developed through DEP rules to reduce greenhouse gas emissions by electric utilities;
- FECC must review rule and report to Legislature and rule may not become effective until ratified by the Legislature and not until after Jan. 1, 2010;
- Revises Electrical Power & Transmission Line Siting Act;
- Requires a long-term 75 percent statewide reduction recycling goal;
- Allows an analysis of disposable plastic bags by DEP and preempts locals from enacting any ordinances until after the analysis;
- Includes provisions on methane capture, composting & Guaranteed Energy Performance Savings Contracts;
- Establishes the Florida Renewable Fuel Standard Act beginning Dec. 31, 2010, all gas sold shall be blended gasoline (90 percent gas, 10 percent ethanol);
- Directs FECC to study lifecycle greenhouse gas emissions associated with renewable fuels;
- **Directs the Florida Building Commission (FBC) to select the International Energy Conservation Code as a foundation code and allows modification to achieve the efficiency levels of the Florida Energy Efficiency Code for Building Construction;**
- **Sets targeted increases (goals) in energy efficiency standards in the Florida Building Code totaling 50 percent by 2019;**
- **Prior to implementing increases, FBC must adopt by rule a cost-effectiveness test to ensure increases in efficiency result in a positive net financial impact;**
- **Sets minimum requirements for swimming pool pumps, pool water heaters, and water heaters used to heat potable water;**
- **Requires pool pumps, pool water heaters, pool pump motors and electric spas sold after July 1, 2011, to meet certain energy efficiency standards as follows:**
 - Natural gas pool heaters shall not be equipped with constant-burning pilots;
 - Heat pump pool heaters shall have a coefficient of performance at low temperature of not less than 4.0;
 - Gas and oil pool heaters shall meet 78 percent or greater efficiency;
 - All pool heaters must have an on/off switch mounted outside of the pool heater that allows shutting off the heater without adjusting the thermostat setting;
 - Pool pump motors shall not be split-phase, shaded-pole, or capacitor start-induction run types;
 - Residential pool pumps and pool pumps motors with a total horsepower of 1 HP or more shall have the capability of operating at two or more speeds with a low speed having a rotation rate that is no more than one-half of the motor's maximum rotation rate;.
 - Residential pool pump motor controls shall have the capability of operating the pool pump at a minimum of two speeds. The default circulation speed shall be the residential filtration speed, with a higher speed override capability being for a temporary period not to exceed one normal cycle or 120 minutes, whichever is less. Except that circulation speed for solar pool heating systems shall be permitted to run at higher speeds during periods of usable solar heat gain.
 - Portable electric spas standby power shall not be greater than $5(V/2/3)$ watts where V = the total volume, in gallons, when spas are measured in accordance with the spa industry test protocol.
- Establishes the Florida Energy Systems Consortium consisting of all 11 universities;
- Directs Dept. of Agriculture in conjunction with DEP to conduct an economic impact study by March 1, 2010, on using woody biomass as fuel; study must evaluate effects on wood supply and prices, market impacts and on forest sustainability;

- Prohibits DEP from adopting/implementing California motor vehicle emissions standards until ratified by the Legislature;
- Effective date: July 1, 2008.

Pool Exemption/ Homeowners' Associations

HB 679 by Rep. Gardiner

- Makes several revisions to the regulation and requirements of homeowners' associations including budget disclosure requirements compensation for directors, fines and liens on property and mediation disputes between homeowner associations and homeowners;
- **Removes the requirement that the Department of Health regulate swimming pools owned by a homeowner's association with 32 or less parcels; this is similar to the provision in law for a condominium association with 32 or less units;**
- Effective date: July 1, 2008.

Secondary Metal Recyclers

HB 105 by Rep. Troutman

- Amends laws regulating secondary metal recyclers to address metal and copper theft;
- Removes the \$10 transaction threshold for regulation;
- Includes stainless steel beer kegs in regulated metals;
- Requires secondary metal recyclers to gather in-depth information about the sellers of the metals;
- Increases the penalties for repeated noncompliance from a first degree misdemeanor to a third degree felony;
- Creates a third degree felony if recycler is not registered with the Department of Revenue and enhances penalties for sellers who give false information;
- Requires regulated metals be transported in a motor vehicle;
- Requires payments over \$1,000 to be made by check;
- Effective date: October 1, 2008.

Underground Utilities/Excavations

SB 794 by Sen. Bennett

- Amends the "Underground Facility Damage Prevention and Safety Act" to prohibit an operator of underground facilities from charging an excavator any costs or expenses associated with the operator's compliance with the Act;
- Prohibits an excavator from charging an operator of underground facilities any costs or expenses associated with the excavator's compliance with the Act;
- Provides that the prohibition against charging fees does not excuse liability for damage or injury under the law;
- Effective date: upon becoming law.

**Property Taxation
SB 1588 by Haridopolos**

- Implements Amendment 1 to Constitution approved by the voters on January 29, 2008;
- Amendment increased homestead exemption by \$25K, allows portability of Save-Our-Homes up to \$500K, provides \$25K exemption for tangible personal property and limits annual assessment increases for nonhomestead real property to 10 percent;
- Includes provisions for determining the maximum millage rate for 2008-2009 based on growth in state-wide per capita personal income and growth in tax base;
- Effective date: upon becoming law.

**Florida Building Code-Building Standards
HB 697 by Rep. Aubuchon**

- Allows roofing contractors to perform additional functions of replacing and removing wood roof sheathing and fascia during re-roofing work;
- Preserves flexibility to achieve a secondary water barrier by allowing more than a single method;
- Clarifies the definition of manufactured building to include “modular” and “factory built;”
- Clarifies “temporary” buildings are buildings other than those designated permanent in the approved development order;
- Includes the roofing mitigation language from rule settlement;
- **Repeals code-plus requirement as a condition of coverage by Citizens Insurance;**
- Repeals obsolete language on internal pressure design; does not affect provisions that prohibit the commission from adopting code amendments that diminish wind resistance and water intrusion standards;
- **Adds a swimming pool contractor and a green building industry representative to the Florida Building Commission, (FBC) increasing membership to 25;**
- **Allows industry stakeholders to recommend candidates for FBC membership and names Florida Swimming Pool Association as a stakeholder to provide names;**
- Imposes a 4-year term limit on FBC chair;
- Allows the FBC to render declaratory statements on accessibility code and authorizes teleconferencing;
- **Mandates at least one opportunity for public comment on any proposed action of the commission before a final vote is taken;**
- **Prevents condo association from prohibiting installation of solar energy devices on condo units and removes 3-story height restriction for installation of solar collectors;**
- Requires the Florida Building Code to facilitate and promote the use of cost-effective energy conserving, energy demand-management and renewable technologies;
- Integrates energy efficiency issues into several elements of the local comprehensive plan;
- **Allows the FBC to select the most recent version of the International Energy Conservation Code as a foundation code and make modifications to achieve efficiencies in current Florida Energy Code;**
- **Schedules increases in energy performance of buildings: 20% by 2010; 30% by 2013; 40% by 2016 and 50% by 2019; Increases are tied to the 2007 Florida Building Code adopted Oct. 31, 2007;**
- **Directs the FBC to review the list of product evaluation entities and in its annual report to the Legislature make recommendations to the list or report on the criteria adopted or to be**

adopted by rule allowing the FBC to approve evaluation entities; rulemaking must occur by July 1, 2009;

- Approves the International Association of Plumbing and Mechanical Officials (IAPMO) as a product evaluation entity until Oct. 1, 2009;
- If IAPMO does not get permanent approval by Oct. 2009, any products with IAPMO approval must be substituted by an alternative method by Dec. 31, 2009 and Jan. 1, 2010, IAPMO approvals are void;
- Directs DCA and the Florida Energy Affordability Coalition, to identify issues to improve effectiveness of the Low-Income Home Energy Assistance Program and the Weatherization Program;
- Ties eligibility for affordable housing funds for certain counties to affordable workforce housing plan;
- Prohibits any local government from owning or operating an asphalt plant or portable or stationary concrete batch plant having an independent mixer;
- Specifies placement of carbon monoxide detectors in nursing homes, hospice facilities and hospitals;
- Effective date: July 1, 2008.

**Ad Valorem Taxation
HB 909 by Rep. Nehr**

- Requires composition of Value Adjustment Boards in all counties to include two citizens—one appointed by the county, one appointed by school board;
- Requires Dept. of Revenue to develop uniform policies and procedures manual to be used by VABs and to track annual increase in total non-voted millage levied by taxing entity;
- Requires special magistrates to preserve the record of all hearings and make recommendations to VABs;
- **Clarifies that when determining “highest and best use” the property appraiser must take into account the legally permissible use of the property, zoning changes, concurrency requirements or permits which would be necessary before the property could actually be used for that highest and best use;**
- Effective date: Sept. 1, 2008.

**Health Insurance
SB 2534 by Sen. Peaden**

- Establishes the Cover Florida Health Access Program as an affordable health care option for uninsured Floridians between the ages of 19-64 who meet certain other criteria;
- Creates the Florida Health Choices Program as a centralized market for the sale of affordable health care products, such as limited insurance plan, HMO plans, limited benefit plans, prepaid services and flexible spending accounts;
- **Employers with 50 or less employees are eligible for the voluntary program that exempts state mandated coverages;**
- Expands eligibility for Health Flex Plans and KidCare program;
- Requires group health insurers to offer the option of continuing coverage for children on a family policy until age 30 if the child is: 1) unmarried without dependents; 2) a Florida resident or a full-time or part-time student; and 3) does not have insurance coverage under any private or public plan;
- Effective date: upon becoming law.

**Mitigation Enhancement
HB 7103 by Rep. Reagan**

- Makes several changes to the My Safe Florida Home (MSFH) program that provides hurricane mitigation inspection and grants for home improvements designed to mitigate hurricane damage;
- To qualify as a wind certification entity, an entity must use mitigation inspectors who are licensed building inspectors, general or residential contractors, professional engineers or architects or persons who have two years prior experience in residential building inspection or construction and have received specialized mitigation training;
- Requires Dept. of Financial Services (DFS) to adopt a quality assurance program that includes a statistically valid number of reinspections;
- Allows DFS to verify that mitigation improvements have been made to all openings, including exterior doors and garage doors, prior to issuing a reimbursement check to the homeowner;
- DFS may contract with a third-party for information technology or contractor services for low-income homeowners;
- Requires DFS to develop No-Interest Loan Program by Oct. 1, 2008, contingent upon selection of a qualified vendor and execution of acceptable contract;
- Allows DFS to contract with not-for-profit entities or local governments to provide inspections and grants to low-income homeowners or to provide services itself;
- **Mandates that property insurers accept as valid a uniform mitigation verification form signed by qualified inspectors or certified by DFS for insurance discounts or credits;**
- Effective date: July 1, 2008.

**Insurance
SB 2860 by Sen. Atwater**

- The "Homeowner's Bill of Rights Act" revises the Capital Build-Up Incentive Program to lure more insurance companies to write policies in Florida;
- Authorizes the Office of Insurance Regulation (OIR) to order an insurer to file its claim handling procedures as a public record based on market conduct examination;
- Doubles all current fines for insurers who violate the Insurance Code or any rule, order or unfair insurance trade practice;
- Revises method for submitting trade secret documents;
- Requires insurers not renewing more than 10K policies within a 12-month period to notify OIR 90 days prior to issuing nonrenewal notices;
- Revises administrative proceeding in rating determinations and repeals rate filing arbitration panel;
- Prevents an insurer from increasing rates prior to OIR approval
- Requires use of approved hurricane loss model;
- **Requires the OIR to develop by Feb. 1, 2011, windstorm mitigation premium credits (discounts) that correlate to the numerical rating of a structure pursuant to uniform home rating scale;**
- Grants 2-year period after effective date of revised credits for owner to get an inspection to qualify for new credits;
- **Makes several changes to Citizens Property Insurance Corporation including extending the rate freeze on rate increases to Jan. 1, 2010; requiring Citizens to make an actuarially sound rate filing beginning July 15, 2009, effective no earlier than Jan. 2010; and revising the required assessments to fund the deficit;**
- **Extends Citizens eligibility to homes less than \$2M;**

- **Repeals code-plus requirement for Citizens coverage;**
- Increases nonrenewal notices from 100 -180 days for policies written for 5 years or more;
- **Effective Jan. 1, 2010, requires disclosure of a home's windstorm mitigation rating for a Citizens insured home in the windborne debris region with a \$500K value or more;**
- **Effective Jan. 1, 2011, requires that a purchaser of residential property located in windborne debris region be informed of the windstorm mitigation rating of the structure, either in the contract or separate document;**
- Allows insurers to offer multi-policy discount if policyholder has wind-only coverage with Citizens;
- Creates Citizens Mission Review Task Force;
- Requires OIR to provide information on Web site for transparency in rate regulation;
- Effective date: July 1, 2008.

Small Business Regulatory Relief HB 7109 by Attkisson

- Designates the Florida Small Business Development Center Network as the principal business assistance organization for small businesses;
- Establishes a Small Business Regulatory Review Advisory Council and a Small Business Advocate;
- Requires small business-friendly scorecard of agency rules and requires agencies to prepare a statement of estimated regulatory cost if a proposed rule impacts small business;
- Effective date: July 1, 2008.

Other Bills of Interest

- Foreclosure Fraud—HB 643—creates consumer protections for homeowners who are in default on their mortgages;
- Mortgage Fraud—HB 743—addresses the reassessment of real property involved in the crime of mortgage fraud for profit;
- Right to Keep & Bear Arms in Motor Vehicles Act—HB 503—prohibits employers from preventing anyone from keeping legally-owned firearm locked in private motor vehicle in parking lot;

Bills That Did Not Pass

- Swimming Pool & Spa Safety—intended to implement the recently-passed federal legislation; FSPA worked with sponsor to ensure consistency with ANSI/APSP 7 and federal requirements; leadership did not like retrofit provisions;
- Owner/Operator Exemption Repeal—unable to get traction on this issue and instead had to fight against expansion of the exemption
- Growth Management—became a political football between House and Senate
- Impact Fees—stuck in growth management fight
- Affordable Housing—industry own worst enemy
- Cranes—would have preempted local ordinances regulating tower cranes
- Cell Phones—ban usage while driving
- Property Tax Limitation—limited taxes to 1.35% of property's taxable value
- Green Buildings-Tax Credit—no money to fund credits

Bad Bills /Issues Defeated

- Contracting—Local Discipline – would have subjected state-certified contractors to duplicative local

authority

- Arbitration Code—limited flexibility, bad for business
- Automatic Renewal Service Contracts
- **Suction Entrapment Devices—as part of HB 679, would have mandated unwarranted safety devices on ALL residential swimming pools counter to ANSI/APSP 7 and federal legislation; FSPA successfully lobbied to keep the bad language off the Senate companion**