HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1059 Building Permits
SPONSOR(S): Regulatory Reform Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Regulatory Reform Subcommittee		Brackett	Anstead

SUMMARY ANALYSIS

The Florida Building Codes Act provides a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.

Current law requires local governments to enforce the Building Code and issue building permits. Current law also requires state agencies, state universities, Florida College System institutions, and public school districts to enforce the Building Code in certain situations. Each local government entity may provide a schedule of reasonable fees in order to defer the costs of inspection and enforcement of the Building Code. It is unlawful to construct, erect, alter, repair, secure, or demolish any building without first obtaining a building permit.

A development permit is any official action of a local government that has the effect of permitting the development of land including, but not limited to, building permits, zoning permits, subdivision approval, rezoning, certifications, special exceptions, and variances. A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit.

The bill:

- Requires local governments to review additional information for an application for a development permit or development order within a certain time-period.
- Clarifies and requires local enforcement agencies to:
  - post each building permit application, **including** a list of any required attachments, such as drawings or plans, on their websites;
  - allow applicants to submit completed building permit applications electronically **including** any required payments and attachments, such as plans;
  - post the current status of every received building permit application on their website; and
  - post their procedures for reviewing, processing, and approving building permit applications on their websites.
- Requires government entities, which enforce the Building Code, that fail to meet current established deadlines for reviewing building permit applications to reduce the fee for such permits for every business day that they miss the deadline, unless the applicant agrees to a longer period.
- Requires government entities that deny a building permit application for a single-family residential dwelling to allow the applicant 10 business days to correct the application.
- Prohibits government entities from requiring a copy of a contractor's contract with owners, subcontractors, or suppliers in order to obtain a building permit for projects on commercial property.
  - This does not apply to projects for improvements owned or leased by a government entity.

The bill may have an indeterminate fiscal impact on state and local government. *See* Fiscal Comments.

The bill provides for an effective date of October 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Community Planning Act

Adopted in 1985, the Local Government Comprehensive Planning and Land Development Regulation Act,[1] also known as Florida's Growth Management Act, was significantly revised in 2011, becoming the Community Planning Act.[2] The Community Planning Act governs how local governments create and adopt their local comprehensive plans.

Local comprehensive plans must include principles, guidelines, standards, and strategies for the orderly and balanced future land development of the area and reflect community commitments to implement the plan. The intent of the Act is that local governments manage growth through comprehensive land use plans that facilitate adequate and efficient provision of transportation, water, sewage, schools, parks, recreational facilities, housing, and other requirements and services.[3] A housing element is required as part of every comprehensive plan in the state. Among other things, the housing element must address "the creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction."[4]

Municipalities established after the effective date of the Community Planning Act must adopt a comprehensive plan within three years after the date of incorporation.[5] The county comprehensive plan controls until a municipal comprehensive plan is adopted.[6]

The comprehensive plan is implemented via land development regulations. Each county and municipality must adopt and enforce land development regulations, such as zoning or other housing-related ordinances, that are consistent with and implement their adopted comprehensive plan.[7]

Issuing Development Orders and Permits – Current Situation

Under the Community Planning Act, a development permit is any official action of a local government that has the effect of permitting the development of land including, but not limited to, building permits, zoning permits, subdivision approval, rezoning, certifications, special exceptions, and variances.[8] A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit.[9]

When reviewing an application for a development permit or development order, not including building permit applications, a county or municipality may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing.[10]

Before a third request for information, the applicant must be offered a meeting to attempt to resolve outstanding issues.[11] If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the applicant can request the county or municipality proceed to process the application for approval or denial.[12] If denied, the county or municipality is

[1] *See* ch. 85-55, s. 1, Laws of Fla.
[2] *See* ch. 2011-139, s. 17, Laws of Fla.
[3] S. 163.3161(4), F.S.
[4] S. 163.3177(6)(f)1.g., F.S.
[5] S. 163.3167(3), F.S.
[6] *Id*.
[7] S. 163.3202, F.S.
[8] S. 163.3164(16), F.S.
[9] *See* ss. 125.022, 163.3164(15), and 166.033, F.S.
[10] Ss. 125.022(1) and 166.033(1), F.S.
[11] *Id.*
[12] *Id.*

required to give written notice to the applicant and must provide reference to the applicable legal authority for the denial of the permit.[13]

Prior to 2019, there was no specified timeframes provided in current statute for reviewing an application for a development permit, development order, or additional information requested by a county or municipality.[14]

In 2019, the Legislature imposed requirements and time limits for a county or municipality to review an application for a development permit or development order, not including building permit applications, and provided procedures for addressing deficiencies in an application.[15]

Within 30 days of receiving an application for a development permit or development order, a county or municipality must review the application and issue a letter to the applicant indicating that the application is complete or specify the deficiencies within 30 days after receiving the application.[16] If the county or municipality identifies deficiencies, the applicant has 30 days to submit the required additional information.[17]

Once an application is deemed complete, a county or municipality must approve, approve with conditions, or deny the application within 120 days or 180 days for applications that require final action through a quasi-judicial hearing or a public hearing.[18]

Current law specifies how long an applicant has to submit additional information to a local government. However, current law does not specify how long a local government has to review the additional information and determine if the application is complete or still deficient.

Issuing Development Orders and Permits – Effect of the Bill

The bill provides that if a county or municipality makes a request for additional information from the applicant and the applicant provides the information within 30 days of receiving the request, the county or municipality must:

- Review the additional information and issue a letter to the applicant indicating that the application is complete or specify the remaining deficiencies within **30 days** of receiving the information, if the request is the county or municipality's **first request**.
- Review the additional information and issue a letter to the applicant indicating that the application is complete or specify the remaining deficiencies within **10 days** of receiving the information, if the request is the county or municipality's **second request**.
- Deem the application complete within **10 days** of receiving the information or proceed to process the application for approval or denial unless the applicant waived the county or municipality's time limitations in writing, if the request is the county or municipality's **third request**.

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.[19]

[13] Ss. 125.022(2) and 166.033(2), F.S.
[14] Ss. 125.022(1) and 166.033(1), F.S. (2018).
[15] *See* House Analysis of 2019 House Bill 7103 (Jul. 1, 2019).
[16] Ss. 125.022(1) and (2), and 166.033 (1) and (2), F.S.
[17] *Id.*
[18] *Id.*
[19] The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs,* p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Feb. 15, 2021).

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.[20] The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.[21]

Part IV of ch. 553, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. [22]

The Florida Building Commission (Commission) was statutorily created to implement the Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,[23] the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.[24]

Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.[25] Every local government must enforce the Florida Building Code and issue building permits.[26]

State universities, Florida College System institutions, and public school districts enforce the Building Code for their building projects, including conducting plan review and inspections. State universities, Florida College System institutions, and public school districts must use or contract with licensed building officials, inspectors, and plan examiners, and may elect to use a local government's building department to review plans and perform inspections.[27]

Current law also provides that state agencies may enforce the Building Code if current law specifically authorizes them to do so, unless they have delegated responsibility to another public entity.[28] Current law provides that:[29]

- The Department of Corrections and the Department of Juvenile Justice, and the Department of Management Services (DMS) enforces the construction regulations relating to correctional facilities under their jurisdiction.
- The DMS enforces the construction regulations for the Governor's Mansion and its grounds, the Capitol, and the Capitol complex.

[20] *Id.*; DBPR, *Building Code Information System*, https://floridabuilding.org/c/default.aspx# (last visited on Feb. 15, 2021).
[21] Florida Building Commission Homepage, https://floridabuilding.org/c/default.aspx (last visited Feb. 21, 2021).
[22] *See* S. 553.72(1), F.S.
[23] The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, https://www.iccsafe.org/about/who-we-are/ (last visited Feb. 21, 2021).
[24] Ss. 553.73, & 553.74, F.S.
[25] S. 553.72, F.S.
[26] Ss. 125.01(1)(bb), 125.56(1), & 553.80(1), F.S.
[27] S. 553.80(6), F.S.
[28] Ss. 255.31(1), and 553.80(1), F.S.
[29] *Id.*

- The DBPR enforces the construction regulations relating to elevator equipment under their jurisdiction.
- The Turnpike Enterprise, which is part of the Department of Transportation, enforces the construction regulations for toll collection facilities under its jurisdiction.
- The Department of Children and Families (DCF) in conjunction with the Agency for Health Care Administration (ACHA) enforces construction regulations relating to secure mental health treatment facilities under DCF's jurisdiction.
- The AHCA also reviews plans and surveys construction of hospitals, nursing homes, ambulatory surgical centers, and Intermediate Care Facilities for the Developmentally Disabled.

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a building permit from the local government or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.[30] A building permit is not valid until the fees for the permit have been paid.[31]

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.[32] A building official is a local government employee or a person contracted by a government entity who supervises building code activities, including plans review, enforcement, and inspection.[33] Any construction work that requires a building permit also requires plans and inspections by the building official to ensure the work complies with the Building Code.[34]

Each government entity may provide a schedule of reasonable fees in order to defer the costs of inspection and enforcement of the Building Code. The basis for a local government's fee structure must relate to the level of service provided by the local government. Fees charged must be consistently applied. Each local government must post its permit and inspection fee schedule and a utilization report[35] on its website.[36]

A local government's permit and inspection fees must be used solely for carrying out that local government's responsibilities in enforcing the Building Code. This includes:[37]

- the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing;
- building code enforcement;
- fire inspections associated with new construction; and
- training costs associated with the enforcement of the Building Code and enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.

DBPR Surcharges

Current law requires all local governments to assess and collect a 1% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local jurisdictions collect the assessment and remit the surcharge fees to DBPR to fund the activities of the

[30] *See* Ss. 125.56(4)(a) & 553.79(1), F.S.
[31] S. 109.1 of the Seventh edition of the Florida Building Code (Building).
[32] S. 468.603(2), F.S; S. 202 of the Seventh edition of the Florida Building Code (Building).
[33] S. 468.603(2), F.S.; S. 202 of the Seventh edition of the Florida Building Code (Building).
[34] Ss. 107, 110.1, and 110.3 of the Seventh edition of the Florida Building (Building).
[35] The utilization report must include the local government's direct and indirect costs for enforcing the Building. S. 553.80(7), F.S.
[36] Ss. 125.56(2) and (4), 166.222, and 553.80(7), F.S.
[37] S. 553.80(7), F.S.

Florida Building Commission, DBPR's Building Code Compliance and Mitigation Program, and the Florida Fire Prevention Code informal interpretations.[38]

Current law also requires all local governments to assess and collect a separate 1.5% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local governments collect the assessment and remit the surcharge fees to DBPR, where it is divided equally to fund the activities of the BCAIB and the Florida Homeowners' Construction Recovery Fund.[39]

Local government building departments are permitted to retain 10% of the amount of the surcharges they collect to fund participation by their agencies in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code.[40]

Building Permit Delays

Any delays in obtaining a building permit can delay the completion of a construction. Delays in the completion of a construction project may:[41]

- Lead to increased costs for construction projects, which may be passed onto occupants of a completed project;
- Discourage construction, which can reduce the total supply of buildings in a community and may lead to higher rents in the community;
- Reduce property tax revenue to a local government and other taxing jurisdictions resulting from the delayed start and completion of a construction project; and
- Result in delayed occupancy of a project, including single-family residences and multi-family residences.

Streamlining the process to obtain a building permit can accelerate the completion of construction projects. The goal of streamlining is to remove overlap and duplication and create more efficient administrative procedures while not reducing a building department's ability to enforce the applicable construction codes. Streamlining the building permit process may:[42]

- Increase local government revenues by accelerating completion of a project and thus accelerating property tax collection;
- Create local construction jobs and other indirect jobs supported by local construction jobs, such as jobs at a material supplier, which may increase local tax revenue by creating local construction jobs and other indirect jobs; and
- Encourage economic development by having an efficient permit system.

List of Required Items for Applications and Electronic Submission of Applications – Current Situation

[38] S. 553.721, F.S.
[39] S. 468.631, F.S.; The Florida Homeowners' Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building and residential contractors. Claims are filed with the DBPR, who reviews for completeness and statutory eligibility. The DBPR then presents the claim to the Construction Industry Licensing Board for review. S. 489.1401(2), F.S.
[40] Ss. 468.631, and 553.721, F.S.
[41] City of Austin Development Services Department, *A Program for Expedited Permitting*, http://austintexas.gov/sites/default/files/files/8-9-2016_Report_on_Expedited_Permitting_Program.pdf (last visited Feb. 22, 2021); PricewaterhouseCoopers, *The Economic Impact of Accelerating Permit Processes on Local Development and Government Revenues*, (Dec. 7, 2005).
[42] *Id.*; Institute for Market Transformation, *Streamlining Compliance Processes*, (Winter 2012) https://www.imt.org/wp-content/uploads/2018/02/CaseStudy5.pdf (last visited Feb. 24, 2021).

A local enforcement agency is an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the Building Code.[43]

Current law requires local enforcement agencies to post each type of building permit on their website.[44] Current law also requires local enforcement agencies to allow applicants to submit applications electronically, except owners who are acting as contractor under the owner-builder exemption.[45] Accepted methods of electronic submission include, but are not limited to:[46]

- E-mail submission of applications in PDF format;
- Submission of applications through an electronic fill-in form available on the building department's website; or
- Through a third-party submission management software.

However, it is not clear if current law requires local enforcement agencies to:

- post a list or identify other items required as part of the application for each type of building permit on their websites;
- allow applicants to electronically submit items required as part of a building permit application including payments, attachments, or drawings; or
- post the status of building permit applications on their websites.

Some local governments list the items required as part of an application, allow applicants to electronically submit items required as part of an application, and post the status of building permit applications on their websites, while others do not.[47]

Proponents argue that posting a list containing all the required information for each type of building permit and the status of every received application saves time by reducing phone calls and emails to building department staff. It also reduces the number of applications that are denied due to misunderstanding about what materials and information must be provided.[48]

Proponents argue that allowing applicants to submit applications electronically, including all required items, saves time and money for builders and developers by shortening the turn-around time for processing most building permits, and by preventing them from having to travel to and from a building department during business hours to drop off the required items.[49]

They also argue that it helps building departments by reducing the cost of printing documents, eliminating archiving costs, easing the burden of managing paper documents, and consolidates the

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[43] S. 553.71(5), F.S.
[44] Ss. 125.56(4)(b) & 553.79(1)(b), F.S.
[45] Current law requires property owners who are acting as a contractor under the owner-builder exemption to personally appear at a local enforcement agency to sign the building permit. Ss. 489.103(7), & 489.503(7), F.S.
[46] Ss. 125.56(4)(b) & 553.79(1)(b), F.S.
[47] City of Miramar, *Building, Permits & Inspections*, https://www.miramarfl.gov/150/Building-Permits-Inspections (last visited Feb. 25, 2021); City of Orlando, *Permits & Inspections*, https://www.orlando.gov/Building-Development/Permits-Inspections (last visited Feb. 24, 2021); Union County, *Building Department*, https://unioncounty-fl.gov/building-department/ (last visited Feb. 25, 2021); City of Crestview, *Building Permits & Inspections*, http://www.cityofcrestview.org/161/Building-Permits-Inspections (last visited Feb. 25, 2021).
[48] Ryan Meres, Seven Keys to Alleviating Permitting Pain, Builder (Jul. 23, 2015) https://www.builderonline.com/building/regulation-policy/seven-keys-to-alleviating-permitting-pain_o (last visited Feb. 24, 2021); E-Gov Link, *How to Streamline your Local Government Permitting Process*, (Aug. 28, 2019) https://www2.egovlink.com/how-to-streamline-your-local-government-permitting-process/ (last visited Feb. 24, 2021)
[49] Building Officials Association of Florida, Florida Engineering Society, AIA Florida, *Building Department Guide to Creating and Processing Electronic Construction Documents*, http://www.aiafla.org/upload_documents/BuildingDepartmentGuidetoCreatingandProcessingElectronicDocuments.pdf (last visited Feb. 25, 2021); *See* The Florida Channel, 1/27/ 2021 House Regulatory Reform Subcommittee, https://thefloridachannel.org/videos/1-27-21-house-regulatory-reform-subcommittee/ (last visited Feb. 19, 2021).

plan review process by having documents stored on a network server that is available to multiple departments and employees.[50]

Building Departments note that the cost to post the list of required items and the status of received building permit applications, and the cost to transition from paper documents to electronic documents is expensive and it is not easy or quick.[51] Additionally a building department may have to devote limited resources to updating the list of required items and the status of received building permit applications.[52]

List of Items Required for Applications and Electronic Submission of Applications – Effect of the Bill

The bill clarifies that local enforcement agencies must:

- post each type of building permit application on their website, **including** a list of all required attachments, drawings, and any other requirements that are required for each type of application.
- post the status of received building permit applications online, and update the status.
    - A local enforcement agency does not have to post the status of a received building permit application if it has issued a permit for the application.
- allow building permit applicants to electronically submit applications, **including** all attachments, payments, drawings, and any other requirements that are required as part of the application.
    - Applications, including attachments, payments, drawings, and any other requirements or parts that are required as part of the application, may also be submitted in person at the discretion of the building official.

Process for Reviewing Building Permits – Current Situation

Current law requires local enforcement agencies to enforce the Building Code and issue building permits. However, current law does not specify how local enforcement agencies must review and process building applications. Instead, current law leaves it up to local enforcement agencies to determine how they want to process, receive, and approve building permit applications.

According to testimony offered during the regular meeting of the Florida House of Representatives Regulatory Reform Subcommittee, there are generally two different models for how building departments are setup. One model is the separated review process, which is a process where an application goes to different departments for review such as the zoning department and the building department. The second model is a combined review process, which operates as a one-stop shop for all development review approval.[53] However, local enforcement agencies operate differently from each other, and there is no uniform system for processing, receiving, or approving building permit applications.[54]

Proponents argue that requiring building departments to list their procedures for receiving, processing, and approving building permit applications on their website helps developers and residents by letting them know the permitting process from the beginning. It also reduces conflicts and delays in application review due to misunderstanding about a building department's procedures. It also helps new staff by letting them know what their responsibilities are in the process.[55]

Building departments note that, a building department may have to devote limited resources to creating the list of its procedures for receiving, processing, and approving building permit applications on its

[50] *Id.*
[51] *Id.*; The Community Development Director for the City of Auburndale testified that the cost for them to purchase the software necessary for the switch to electronic documents cost $90,000. *See* The Florida Channel, *supra* note 49.
[52] The Massachusetts Association of Regional Planning Agencies, *A Best Practices for Streamlined Local Permitting*, (Nov. 30, 2007), http://www.pvpc.org/sites/default/files/BEST%20PRACTICES%20GUIDE_0.pdf (last visited Feb. 24, 2021).
[53] *See* The Florida Channel, *supra* note 49.
[54] *Id.*
[55] The Massachusetts Association of Regional Planning Agencies *supra* note 52.

website. Additional resources may also be needed to update the list to ensure the listed procedures are current and up to date.[56]

Process for Reviewing Building Permits – Effect of the Bill

The bill requires local enforcement agencies to post their procedures for processing, reviewing, and approving submitted building permit applications on their websites.

Time-Period to Review Building Permit Applications – Current Situation

Current law requires local governments to review certain building permit applications within a specific time-period of receiving the applications. Current law has established time-periods for local governments to review applications for the following building permits:[57]

- accessory structure;
- alarm permit;
- nonresidential buildings less than 25,000 square feet;
- electric;
- irrigation permit;
- landscaping;
- mechanical;
- plumbing;
- residential units other than a single family unit;
- multifamily residential not exceeding 50 units;
- roofing;
- signs;
- site-plan approvals and subdivision plats not requiring public hearings or public notice;
- lot grading and site alteration associated with the permit application set forth in this subsection;
- master building permits; and
- single-family residential buildings.

When a local government receives an application for one of the above building permits, except master building permits and single-family residential buildings, it must:[58]

- Inform the applicant within 10 days of receiving the application, what information, if any, is needed to complete the application.
    - If the local government fails to provide written notice to the applicant within the 10-day window, the application is deemed to be properly completed.
- Notify the applicant within 45 days of the application being deemed complete, if additional information is necessary to determine the sufficiency of the application;
    - If additional information is needed the local government must specify what additional information is necessary.
    - The applicant may submit the additional information to the local government or request that the local government act on the application without the additional information.
- Approve, approve with conditions, or deny the application within 120 days following receipt of the completed application.
    - This period is tolled during the time an applicant is responding to a request for additional information and may be extended by mutual consent of the parties.

[56] *Id.*
[57] S. 553.792(2), F.S.
[58] S. 553.792(1), F.S.

These time-periods do not apply when a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.[59]

If a local government receives a complete master building permit application, it must approve or deny the application within 120 days of receiving the completed application, unless the applicant agrees to a longer period.[60]

If any government entity with authority to enforce the Building Code receives an application for a building permit for single-family residential dwelling, it must issue the permit within 30 business days of receiving the application, unless the application fails to satisfy the Building Code or the enforcing agency's laws or ordinances, or unusual circumstances require a longer time-period for processing the application.[61]

Current law provides time-periods for when government entities must review certain building permit applications. However, current law does not provide any penalty if a government entity fails to comply with the deadlines established by current law.

Time-Period to Review Building Permit Applications – Effect of the Bill

The bill requires local governments to reduce a permit fee for building permit applications by 10 percent of the original permit fee for each business day that a local government fails to meet the current statutory time-period for reviewing a building permit application or a time-period established by the local government.

- A local government does not have reduce the permit fee if the local government and applicant agree to an extension of time, or if the application is for a master building permit and the applicant agrees to an extension.

The bill provides that if a government entity with authority to enforce the Building Code fails to approve an application for a single-family residential dwelling building permit within 30 business days of receiving the application, it must reduce the building permit fee by 10 percent of the original permit fee for each business day that the enforcing agency fails to meet the deadline.

A government entity does not have to reduce the fee for a single-family residential dwelling building permit, if:

- it provides written notice to the applicant, by email or USPS mail within 30 business days of receiving the application; and
- The written notice specifically states how the application fails to satisfy the Building Code, or the government entity's laws or ordinances.

An applicant has 10 business days to address the reasons specified in the government entity's notice. If the applicant submits revisions to the government entity within 10 business days of receiving the notice, the government entity must approve or deny the permit within 10 business days of receiving the applicant's revisions.

If a government entity fails to approve or deny the permit within 10 business days of receiving the applicant's revisions, it must:

- reduce the permit fee by 20 percent of the original permit fee for the first day that it fails to meet the deadline; and

[59] *Id.*

[60] S. 553.794(5)(c), F.S. A master building permit is intended for builders who expect to construct identical single- or two- family dwellings or townhomes. Once a builder obtains a master building permit, he or she is not required to obtain a new permit for single-two-family dwelling or townhome as long as the dwelling or townhome is built to the specifications in the master building permit. *See* 553.794, F.S.

[61] S. 553.79(14), F.S.

- an additional 10 percent of the original permit fee for each business day that it fails to meet the deadline, for up to five business days.

A government entity does not have to reduce the permit fee if the applicant agrees to a longer period in writing.

If any permit fees are refunded because a local government fails to meet an established deadline for reviewing a building permit application, the DBPR surcharges for funding the Building Commission, the BCAIB, and the Florida Homeowners' Recovery Fund must be recalculated based on the amount of the permit fees after the refund.

Required Information in Building Permit Application – Current Situation

To obtain a permit, an applicant must complete an application for the proposed work on a form furnished by the government entity. The form must include the following information:[62]

- The name and address of the owner of the property;
- The name and address of the contractor;
- A description sufficient to identify the property to be improved, including the property's address and legal description; and
- The name and address of the bonding company, if any;
- The name and address of the architect/engineer, if any;
- The name and address of the mortgage company, if any; and
- The number or identifying symbol assigned to the building permit by the issuing authority.

In addition to the information that must be in the application, a government entity may require any additional information be included in the application.[63]

According to testimony offered during the Regular meeting of the Florida House of Representatives Regulatory Reform Subcommittee, many local governments use the cost of construction as a factor[64] for determining the amount of a fee for a building permit.[65] Some local governments are requiring contractors to include their contracts with private owners in order to obtain building permits so that the local government can determine the contract's construction cost and construction value.[66] Although these contracts may contain private proprietary information, when local governments request them they may become public documents.[67]

Required Information in Building Permit Application -- Effect of the Bill

The bill prohibits a government entity from requiring a contract between an owner and a contractor or a contract between a contractor and a subcontractor or material supplier as a condition to apply for or obtain a building permit for construction work on a commercial property.

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[62] Ss. 713.135(5) and (6), F.S.
[63] *Id*.
[64] The International Code Council has created two equations to help jurisdictions determine their permit fee schedules. Two factors of the factors in the equations are the valuation of the construction cost of the project, and the value of all the construction in the jurisdiction in the previous year. *See* International Code Council, *Building Valuation Data – February 2020*, https://www.iccsafe.org/wp-content/uploads/BVD-BSJ-FEB20.pdf (last visited Feb. 21, 2021).
[65] City of Miami, *City of Miami Building Permit Fee Schedule*, https://www.miamigov.com/Services/Building-Permitting/City-of-Miami-Building-Permit-Fee-Schedule (last visited Feb. 21, 2021); St. Lucie County, *Building Permit Fees*, https://www.stlucieco.gov/Home/ShowDocument?id=1330 (last visited Feb. 21, 2021); City of Seminole, *City of Seminole Permit Fee Schedule*, https://www.myseminole.com/Building/Docs/Permit_Fees.pdf (last visited Feb. 21, 2021).
[66] *See* The Florida Channel, *1/27/ 2021 House Regulatory Reform Subcommittee*, https://thefloridachannel.org/videos/1-27-21-house-regulatory-reform-subcommittee/ (last visited Feb. 19, 2021).
[67] Article I, section 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record made or received in connection with official business of any public body, including counties, municipalities, and districts. Current law does not contain an exemption from Florida's public records laws for proprietary business information included in a building permit application. *See generally*, ch. 119. F.S.

However, this does not apply to any construction projects for improvements that are owned or leased by a government entity.

B. SECTION DIRECTORY:

Section 1: Amends s. 125.022, F.S., relating to development permits and orders issued by counties.

Section 2: Amends s. 125.56, F.S., requiring counties to allow submission of certain documents and list certain things on their websites.

Section 3: Amends s. 166.033, F.S., relating to development permits and orders issued by municipalities.

Section 4: Amends s. 553.79, F.S., requiring local governments to allow submission of certain documents, list certain things on their websites, and reduce certain building permit fees.

Section 5: Amends s. 553.792, F.S., requiring local governments to reduce certain building permit fees.

Section 6: Amends s. 553.794, F.S., requiring local governments to reduce certain building permit fees.

Section 7. Amends s. 713.135, F.S., prohibiting local governments from requiring contracts in certain applications for building permits.

Section 8. Providing an effective date of October 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive impact by decreasing the time it takes to obtain a building permit, which may decrease the cost and time to complete projects.

D. FISCAL COMMENTS:

The amount of permit fees that are refunded by local governments for failing to review a permit application within a certain time-period is indeterminate. However, any amount will likely be minimal. It is unclear if refunding a percentage of permit fees will have an impact on the surcharges received by DBPR. However, any impact will likely be insignificant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires local governments to take actions that require expenditures of money by requiring local governments to allow electronic submission of certain building permit application documents, and requiring them to post the current status of received building permit applications, to list the required documents to be included with a permit application, and to list their procedures for processing applications on their website. This may result in additional expenditures to comply with the statute. However, local building departments are permitted by state law to collect building fees that cover the cost of their expenses. An exemption may apply because the fiscal impact is likely to be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES