

**FLORIDA BUILDING COMMISSION
LEGISLATIVE TELECONFERENCE MEETING
February 1, 2016
10:00 AM**

COMMISSIONERS PRESENT:

Chairman Browdy
James Batts
Bob Boyer
Donald Brown
Oscar Calleja
E.J. Carlson
Nan Dean
Charlie Frank (10:20 am)
Shane Gerwig

David Gilson
Jeff Goff
Jeffrey Gross
Beth Meyer
Brad Schiffer
Fred Schilling
Jeff Stone
Brian Swope

COMMISSIONERS NOT PRESENT:

Hamid Bahadori
David Compton
Robert Hamberger
Darrell Phillips
Drew Smith

Seven Bassett
Kevin Flanagan
Brian Langille
Jim Schock

OTHERS PRESENT:

Jim Richmond
April Hammonds
Chris Burgwald

Mo Madani
Robert Lorenzo

Welcome:

Jim Richmond opened the meeting at 10:01 am, EST, Monday, February 1, 2016. Roll was called and a quorum was determined with 17 members present.

Introduction and background:

Mr. Richmond stated that these meetings are being held to go over pending legislative issues. He provided additional background and the website www.leg.state.fl.us that the Commissioners can use to review bills that are current along with any substitutes. Mr. Richmond stated that any Commissioner that has been reappointed and needs to complete their re-appointment paperwork should do so as soon as possible for confirmation as the session will end this year the first week of March.

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 Brown to approve the agenda. Commissioner Boyer seconded the motion. The motion passed unanimously with 17 votes in favor.

Legislative Update and Bill Matrix: (ATTACHMENT A)

Mr. Richmond advised that there was a matrix sent out Friday that goes through a list of about eight bills that are currently pending that have the most impact that we would have concern with.

Mr. Richmond stated the bill he would like to use as the guidepost is **CS/HB 535** by Representative Eagle. He said this bill is the most advanced in terms of amendment process and discussion.

Mr. Richmond stated on the second page of the matrix are bullet points for **HB 535**, and provided a breakdown and full explanation of each point.

Mr. Richmond stopped at this point and provided background on how bills are numbered and how they can be viewed on the link provided. www.leg.state.fl.us.

Mr. Richmond referenced each bullet point under **HB 535** and explained the meaning of each. He advised the Commission to stop him if they had any questions or concerns.

Mr. Richmond stated **SB 704** as he understands it will be amended to look like the House Bill.

Chairman Browdy asked on **SB 704** under bullet eight, who is in charge with the responsibility to formulate that report.

Mr. Richmond replied that would be staff and the Department on behalf of the Commission. He stated that requirement has been pulled out of **HB 535** and he said it was his understanding that they are not planning on moving forward with it and it should come out of **SB 704** in the near future.

Time was allowed for any questions on comments from the Commission.

Chair Browdy then asked that when we have a legislative mandate not to do something, i.e. not the require the second fire service elevator and not to require the blower door test, do we amend the code to specifically to state a non-requirement or do we leave the code in place or does the non-requirement just enter into the enforcement end of it.

Legislative Update and Bill Matrix (cont.):

Mr. Richmond stated that we do need to figure that out as we go forward but feels the immediate response should be to review the code and take out those elements of the code that are inconsistent with statute as drafted. He said to the extent that codes does currently require two fire service access elevators in circumstances that would conflict with the statute we would amend the code through the glitch amendment process to take those requirements out.

Chairman Browdy asked if it is necessary specifically within the code to articulate the non-requirement to do something. He then stated that the legislature did that with sprinklers the residential sprinklers and would this be the same methodology for expressing that legislative mandate.

Mr. Richmond stated he did not believe that we would have to put in the code that the Commission cannot require it, it just governs our actions also it does not mean that we have to put language in the code telling the world that we have been prohibited from doing it although we could as well.

Ms. Hammonds stated for point of discussion regarding the fire access elevator the way it is written is that it shall not be part of the Building Code, yet it will go into effect in 2017, so it kind of causes a conflict to the extent if we take it out of the code but yet they intend for it to go in effect in 2017, it creates a conundrum of should we take it out and put it back in or does it stay in and just not go into effect. She said this is what they have been discussing, exactly what they are looking for.

Mr. Richmond said the situation with the blower door testing we need to move forward and document the same requirements that were in the 2010 Code somehow with correlative changes as required to make sure they are workable.

Mr. Madani stated from prior experience the law will go into effect anyway so the statute will take precedence over the Florida Building Code, however, during that time we normally amend the Code to be consistent with the Law and we try to go through a review and making sure we are revising the Code to be consistent with the Law. He said we cannot have a code out there that is in conflict with the law.

Mr. Richmond stated the complicating factor with the blower door testing, no matter what we would put in the 2014 Code or the 2017 Code, people will still be statutorily required to refer to the 2010 Code.

Legislative Update and Bill Matrix (cont.):

Chairman Browdy asked if it can be required or can a building official notwithstanding the action of the legislature require a contractor to perform a blower door test if an inspector is requesting it.

Mr. Richmond responded that he did not believe so.

Chairman Browdy asked if this would be something right for a declaratory statement.

Mr. Richmond stated it could be right for a declaratory statement and he thinks the particular circumstances could be critical of that, if for instances someone seeking to use an alternate or an equivalent it may open the door for building officials to say they can only approve that upon demonstration of equivalence of a blower door test. He further said if someone if just applying based on the minimum code, they most likely would not be required, but they could be required which the declaratory statement would be the way to go.

Commissioner Calleja stated the mechanical code is tied to the blower door issue so both things are being sent back to the 2010 version the fresh air requirement for residential homes. He said if this passes and we amend the 2014 code to read exactly like the 2010 code we would probably be in compliance with the law and would be a clearer way to present to the building officials out there.

Mr. Richmond responded stating in terms of practical enforcement he may be correct as any language put in the code should probably say that 2010 requires this, but as a matter of statute, once again supersedes anything we do administratively by rule. He further stated that the enforceable provision remains the 2010 Florida Building Code. Mr. Richmond stated we can do whatever we want but when push comes to shove what needs to be enforced is the 2010 Code.

Commissioner Calleja responded stating that we could reference in the 2014 Code that this section is under the 2010 Code. He further stated he felt it was very important that we write it exactly as we require it.

Commissioner Carlson stated he agreed with that statement and this language would elevate a lot of confusion at the local level.

Mr. Richmond stated that we would have to amend the code to ensure what we are saying you can build and the procedures are consistent with the Florida Law, he said we certainly should not leave a book out there that would mislead people.

Legislative Update and Bill Matrix (cont.):

Commissioner Brown asked if there had been any communication with the legislative staff about how awkward this approach is number one and number two his approach is of federally backed home mortgages that absolutely require this test be done. He asked as we read the existing language in the bill that prohibits enforcement of the mandatory nature of the blower door test, would there be a conflict or would that be a function to just be enforced by the mortgagee?

Mr. Richmond responded stating yes to his first question we have had communication with both the House and Senate staff through our bill analysis that we perform here as well as by teleconference with staff as these amendments are being drawn and bills are being drawn. He continued stating regarding the second question, the Florida Building Code represents the worst building you could build in the State and get a permit for it, so if someone wants to perform a blower door test or has to perform it for mortgage purposes the code would not prevent them from doing so, it would prevent a building official from holding up a certificate of occupancy or permit unless that testing were done.

Mr. Richmond asked for any further comment on this section. There being none he continued with matrix.

Mr. Richmond continued the matrix and spoke briefly on **HB 51 and the Calder Sloan Bills.**

Mr. Richmond provided an overview of **HB1263** along with the companion **SB 1618** discussing the expiration and renewal of building permits.

Chairman Browdy gave conclusion of most important item that education is being removed from the Building Code and is being moved to the Boards and the courses will be controlled by the Boards. He said the Education POC will no longer have a function.

Chairman Browdy provided time for Commission and Public comments. There were no additional comments.

Adjournment:

There was no further business and Mr. Richmond adjourned the meeting at 10:39 am.

ATTACHMENT - A

Bill #	Sponsor	Summary	Committees of Reference	Recent Activity
HB 51	Rep. Jacobs	Water conservation local amendments excepted from triennial sunset.	Bus.&Prof. Sub; Local Gov't Aff.; Reg. Aff.	1 st reading on January 12, 2016
HB 295	Rep. Fresen	Calder Sloan Pool Safety Task Force	Bus.&Prof. Sub; Gov't Ops; Gov't App.; Reg. Aff.	Recommended favorably by Bus.&Prof. Sub, January 12, 2016
SB 530	Sen. Sobel	Calder Sloan Pool Safety Task Force	Comm.Aff.; Fiscal	Cleared committees and placed on Special Order Calendar for January 21, 2016.
CSHB 535	Rep. Eagle	Primary code related bill, see list at the conclusion of the table.	Bus.&Prof. Sub; Local Gov't Aff.; Reg. Aff.	1 st reading on January 12, 2016; reported favorably by Bus.&Prof. with a committee substitute.
SB 704	Hutson	Companion to HB 535, see list at conclusion of the table	Comm.Aff.; Gen.Gov't App.; Fiscal Policy	Introduced on January 12, 2016.
H1263	Rep. Wood	Addresses expiration and renewal of building permits.	Civ. Justice; Judiciary; Bus.&Prof. Sub.	Introduced January 12, 2016.
S1348	Sen. Sobel	Companion to HB 51	Comm.Aff.; Env.Pres.; Fiscal.	Introduced January 12, 2016.
S1618	Sen. Hutson	Companion to HB 1263	Communications; Judiciary; Fiscal.	Introduced January 14, 2016.

CS for HB 535 includes changes to statute:

- Defining portable pools used in support of a particular educational program as private pools;
- Repealing the Commission’s authority to accredit building code related continuing education for those in the construction industry;
- Adding Underwriter’s Laboratories, LLC, as an evaluation entity for the purpose of the State Product Approval System;
- Designating funds from the annual appropriation to the Compliance and Mitigation Program to be expended on a particular workgroup’s recommendation and nonbinding interpretations of the Florida Fire Prevention Code;
- Authorizing issuance of foundation only building permits;
- Specifying that the Code require only one fire service access elevator in particular buildings and requirements for elevator lobbies with direct access from a fire service access elevator;
- Specifying the continued enforcement of a section of the 2010 Florida Building Code relating to air infiltration testing and ventilation of residential dwelling units;
- Requiring the Commission to create a task force to review standards related to electrocution risks associated with swimming pools;
- Replacing the designation of an administratively dissolved corporation with an active organization for representation on the Accessibility Advisory Council;
- Adding an engineer and architect to the panels that review appeals of local interpretations of the building code;
- Directing the adoption of code amendments to facilitate zero lot-line subdivisions;
- Providing for an alternative means of demonstrating compliance with the energy provisions of the building code; and,
- Indefinitely extending an exception to the requirement that mechanical equipment comply with the wind design requirements of the code.

SB 704 includes changes to statutes as follows:

- Defining portable pools used in support of a particular educational program as private pools;
- Repealing the Commission’s authority to accredit building code related continuing education for those in the construction industry;
- Adding Underwriter’s Laboratories, LLC, as an evaluation entity for the purpose of the State Product Approval System;
- Designating funds from the annual appropriation to the Compliance and Mitigation Program to be expended on a particular workgroup’s recommendation and nonbinding interpretations of the Florida Fire Prevention Code;
- Authorizing issuance of foundation only building permits;
- Specifying that the Code require only one fire service access elevator in particular buildings and requirements for elevator lobbies with direct access from a fire service access elevator;
- Specifying the continued enforcement of a section of the 2010 Florida Building Code relating to air infiltration testing and ventilation of residential dwelling units;
- Repealing the exemption of the Florida Building Code from the requirement for legislative ratification of particular rules and requiring legislative ratification of the adoption of a particular section of the Code if the adoption results in a cumulative fiscal impact of \$1 million in five years;
- Requiring the preparation of a Statement of Estimated Regulatory Costs with regard to any change to the model “foundation” codes that results in a cumulative fiscal impact of \$1 million in five years;
- Requiring the Commission to create a task force to review standards related to electrocution risks associated with swimming pools;
- Replacing the designation of an administratively dissolved corporation with two organizations for representation on the Accessibility Advisory Council; and,
- Adding an engineer and architect to the panels that review appeals of local interpretations of the building code.