

**FLORIDA BUILDING COMMISSION  
LEGISLATIVE TELECONFERENCE MEETING  
March 9, 2015  
10:00 AM**

**COMMISSIONERS PRESENT:**

James Batts  
Seven Bassett  
Bob Boyer  
Oscar Calleja  
E.J. Carlson  
David Compton  
Nan Dean  
Kevin Flanagan  
Charlie Frank  
David Gilson  
Jeff Goff

Jeffrey Gross  
Robert Hamberger  
Brian Langille  
Beth Meyer  
Darrell Phillips  
Brad Schiffer  
Fred Schilling  
Jim Schock  
Jeff Stone  
Brian Swope  
Tim Tolbert

**COMMISSIONERS NOT PRESENT:**

Chairman Browdy  
Donald Brown

Hamid Bahadori  
Drew Smith

**OTHERS PRESENT:**

Jim Richmond  
April Hammonds  
Chris Burgwald

Mo Madani  
Jim Hammers

**Welcome:**

Jim Richmond opened the meeting at 10:05 am, EST, Monday, March 9, 2015. Roll was called and a quorum was determined.

**Introduction and background:**

Mr. Richmond stated that these meetings will be held on a semi regular basis to go over pending legislative issues. He stated the legislative session is over a period of sixty days and it started last week and will run through approximately the beginning of May. Mr. Richmond further said that there will be one call after the session as a wrap up to see what passed and what did not pass through the session. He said once we get close to the end of session it may be necessary to have

**Introduction and background (cont.):**

weekly meetings and there may be some meetings canceled as there is nothing new to present and typically on Friday afternoon you will receive an e-mail advising of a cancellation. Mr. Richmond stated if there is anything they wish to have brought up on the calls, to e-mail him in advance to add to the agenda.

**Agenda:**

Mr. Richmond asked for comments, there being none, he asked for public comment, there being none, he asked for a motion to approve the agenda.

A motion was entered by Commissioner Compton to approve the agenda. Commissioner Schilling seconded the motion. The motion passed unanimously.

**Legislative Update:**

Mr. Richmond stated this legislative update is on bills concerning the building code and some bills that include the construction industry. He said he sent the bill matrix via e-mail to all of the Commissioners prior to this call and will continue to use this format throughout the session for the conference calls. Mr. Richmond provided background information on how the bill numbers are issued.

Mr. Richmond provided an overview of the matrix and the format, what each section means and how they interact with the process including the sponsor of the bill.

Mr. Richmond provided the website [www.leg.state.fl.us](http://www.leg.state.fl.us) to be able to review bills and see actual debates and introduction of bills on the floor of the House and Senate Committees; he also provided the process to view particular bills by using the bill number. He further explained how the bills go through Committees to be heard and how the substitute bills come to be viewed. Mr. Richmond stated they need to be sure they are viewing the most recent printing including all amendments that have been approved.

**Bill Matrix: [Matrix 3-9-15](#)**

Mr. Richmond stated he would like to proceed down the list of bills that are presented on the matrix, but he would like to know if any other Commissioners have joined the call.

Commissioner Tolbert stated he had joined the call.

Commissioner Schock asked as the matrix is being presented if they will be allowed to ask questions on each one or would he prefer to wait until the end.

**Bill Matrix (cont.):**

Mr. Richmond stated certainly, they may ask questions at any time as he will be going through the bills as topics including Senate and House Bills and will allow comments or questions after each.

Mr. Richmond stated the best thing this year starting this year is that the numbers stayed coupled up. He said the first bills were **HB 413 and SB 466** companion bill. Mr. Richmond said civics refresher, the bills move through each chamber of the Legislature and ultimately have to be passed in the same and also could narrow down to one or the other bill although there could be a third option of a committee bill, but at this point each house considers a version of the bill and they have to move or pass out with basically the same language to go before the Governor's Office.

Mr. Richmond said this bill builds on some legislation that was heard last year relating to smoke detectors, burglar alarms and virtually any non-wired alarm system. He said of interest is that no permit will be required to maintain, replace or service a smoke detector that is not hard wired. Mr. Richmond stated last year some legislation was put in place that recognized battery powered alarms provided that they had a particular ten year non removable batteries to suffice for compliance with the Building Code which previously required all but the most rare of circumstances a hard wired system in new construction. He said the bill is progressing and has been heard in its first Committee for both the House and Senate and there were some amendments to the bill which pertained only to some local government key provisions and did not address the concerns that the Commission may have where all of a sudden you may have a smoke alarm being installed for compliance with the minimum code yet there is no authority to require a permit for that installation.

Mr. Richmond asked for questions or comments from the Commission.

Commissioner Schock stated that his concern is not with the process and what they are trying to accomplish, but with them trying to write code into Legislation instead of bringing it to the Commission. He further stated that he hopes with the new Workgroup they can find out why contractors or industry are wanting legislation instead of bringing it to the Commission and get this resolved. Commissioner Schock stated again his only opposition is that they are trying to do building codes at the Legislative level. He said that as for fees, they can vary for good reasons including things such as mileage and he does have concern over building fees.

Mr. Richmond introduced staff present on the call today.

**Bill Matrix (cont.):**

Mr. Richmond stated that one of the things we run into referencing Commissioner Schock's comments is that we are restricted as to what we can put into the Building Code. He said there have been circumstances where people have sought to perhaps legislate items that could not otherwise be adopted into the Code. Mr. Richmond advised this may or may not be one as this has not been brought before the Commission for consideration and this is a comment that may warrant input. He said if it is something that the Commission can adopt, it is the Legislatures discretion in any event and a better practice may be to refer to the Commission for consideration.

Mr. Richmond continued with **HB 525 and SB 592** stating these are bills that recognize local water conservation practices and currently refers to those adopted into the Code are automatically rolled forward into future editions of the Code. He said it was his understanding that it is overstating what the proponents are looking for, they are looking to put these into the same status that flood related local amendments are and they remain local amendments but are not sunset every three years. Mr. Richmond said these have not been taken up in either of the Chambers, but he feels that when it comes up there will be an amendment that will restrict really only to local amendments and retain local character but will roll forward without re-adoption every three years.

Mr. Richmond asked for comments.

Commissioner Gross echoed that things should come back to the Commission and he does not think this should be a mod to the code. He also said why Broward County should be different than any other county and have to go back every three years.

Mr. Richmond stated these bill language as currently proposed is not specific to Broward County any local government that adopts local water conservation practices as local technical amendments would enjoy the same procedural pass. He said Broward County has been active adopting local technical amendments and both sponsors are from Broward County. Mr. Richmond again stated these bills are not limited to one county.

Commissioner Gilson stated that his concern is not so much the water conservation part of it but the local amendment portion of it. He said presumably he was put in to take care of local glitches and give them an opportunity to put it into the code for the next cycle. Commissioner Gilson advised that his fear is that this may be opening flood gates and will keep rolling over and over. He stated he is in Pinellas County and they have local technical amendments they try to re-enforce every code cycle instead of going through the process of putting it into the code. Commissioner Gilson said if there is one slip the next thing you know we will have what we had back in the 80's where every county has its own rules and not using the Code.

**Bill Matrix (cont.):**

Mr. Richmond said in response to Commissioner Gilson that there is no limitation to the application of the restriction on local amendments ability to be adopted. He said in order to get one of these adopted essentially you will still need to prove there is a local need, hold the hearings, go through County Compliance Review Board and everything along those lines and be subject to challenge as provided in statute. Mr. Richmond also said that basically when they go through it once they do not have to repeatedly go through and adopt it and he believes any of these measures adopted by local governments would still need to be uploaded into our system because there is not an exemption for that and subject to the Commissions view at the triennial review.

Mr. Richmond stated **HB 795 and SB 926** basically requires the Commission to adopt standards for the installation of underwater lights in public and private pools and prohibits installation of lights greater than fifteen volts. He said the bills contain several other items referring to the Department of Health Enforcement Authority and their interaction with local building departments. Mr. Richmond stated there was some publicity in the fall on this subject.

Commissioner Schock said that he is sympathetic to the family that lost their son in the pool execution; but this should come back to the Commission as a code mod and not be heard in the Legislature. He said the other part over the interfacing with the Building Departments in this bill would be okay.

Commissioner Gross said that apparently the NEC Committee on swimming pools rejected it and now requires ground fault protection. He said if NEC turned it down he did not see how we could support it, he supports it going through the code mod process.

Mr. Richmond asked Commissioner Gross if there was any further consideration of a provision like this from ICC or anyone else that your research found.

Commissioner Gross said not that he knows of. He said the County Health Department requires this for the commercial pools, the residential pools are under NEC.

Commissioner Schock said the information he found is that it can be constructed safely as it is right now; the incident included some other code violations.

Mr. Richmond stated one thing of concern is anytime something is written into statute it limits our ability to further address it in the code including further advancement or new technology. He said on the other hand it would create some discussion specific to Florida need if presented as a code mod, the biggest aspect would not be related to us but the burden on the Health Department inspection and pool integrity. Mr. Richmond said on the House side it has been referred to four committees to date which makes it difficult as none have met as of today.

**Bill Matrix (cont.):**

Mr. Richmond stated **HB 911 and SB 1034** are restricted to manufactured buildings which are handled at Department of Professional Regulation in our office. He said the sponsors he believes mean this to apply to residential buildings in general and not just residential manufactured buildings, however, we will continue to monitor and track for future developments.

Commissioner Schock stated again this is something that should be coming to the Commission and not through the Legislature.

Mr. Richmond continued with **HB915 and SB 1232**. He stated the House Bill was sponsored by Representative Eagle and the Senate Bill was sponsored by Senator Simpson. He stated specific to SB 1232 Senator Simpson is the Chairman of the Community Affairs Committee, the second substitute committee to which this bill is referred and fiscal policy is really a stop for any bill that has potential for fiscal impact on the State, generally reviewed for that purpose before that Committee. Mr. Richmond said this is an item of significance and certainly anticipate that this bill will be heard and will move in both the House and Senate. He stated they have not been scheduled for meetings this week.

Mr. Richmond provided the summary of these two bills for discussion including defining the Department of Health's role as including enforcement of the Florida Building Code through its regulation of public pools and the role of local enforcement agency in DOH's enforcement activities. He also stated it is requiring a water level detection device in hot water heaters. Mr. Richmond said it will be adding Underwriter's Laboratories, LLC, as an evaluation entity for the purpose of the State Product Approval System. He said last is eliminating the involvement of the Commission in the development and accreditation of building code related continuing education for those in the construction industry basically the function of the Education POC and related consideration by the Building Commission.

Mr. Richmond said that is the substance of the bills right now. He said this will certainly stand a very good chance of becoming what is referred to as trains, which is any bill relating to construction in the State of Florida can grow exponentially very quickly as additional issues are raised and will bear close watching and probably be the bulk of the topic for the conversation in the coming month on these calls.

Commissioner Schock said this should be with the Commission. He said he really wants to talk about the education. Commissioner Schock said the people licensed in the construction industry the way the system is right now, you can get your courses approved through each licensing board for that particular type of license. He said for those that hold multiple licenses and those providing training have to do a lot of submissions to get approval. Commissioner Schock stated he believes that the CEU requirements should be taken out of the licensing boards and put solely with the Commission for all construction education licensing so that you get a course approved

**Bill Matrix (cont.):**

at one location that is approved for all. He said maybe we need to ask that the Legislator to streamline what we do with the classes, but he hates to see it go away, as he sees it as an avenue to come together with other licensing board.

Commissioner Compton asked the background on this bill and why are they trying to do this.

Mr. Richmond stated he hated having this initial discussion without the presence of Chairman Browdy as he has been a large part of the background for many years. He said he took many beatings on the subject of Building Code Education dating back to probably 2002; there is a great deal of history here. Mr. Richmond said approximately eight years ago the Commission made a recommendation generically that the Legislature needed to select one avenue for education courses, but did not identify the avenue. He said in the past the Commission initially had a large role in Building Code related education and then it devolved into some statutory workgroups which involved other licensing boards, but the relationships were never friendly enough to have as smooth an operation as they had hoped. Mr. Richmond further said leading ultimately to the Commission wanted out Building Code education by that time because it had turned into a sour subject and the point of contention between the licensing boards and the Commission. He said that as a result the Legislature created the accreditation process, which to that point was a voluntary process that the Commission had created and in addition to that mandated that certain professions take advanced Building Code CEU's as designated by their individual licensing boards. Mr. Richmond said that is where we are today and he is not sure of the motivation of striking through this language which can potentially cause difficulty to some professions as a requirement by their Boards to renew their license which require them to have the advance courses approved by the Commission and this will eliminate the statutory authority for the Commission to approve courses, so the Commission will not approve any more, but the professionals will still be required to take approved courses to renew their license. He further stated this is obviously a problem, although there is a library of courses that the Commission has approved that could qualify, but it is certainly something to consider. Mr. Richmond stated he felt they would have a difficult time not being able to forward recommendations without more leg work to take this over in lieu of licensing boards at this time of the session. He said the channels are numerous to get this to that level, however, would most likely generate opposition at the board levels and have experience and authority with approval and maintenance with the courses as well as their licenses as in 455.

April Hammonds stated each practice act dictates and governs the approval of courses for the different professions.

**Bill Matrix (cont.):**

Mr. Richmond said the one key component held by the Commission that has to be fulfilled that he does not think is addressed by the licensing boards is the actual content of the courses and whether or not it is consistent with the Florida Building Code and its programs. He said he does not see our process as duplicative or unnecessary, he said we fulfil a role that is not filled by anyone else, however, it may be a policy call that the Legislature needs to make. Mr. Richmond stated we are following up to try and figure out what the motivation is and ultimately what the result sought is because in addition to eliminating the role of the POC, is eliminating the role of the Commission and Department in generating the courses which has been a large part of our contract with molding a safer Florida, he stated he is not sure what is going on there. He said there is still \$925,000 that goes to building a safer Florida and a large component of that is creation of coursework and if that disappears, he is not sure what happens to the work through that contract.

Commissioner Gilson asked Mr. Richmond if he knew the background on the water level device for the water heaters.

Mr. Richmond stated that Mo Madani had done research the fact that assembled or the same device was considered by the ICC and turned down.

Mr. Madani stated this was proposed a few years ago to the ICC code change process but was defeated and not considered. He said for us, this has shown up as a legislative proposal, the plumbing code now requires that you provide a pan underneath a water heater for certain locations if there is a possibility of damage to a structure. Mr. Madani said this seems to be a duplication of effort so we will need to wait as it is early and we will keep watching.

Commissioner Gilson stated the way it is written leaves a concern about misinterpretation and the manufacturer would have to change the unit prior to being sold. He said his concern in the language that would affect the manufacturer.

Mr. Madani stated no his understanding is it is similar to what is being done now for mechanical systems in lieu of the pan, now you can install an alarm where they are wired into a pan that comes with A/C, detection of water leaks within the tanks. He said he does not see as a manufacturing issue, it is done as an auxiliary as an installation.

Commissioner Gilson asked if it is a device that will shut off the water heater or just an alarm.

Mr. Madani stated it will stop the hot water heater just like an A/C unit.



**Bill Matrix (cont.):**

Commissioner Gilson stated an A/C is low voltage is a simple process, but for a water heater that can potentially be \$200 or \$300 more for installation, he said he wanted to make sure he is reading it the same way it was intended.

Mr. Madani stated they are still researching and still reading to understand and waiting on the Legislative review.

Commissioner Schilling stated his concern was the same the language is written where you could read in that this is a modification that would be required by the manufactures. He thanked Mo for clarification but asked about the process of these bills on items such as this, would this come before the Plumbing TAC before it becomes law, is there a review process to add comments.

Mr. Richmond stated there is insufficient time, we are fortunate enough to set up Commission calls, but there would not be time to establish a TAC meeting as well.

Commissioner Schilling said that it seems like we are kind of getting out of the program and we have Senators and Representatives that without our previous input would be going forward and making these recommendations without professional comments and suggestions. He said he is trying to understand and made aware that this is how the system is in place.

April Hammonds advised that he is correct.

Commissioner Calleja said regarding the legislative proposals, basically this is coming from someone or a group with special interest. He said instead of going to the Commission on the Code they are by-passing and going straight to the Legislature and by passing the Commission. Commissioner Calleja said they need to find out who the interest in the bill is and what their intent is for the outcome.

Commissioner Hamberger stated he agrees with his fellow Commissioners. He said wording should be clear and not so vague and he said this could turn out to be a free for all, the devil is in the detail and will be trouble the way it is written.

Commissioner Schock stated he thinks this is why it is so import that the Code Implementation Workgroup to get with the industry more and find out what their motivation is and why they want to go around the Commission and what can be done to work with the Commission, what can they do to work through the requirements and to see if they can stop them going to the Legislative.

**Bill Matrix (cont.):**

Mr. Richmond stated typically items like these do not come from associations; we could talk to all the stakeholder groups until we are blue in the face, these issues typically come up from single constituents in their districts. He said the associations have been good partners trying to get their members to stick by the system and use the code and the Commission, however, we will never prevent individual constituent issues and realistically he does not know from a broader policy basis that we want to. Mr. Richmond said ultimately as he has stated before that he understands the technical sensitivity as many of these issues and the need for the type of input the Commission could give would ultimately in adopting the Florida Building Code the Commission is exercising delegated Legislative authority to say what the law is. He further stated under the standard separation of powers what the Commission is doing is the Legislatures job, so it is never going to be easy to get traction going to the Legislature and telling them not to do their job because the Commission is doing it for them. Mr. Richmond stated that this is just one of those things, he said now the technical input is extremely helpful and we try to convey all of the ideas through our chains of communication. He said it is important to remember that the Legislature of the three bodies of government has the authority to say what the law is and it will always be something that we will need to deal with as best we can.

Commissioner Schiffer said since the Commission is going to be meeting every few weeks and reviewing these things, if we have suggestions or changes in the language, why do we not vote and submit to the sponsor. He further said they may not be aware of technical problems as we have had this in the past when there was a code change where the words cluttered up the meaning. Commissioner Schiffer asked if the Commission could take a vote with a quorum and suggest wording.

Mr. Richmond advised that anything we do as an executive agency would have to be worked through the appropriate processes and ultimately through the Governor's Office to move forward. He stated essentially there well may be issues that are worthy of going through that process to the extent we are addressing kind of technical issues like this we certainly take results of these phone calls and often times have already moved forward on trying to give this type of technical assistance prior to even talking to the Commission. Mr. Richmond advised there is a certain motivation even from the office's standpoint to have some language that makes sense. He said the staff certainly takes the Commissions comments from these calls and move forward with the process that is already in place but to actually recommend the language is an extremely cumbersome process that he thinks really be reserved for the most critical issues.

Commissioner Gross asked if this restricts them from going back to their organizations like AIA and having them suggest or lobby for changes.

**Bill Matrix (cont.):**

Mr. Richmond stated no, this would not be a restriction on them. He said it would be nice to get an e-mail so that he could let the DBPR legislative folks know what is going on, however, he did say that it is not necessary. Mr. Richmond cautioned sending recommending anything listing them as a Commissioner. He said the appointments to the Commission are in representation of the different professions within the scope of the Commission and allows the different organizations to have input and representation.

Commissioner Schilling asked for clarification on the issues that have come up for discussion before on the water level detection device and asked if this was heard before, he stated the first time he was made aware of it was in receiving the documentation for the call from staff.

Mr. Richmond stated no Mo Madani referred to was it was considered by the International Code Council for inclusion into the International Plumbing Code, but was never considered by the Building Commission.

Commissioner Schilling stated this more than likely was brought up in the District of this Representative or Senator in question because he said it was not generated by any industry plumbing related organization, or he would have been aware some time ago. He said he was concerned with the process as they are here as a body of Commissioner where there are Senators and Representatives basically approving technical aspects of the Building Code and with all due respect he does not feel they are qualified to do that. Commissioner Schilling stated that he is troubled that this has never been brought before the Commission or the Plumbing TAC to be discussed.

Mr. Richmond stated nothing prevents us from recommending back to the Legislature. He said this is a super technical issue and would benefit by review from the technical experts in the field and the Plumbing TAC of the Florida Building Commission. Mr. Richmond said that he would prefer to keep it as positive as possible as opposed to questioning the authority of the Legislature because the plain fact is as a matter of the constitutional law; the Legislature is qualified to make these decisions. He said as a matter of practical sense there may be better groups to give input on them but it is the way of separation of powers works.

April Hammonds stated she wanted to follow up and reiterate what several Commissioners have brought up and what Jim has said. She said as citizens these are elected officials and you feel you have a route or may have an association with a route to speak to them regarding some changes that you would like to see as an individual and as a practitioner in this area, it is your right to do so. Ms. Hammonds stated she wanted to remind people while as a body we are limited, but as individuals we all have the right to speak and make our opinions known.

**Bill Matrix (cont.):**

Mr. Richmond asked for any additional comments or questions. There being none, he asked for public comment, there was no public comment. He advised when he had to leave the meeting for a short time, he was taking a call from Chairman Browdy who was stuck on a plane, but stated he would be on the next call.

**Follow-up Roll Call:**

Mr. Richmond performed a second roll call as directed by procedural changes at the last Commission Meeting. Roll was taken and all members originally on the call remained on the line.

**Conclusion:**

Mr. Richmond advised the Commission that we do enjoy considerable support from the Legislative Affairs Office at DBPR. He said that he and Mr. Madani had attended a meeting earlier this morning where some of these topics were discussed and he said they specifically asked what problem this solution is in search of. Mr. Richmond further stated and as we get further information we will certainly relay it to you. He said this is a very dynamic process and things change and are refined on a regular basis which is why we have the ongoing phone calls. Mr. Richmond said there is a great deal of communication back and forth between the Department and Sponsors and various committee staff on the floor of the Legislature. He said he feel the Commission's concerns are typically communicated and heard and hopefully addressed in the final outcome from the Florida Legislature. Mr. Richmond stated in the meantime send him e-mails or give him a call with any questions they may have.

**Adjournment:**

There was no further business and Mr. Richmond adjourned the meeting at 11:30 am.