

FFSA End of Session Report

The 2020 regular Florida Session kicked off on Tuesday, January 14th and was scheduled to wrap up on March 13th, but ultimately ended up concluding its business on March 19th. The Legislature passed just over 200 bills this session and spent much of the last two weeks negotiating a tax package that had most of its planned tax breaks removed due to the fiscal uncertainty that has been created by coronavirus. Overall, we wish we had a better session, as we saw several major initiatives fail when larger bills onto which our issue was attached faced headwinds.

Below is a summary of the key legislation of interest that we worked on during the 2020 session:

Stop High-Rise Retrofit Repeal

After last sessions fight on High-rise retrofit it was important this session to inform members of the Legislature on the work being done with the data call and why the legislature had no reason to address this issue again this session. We know that the FACTSS (Florida Association of Condominiums to Support Self-Determination) lobby was working members to try and place an amendment to undo our good legislation from last year. Our team worked hard briefing all members that sponsored bills that could have been vehicles for amendments. It was critical to keep members informed of the data call being conducted by DFS and remind them that this issue was addressed last session. In the end, the bad language was never attached to any bills, and did not get enacted.

The State Fire Marshal just extended to May 1 the deadline for local authorities having jurisdiction to respond to the data call

Sprinkler Head Relocation SB1404/HB1077 (FAILED)

SB 1404 by Senator Perry was the Department of Financial Services agency bill. Among the provisions of the bill addressing issues relating to agent licenses and funeral homes, the bill also contained language we drafted that would have allowed Contractor I or II licensees to alter an existing fire sprinkler system involving up to 249 (an increase from current law at 49) sprinkler heads if there is no change in occupancy of the affected areas, no change in the water demand as set forth in the National Fire Protection Standards, and where the occupancy hazard classification is reduced or remains the same as a result of the alteration. Most important, we were able to get the Florida Engineering Society to agree to these edits to Florida law.

The bill also would have addressed several fire and alarm related provisions including:

- Allowing fire service providers to hire volunteer firefighters and continue in the volunteer capacity while earning career firefighter certifications.
- Prohibiting influencing a fire safety inspector to violate applicable law through threats, coercion, trickery, or compensation, and prohibits a firesafety inspector from knowingly and willingly accepting such an attempt.

- Extending assessment and compliance deadlines by three years with regards to minimum radio signal strength for fire department communications and two-way radio systems
- Requiring existing apartment buildings to complete a minimum radio strength assessment for fire department communications and two-way radio system enhancements under the Florida Fire Prevention Code instead of applying for a permit for the required communication installation by December 31, 2022.

Unfortunately, the bill failed on the full Senate floor after having a late filed amendment put on it by Senate leadership that included two controversial insurance provisions. Prior to these amendments this bill was in position to pass. This is an issue we will address again next session.

Construction Defect Reform SB948/HB1381 (FAILED)

Construction Defect Reform remains an issue that was not addressed in any way by the Legislature this year. There were two bills run this session to address this issue. The construction industry was supportive of SB948/HB1381 which defined a material violation and required those who make a civil action against a contractor to cite specific building code violations. It would have required these claims to be made under oath and that the contractor have the opportunity to inspect the defect under the notice and right to cure law. We worked with the other members of the Construction Coalition, including the Home Builders, in support of this bill and these reforms, but ultimately the issue did not get much traction in the legislature. There was a second piece of Construction Defect legislation being pushed from the insurance industry that also did not get much traction. This bill would have provided that a claimant must attempt to resolve a construction defect claim under any applicable warranty before filing a notice of claim relating to the defect, required a claimant to affirm the claimant's personal knowledge of the alleged defect, acknowledge that the claimant is aware of the real estate disclosure obligation and penalties for perjury, and sign the notice of claim under penalty of perjury, and lastly required a special verdict form for all construction defect litigation. In the end neither bill was enacted, and a session that started out as being filled with great promise for tort reform ended with no real tort reform issues addressed.

Deregulation Bill (Florida Building Commission) SB474/HB1193 (PASSED)

This bill has been a priority for Governor DeSantis and the Department of Business and Professional Regulations for the past two sessions. The bill allowed for auctioneers, barbers, electrical contractors, and geologists to have fewer education requirements. The bill allowed for other professions like nutritionists, interior designers, landscape architects, accountants, and boxing announcers to see some licensing requirements eliminated completely. Caught up in these reforms was a desire to make changes to the Florida Building Commission. The bill revamped the Florida Building Commission changes the Commission from 27 to 19 members. These changes included the removal of members from the Commission including a member of the Department of Financial Services as well as the Fire Protection Engineer. The Commission does still include three members who are municipal, county, or district codes enforcement officials, one of whom is also a fire official. The Building Officials Association of Florida and the Florida Fire Marshals and Inspectors Association are still encouraged to

recommend a list of candidates for consideration. We were able to fight off these reforms to the Building Commission last session, but even with an alliance of the CFO's office as well as AFSA we were unsuccessful this year. This bill was enacted into law.

Public Construction SB246/HB101 (PASSED)

This bill made several changes to retainage laws that allow a portion of an agreed upon contract price to be withheld until the work is substantially complete to assure that a contractor or subcontractor will complete the construction project.

The bill reduces the amount that a government entity may retain from a progress payment to a contractor for contracts worth more than \$200,000:

- From ten percent, when less than 50 percent of the project is complete, and five percent, when 50 percent or more of the project is complete, to five percent for the entire project.
- The bill reduces the amount that the state may retain from a progress payment to a contractor, for contracts worth \$200,000 or less, from ten percent to five percent.
- The bill reduces the amount that a municipality with a population of 25,000 or less and a county with a population of 100,000 or less may retain from a progress payment to a contractor, for contracts worth more than \$200,000, from ten percent to five percent.

Additionally, the bill repeals:

- The ability of a contractor to request the government entity to release up to half of the retained amount after half of the project is completed; and
- The ability of a contractor to withhold more than five percent of each progress payment to his or her subcontractors after half of a project with a government entity is completed.

Covid 19 Update

We are working to try and get state leaders to assure that the fire sprinkler industry, including maintenance, installation, and inspections, are deemed an "essential service" as more localities issue "stay at home" orders. Our efforts are complicated by the fact that each locality (Broward, Dade, Jacksonville, Alachua and others) all draft their own definitions of "essential services." A single statewide order does not appear to be forthcoming as Governor DeSantis prefers to allow local governments the option to institute these measures. We will keep the membership updated on this issue.

Also, its likely the Florida Legislature will return sometime before the start of the new Fiscal year, which begins July 1, to re-address the budget for 2020-2021 in light of what is sure to be decreased revenues due to closures and shutdowns due to the Coronavirus. Its possible other measures will be addressed, although at this point the focus would largely appear to be on the budget.