

# **BETTER POLICY BIGGER PRESENCE**



## **2014 LEGISLATIVE REPORT**

**BUILDERS ASSOCIATION  
OF MINNESOTA**



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# 2014 LEGISLATIVE REPORT

## BROAD STROKES

Minnesota's 89th Legislative Session ended May 16, 2014; three days ahead of the constitutionally required completion date. Minnesota is one of several states that operate on a biennium, meaning the first year is used to set the State budget, and the second year is used to consider capital investment projects. The next biennium starts in 2015, and session is scheduled to convene January 6, 2015.

This year's adjournment closed a unique biennium - a biennium that, for the first time since 1990, had the legislative and executive branches controlled by one party. During the 2012 election, Democrats gained control of the House, Senate, and Governor's office giving the DFL more power than Minnesota has seen in a generation - and it showed through these past two sessions. With the Governor and the House of Representatives up for election this fall, we may see a different political alignment starting in 2015, hopefully one slated to advance our interests.

Having an "unsession" was the buzz going into this year's session. The urban dictionary doesn't give a clear definition of "unsession" however according to the Governor's website, "The Unsession is a first-of-its-kind effort to make government better, faster, simpler, and more efficient for the people." Conservatively, BAM members will likely benefit from the unsession repeal of the business-to-business (B2B) sales taxes and some of the expedited Minnesota Pollution Control Agency (MPCA) and Department of Natural Resources (DNR) rulemaking directives.

Of the 3,396 bills introduced in the Minnesota House and the 2,992 bills introduced in the Minnesota Senate only a small percentage become law. This year, the Governor acted on a mere 169 of the bills. Bills introduced during the 2013 or 2014 that did not see the light of day (or the Governor's desk) are now dead and will need to be reintroduced in order to be viable for discussion in future years.

## **New Taxes, A Huge Bonding Bill, and A Bit of Controversy**

### **Omnibus Bill: Taxes**

Two tax bills were passed in 2014. The first tax bill, [Chapter 150](#), featured the retroactive repeal of the business-to-business sales taxes. The repeal includes the sales and use taxes imposed by the 2013 omnibus tax bill and a roll-back of the taxes on labor for repair of electronic and precision equipment, the taxes imposed on the labor for repair of commercial and industrial equipment, and the highly controversial sales tax on storage and warehousing services.

[Chapter 308](#) is the second tax bill passed this year. Notable in this bill is that solid waste hauling services, solid waste recycling services, and landfill services are now added to the list of taxable services. Members may also be interested in the workforce housing grants pilot project program for the northwest part of the state established in this tax bill.

### **Omnibus Bill: Bonding**

Despite the backroom sprinkler drama that was part of the drafting of the 2014 Capital Investment (Bonding) Bill, [Chapter 294](#), the final version passed quickly and with very little debate - including no floor amendments. The bill's \$846 million focus was on funding initiatives with statewide significance including housing, transportation, higher education, wastewater infrastructure, and regional assets. Of note is the historic \$100 million investment directed to public housing and other Minnesota Housing Finance Agency (MHFA) programs.

Tagging along with the Bonding Bill is [Chapter 295](#), the Omnibus General Fund Capital Investment Act, directing \$199 million of the general fund to a variety of capital projects. Included in the \$199 million is \$80 million in housing bonds for rehabilitation and construction of supportive housing, money to MHFA to address foreclosed and abandoned housing, and bonds directed to preferred housing for veterans. As part of this new law is the "American Steel" provision requiring that, to the extent practicable, a public entity receiving an appropriation of public money for a project must ensure those projects are built with American-made steel.

## Controversy

Like a moth to a flame, Minnesota's Legislature seems drawn to passing controversial measures. This year proved no different and this year's most popular controversial measure was the medical marijuana bill. Despite looking like it was dead, it came back to life with the Governor's public flip-flop on the matter. The law, [Chapter 311](#), allows limited use of medical cannabis in pill or liquid (oil) form for nine qualifying medical conditions.

## Thank You to the BAM Lobbying Team

BAM members and staff worked tirelessly this session; making the industry voice heard. Many potentially harmful bills were stopped as a result.

Thank you, also, to all who joined us this year for Builder Day at the Capitol. We had a great turnout and met with a majority of the Legislature.

Thank you to BAM President, Chad Kompelien, and BAM Government Relations Committee Chair, Mike Paradise, for their leadership and time spent at the Capitol. Thank you also to BAM's Government Relations Committee members who met weekly during session to help guide BAM staff and lobbyists as they fought to protect the industry.

BAM's lobbying team this year included BAM's Executive Vice President Remi Stone, Larry Redmond of Redmond Associates, Brian Halloran of Redmond Associates, James Vagle, BATC Director of Government Affairs, Matt Limoges, RAB Director of Public Affairs, Jane DeAustin, CMBA Government Affairs, and BATC's contract lobbyists Pete Coyle of Larkin Hoffman and Julie Perrus of Larkin Hoffman.

Thank you to the BAM lobbying team and all of BAM's members for a successful session.

## HOW BAM AND THE RESIDENTIAL CONSTRUCTION INDUSTRY FARED

### Sprinklers

2014 marks the fourth session BAM has worked to prohibit a mandate of fire sprinklers in new single-family homes. As was the case in 2011, 2012, and 2013 the Governor derailed the efforts of the industry and thoughtful policy makers again this year.

BAM was successful in adding an anti-sprinkler mandate language to the bonding bill thanks to Senators Stumpf (DFL-Plummer) and Senjem (R-Rochester). As a result of that success, Governor Dayton issued his first veto-threat of the 2014 session stating he would veto the entire bonding bill over our sprinkler issue. The issue and the builders association received lots of statewide media attention, and the consensus by thought-leaders was that requiring sprinklers is completely unnecessary and bad public policy.

Between the 2013 and 2014 session, BAM argued its case before an Administrative Law Judge in opposition to Governor Dayton and the Minnesota Department of Labor and Industry's decision to include a mandate of home indoor sprinkler systems in all new single-family residential homes 4,500 square feet or larger.

Two months before the start of the 2014 Session, BAM's team put together and delivered an excellent oral argument before the Administrative Law Judge December 12, 2013. Our rock star team consisted of BAM lawyer Joe Springer, Fredrikson & Byron, BAM codes expert Karen Linner, Shenandoah Consulting, national codes expert Steve Orlovski, National Association of Home Builders, Roger Axel, Association of Minnesota Building Officials, Clay Dietrich, home builder and former Assistant Fire Chief from the Home Builders Association of Fargo-Moorhead, Joe Ranweiler, B-Dirt from Mid-Minnesota Builders Association, Chris Contreras, Ryland Homes, from the Builders Association of the Twin Cities, and Mark Brunner, from the Modular and Manufactured Homes Association. Despite our research, testimony, and expert witnesses the judge ruled in favor of the department. Given the ruling and the outcome of the 2014 session, the next steps in the process are to move forward with legal options, work to put a new Governor in office, and the 2015 Session.

Ongoing sprinkler battle aside, we are happy to celebrate some wins this session.

## **Wins**

Government is in the business to pass new laws; and BAM is, more often than not, in the business to stop new laws from passing when those new laws have the potential to harm our customers and membership.

BAM went to work in 2014 to introduce some good new proposals and to stop, change, or repeal some really bad ideas. At the end of the day, the residential construction industry can celebrate some important outcomes. Some of the most important “wins” are summarized below.

In addition to the “wins” highlighted below, please review the “Bill By Bill” section to learn more about the series of bills we tracked and killed in 2014. As hard as it is to define “unrealized costs or burdens”, the cost of bad ideas is an important factor when we work to kill bills. Our goal is to save BAM members from having to pay for unnecessary regulatory and statutory creep.

### **B2B - Successful Repeal**

The first tax bill of the session repealed the 2013 business-to-business taxes that negatively impacted BAM’s membership. BAM joined with several like-minded groups to oppose the taxes and to push for the repeal. The successful repeal can be found in [Chapter 150](#).

### **Homeowner Attorney Fees / Warranty Claims - Dead**

One bad idea can follow another, and in this case BAM engaged its lobbying capital to kill two bills that would award attorney fees to homeowners-only in home warranty disputes. [HF 2612](#) and [SF 2146](#) underscore an age-old disagreement with a legislator over whether only homeowners are entitled to attorney fees. BAM members disagree, citing several frivolous consumer driven lawsuits. The bill was killed and the repeatedly scheduled hearings cancelled, in great part due to our ongoing arguments that the American Rule apply (both sides cover their own attorney costs) OR if homeowners are entitled to recover fees, then so should the sued companies if they prevail.

## **Subcontractor Registration - Improved with Amendment**

For the first time ever, general contractors get a “hall pass” for their first violation of the subcontractor registration law. In the past, a GC or sub’s first mistake of hiring a non-registered subcontractor translated into immediate violation of the law and the potential of 10’s of thousands of dollars in fines. On the other hand, non-registered subcontractors had (and continue to have) a 30-day period to register and cure their business operation defect. Please read the details account of this new law under “How Your Business May Be Impacted”. [Chapter 305](#), Sections 13-17, and 26.

## **State Rulemaking - Dead**

If there is any poetic justice to be found in the death of the industry’s anti-mandate sprinkler provision, it is the death of the state rulemaking bill. The rulemaking bill - the Governor’s highly sought after “unsession” initiative - died under its own land-grabbing weight at the end of session. The bill, [HF 2724](#) / [SF 2467](#), included 20 pages of sweeping changes to Minnesota’s Administrative Procedure Act (the state’s rulemaking authority), and proposed to eliminate the protections given to the public allowing for due process and deliberative, thoughtful rulemaking. BAM joined with dozens of interested parties to strenuously object to the initiative. Despite several amendments in attempt to make it more palatable, it never saw final action on the Senate floor.

# NEW LAWS

Of the 169 new session laws passed in 2014, the following provisions may be of interest to those working in the residential construction industry.

## HOW YOUR BUSINESS MAY BE IMPACTED

### Minimum Wage

Minnesota's minimum wage is set to increase in steps over the next few years in a manner laid out by [Chapter 166](#). Effective August 1, 2014, the minimum wage in Minnesota will rise according to the following schedule:

Large employers, an enterprise with an annual gross volume of sales of \$500,000 or more), must pay a rate of at least:

- \$8.00 per hour beginning August 1, 2014
- \$9.00 per hour beginning August 1, 2015
- \$9.50 per hour beginning August 1, 2016
- Beginning January 1, 2018, the rate will be adjusted for inflation

Small employers, an enterprise with an annual gross volume of sales of less than \$500,000), must pay a rate of at least:

- \$6.50 per hour beginning August 1, 2014
- \$7.25 per hour beginning August 1, 2015
- \$7.75 per hour beginning August 1, 2016
- Beginning January 1, 2018, the rate will be adjusted for inflation

Members should be aware that the law also provides minimum wage increases for the 90-day training wage for employees 18 and 19 years old, establishes a youth wage for

workers under 18, and a special wage schedule for some hotels, motels, and resorts with a summer work travel exchange visitor program.

### **Women’s Economic Security Act (WESA)**

Under [Chapter 239](#), better known as WESA, several changes were made to the Minnesota parenting and sick leave laws. The following chart, prepared by the Minnesota Chamber of Commerce, provides a snapshot and effective date for these changes.

<b>Provision</b>	<b>Effective Date</b>	<b>Employer Requirement</b>
Pregnancy Accommodations	May 12, 2014	All employers
Pregnancy and Parenting Leave	July 1, 2014	21 or more employees at one site
Wage Disclosure Protection	July 1, 2014	All employers
Nursing Mothers	July 1, 2014	All employers
Familial Status as New Protected Class	May 12, 2014	All employers
Sick Leave Benefits and Care of Relatives	July 1, 2014	21 or more employees at one site
Safety Leave	July 1, 2014	21 or more employees at one site
Unemployment Eligibility	October 5, 2014	All employers
Equal Pay Certificate	August 1, 2014	40 or more full-time employees and seeking over \$500,000 contract with state

### **Subcontractor Registration**

Looking for a safe harbor when contracting with independent contractors and subcontractors? Members are strongly encouraged to become very familiar the state’s independent contractor registration program.

Effective May 22, 2014, the Omnibus Jobs & Economic Development Bill, [Chapter 305](#), Sections 13-17, and 26, makes permanent the subcontractor registration pilot

project. Under the law, contractors and subcontractors must hire registered contractors or face significant penalties and must be found to have hired an employee and not an independent contractor. Licensed residential contractors do not have to be registered because they already carry a license with the state.

This law makes permanent the subcontractor registration pilot project. It provides general contractors and subs who subcontract an improved nine-factor test "safe harbor" and a first-time violation "hall pass" (forgivable fine).

Persons who perform public or private sector commercial or residential building construction or improvement services must register with the Department of Labor and Industry.

Registration is free and can be done [online](#) at:

<https://secure.doli.state.mn.us/license/initialapp.aspx?code=IR>

If a person does not register, he or she will be presumed to be an employee of the entity for which the work is performed. Also, persons must still meet the 9-factor test to be considered an independent contractor. The expiration date of all current registrations has been automatically extended from June 30, 2014 to June 30, 2015.

Contractors who hire subcontractors to perform work as an independent contractor will need to continue to use DLI's online license lookup tool to verify a subcontractor status as a "registered contractor."

To look up a registration go to:

<https://secure.doli.state.mn.us/lookup/licensing.aspx>

There are two pull down menus. Select the discipline "Registered Contractors" in the first menu. Select "Contractor Registration" as the classification. Use the business name in the search block to search for and confirm registration.

If all else fails, call or e-mail DLI at: (651) 284-5074 or [dli.register@state.mn.us](mailto:dli.register@state.mn.us)

BAM members have inquired about whether landscapers need to be registered. The law has not changed and DLI says registration is required for landscapers whose

landscape installation work is included in the contract for the construction of or improvement to a building.

Also, incorporated status of the company doesn't matter regarding registration. This is a REALLY IMPORTANT thing for members to know. BAM knows of several builders and subs who have sub-contracted with incorporated entities and yet, when audited (often because of the complex 9-factor test) they end up finding themselves to have "hired an employee" rather than an independent contractor even if they have an active and incorporated business. Right now, hiring registered contractors is the best safe harbor we know of for BAM's members.

### **Environmental Permitting**

Members working with the Minnesota Pollution Control Agency and Department of Natural Resources may benefit from a bill intended to speed up the time it takes for these two agencies to issue environmental permits.

[Chapter 237](#) provides that environmental permits are now sorted into two tiers. Tier 1 permits, which are less complex applications, now have the goal of 90 days to be issued or denied. Tier 2 permits have the 150-day goal to be issued or denied. The "goals" become effective Jan. 1, 2015.

The law also provides for an expedited process if the environmental permit applicants reimburse the DNR for staff time and consultant services and allows trading of water quality credits (the trading arrangements must result in a net decrease in water pollution) among other less notable provisions. These items become effective Aug. 1, 2014.

### **Snow Removal / Uncompleted Developments**

This new law, [Chapter 297](#), makes permanent the ability for local governments and road authorities to perform snow removal and recoup the related costs from the property owner or developer in subdivisions that have not been completed with roads open to the public. This became effective May 2, 2014.

## **Responsible Contractor**

[Chapter 253](#) requires contractors who bid on public projects in excess of \$50,000 to certify under oath they meet the definition of responsible contractor in order to be awarded a contract as the lowest responsible bidder or best value alternative. It imposes an obligation on the contractor to procure detailed evidence of compliance with state and federal tax, workers' compensation, and unemployment insurance requirements. The contractor must not have violated any wage laws or safety laws and rules. This law becomes effective January 1, 2015.

## **LAWS OF INTEREST**

### **"May & Pa" Resort Plumbing**

DLI is directed to convene a working group to report back to the Legislature by January 1, 2015 about plumbing requirements for class 1c (ma & pa resorts) and class 4c (seasonal recreation resorts). It comes in response to a dispute about whether some resort property owners can perform plumbing repairs without a restricted plumbing contractors license. See [Chapter 305](#), Section 28.

### **Looking for a Little More Privacy or Not?**

As of May 10, 2014, checking account numbers are now considered security data and will now be considered private. See [Chapter 208](#).

Public officials using social media to share information (or posts or comments or opinion) is not a violation of the Open Meeting Law as long as the social media use is limited to exchanges with the entire public (since it seems the entire public is no longer subscribing to Timothy Leary's "turn on, tune in, drop out" theory of community engagement). This caveat to the open meeting law can be found in [Chapter 274](#) and is effective August 1, 2014.

The "Timberjay" case triggered a legislative response in the form of [Chapter 293](#) regarding how the State's data privacy act applies to public contracts with private entities. As reported by our friends that the League of Minnesota Cities, prior to the Timberjay case, the data practices act required that a contract between a government entity and private contractor to perform any government function must include a notice that the requirements of the data practices act apply to the contract. Most

entities interpreted the statute to impose that requirement on the contractor even if the required notice provision was omitted. The Supreme Court, however, held that a contractor was not subject to the act if the required notice was not in the contract. [Chapter 293](#) clarifies that the data practices act applies even if the required notice is omitted from the contract. Effective May 29, 2014.

Good news for environmental permit applicants. Your data and other information entered through MPCA's online permitting application remains non-public until the application is formally submitted to the agency. Under [Chapter 237](#), Section 1, incomplete applications, draft language, and other details will not be available for public review until the request is official.

### **Smart Phone Kill Switch**

Minnesota became the first state in the nation to adopt a smart phone anti-theft law. [Chapter 241](#) requires smart phones manufactured and sold after July 1, 2015 to have a "kill switch" that allows for the phone's functionality to be interrupted remotely.

### **Notary Fees & Bees**

Notaries can now charge up to \$5 for notary services. Prior to the change in [Chapter 301](#), the fee was \$1. This becomes effective August 1, 2014.

For the curious or those running honey-making operations on the side, [Chapter 312](#), Section 13 creates a program to compensate bee colony owners if pesticides destroy the colony. The applicator is liable unless they are not identifiable, at which point the state will use a compensation fund.

### **Farmers Markets & Chili Cook-Offs**

Ever vigilant to make sure Minnesotans have an understanding about where one purchases summertime produce, the Governor signed into law [Chapter 163](#). It defines "farmers market" as an association of three or more persons who assemble at a defined location that is open to the public for the purpose of selling directly to the consumer the products of a farm or garden. In case you were wondering, chili and soup cook-offs are now added to the list of exemptions from food inspections and state licensing requirements...

## **Growlers & Sacramental Wine**

Session wouldn't be complete without the passage of the Omnibus Liquor Bill. This year's effort, [Chapter 240](#), allows brewer taprooms to be open and conduct on-sale business on Sundays. It allows customers to get their growlers refilled at a brewery, and it allows bona fide religious book or supply stores to sell wine for sacramental purposes. These new laws became effective May 14, 2014.

# BILL BY BILL RECAP

Looking back at the 2014 session, it seems “wins” mean “more dead than alive”. Industry specific legislation is always in the forefront of BAM’s efforts. The following is a recap of the year, issue-by-issue, bill-by-bill on policy matters directly within the wheelhouse of BAM.

BAM’s Government Affairs Committee established the principles relating to each policy initiative to provide guidance to staff and consultants as the issues moved through the legislative process.

## **BILL BY BILL**

### **Sprinkler Mandate - Dead**

If output is any indication of effort and interest in a legislative topic, we’ve got proof this year that the sprinkler mandate and prohibition is alive and well at the Capitol.

Thirteen bills were introduced to prohibit – in one form or another – sprinklers in single-family residential construction OR prohibit light-weight construction unless the home is sprinkled OR mandate time-of-sale disclosures that the home is not built to the model version of the IRC.

None of these bills received a hearing. All of these bills – good and bad – were potential amendments onto other bills and will likely resurface in coming years.

[HF 3190](#) / SF \*\*\*\* sprinkler prohibition

[HF 3111](#) / [SF 2748](#) the “7-7” bill; seven county metro area/seven thousand square feet

[HF 2796](#) / [SF 2496](#) sprinkler prohibition

[HF 499](#) / SF \*\*\* sprinkler prohibition

HF \*\*\*\* / [SF 1607](#) sprinkler prohibition

[HF 3129](#) / SF \*\*\*\* state fire marshal to promulgate fire code (plus sprinklers)

[HF 3021](#) / [SF 2623](#) light-weight construction ban

[HF 3020](#) / SF \*\*\*\* Model IRC non-compliance and sprinkler disclosure at point of sale

[HF 3221](#) / [SF 2740](#) Residential General Contractor & Remodeler disclosures and bids notice to buyer

BAM's guiding principles for these proposals:

- Repeal code provision: it affects all Minnesotans, and Minnesotans don't want it
- Stop light-weight construction prohibition

### **Subcontractor Registration "Hall Pass" - New Law**

This law makes permanent the subcontractor registration pilot project. It has passed all committee deadlines with some amendments to make the registration work more efficiently. It also provides general contractors an improved nine-factor test safe harbor and a first-time violation "hall pass" (forgivable fine). Also, as a result of this session's legislative debate on the matter, the Department of Labor and Industry has pledged to work with BAM to provide statewide compliance education and assistance.

[HF2198](#) / [SF2065](#)

[Chapter 305](#), Sections 13-17, and 26 - Omnibus Jobs Bill (Mahoney)

BAM's guiding principles for these proposals:

- Repeal the mandate. It unfairly burdens licensed residential contractors. State agencies imposed tens of thousands of dollars in fines by using a pilot project.
- DLI substantive process amendments to improve safe harbor and extend pilot project.

## Home Warranty Attorneys Fees & Costs - Dead

This bill would have awarded attorneys fees to homeowners who prevail in warranty litigation against builders and remodelers. The bill did not provide the same benefit to builders and remodelers who prevail in litigation.

[HF 2612 / SF 2146](#)

BAM's guiding principle for this proposal:

- Prevent award of attorney fees to prevailing homeowners in new home warranty and home improvement warranty cases.

## State Rulemaking Bill - Dead

As one of the premier "unsession" proposals pursued by Governor Dayton, state agencies devised a proposal, HF 2724 / SF 2467, that would have let the administrative branch adopt, through expedited rulemaking, model codes among other rulemaking "efficiencies". For our purposes, it could have meant a fast track to adopting things like the model IRC (you know, the one that contains the sprinkler mandate). BAM joined with several like-minded municipal and business groups to oppose the most aggressive provisions and make significant improvements to the State's rulemaking process.

[HF 2724 / SF 2467](#)

BAM's guiding principle for this proposal:

- Stop agencies from decreasing public notice options and limiting public access to rulemaking process.

## State Code Inspections & Enforcement - Dead

All of these bills aimed to change the way the statewide code is enforced and inspected. The bills run the spectrum of having the state or local governments inspect to allowing local governments to adopt alternate border state codes or opt out completely. These bills died at the end of session.

[HF 2377](#) / SF \*\*\*\* Local Governments must inspect code statewide

HF \*\*\*\* / [SF 1659](#) DLI must inspect code statewide

[HF 2197 / SF 1945](#) Mille Lacs County Code Opt Out

[HF 2389 / SF 1914](#) Border Cities Alternative Code

BAM's guiding principle for these proposals:

- Level the playing field for the safety of consumers and the economic health of the residential construction industry.
- Address the developing chaos among regulated and regulators regarding code enforcement.

### **Building Permit Fee Appeals - Dead**

These bills provided direction on how building permit fee disputes are brought forward and how valuation is established.

[HF 2777](#) / SF \*\*\*\* "dead"

[HF 2438](#) / SF \*\*\*\* "dead"

BAM's guiding principle for these proposals:

- Escrow disputed fees, set valuation on actual market costs, and appeals go to District Court without having to stop first at an appeals panel seated with building officials.

### **Responsible Contractors / Public Projects - New Law**

This law prohibits companies from working on government construction projects if they have had even minor, accidental, or rectified violations of certain statutes in the past. The bill was amended several times. The Association of General Contractors took the lead on this bill and negotiated the best outcome possible under current legislative conditions.

[HF 1984 / SF 1919](#)

BAM's guiding principle for this proposal:

- Oppose union efforts to legislatively restrict the ability of public owners and private contractors to transact business unless the business can prove absolute compliance with artificial market, wage and other standards; discriminatory to small commercial firms.

## Indemnification - Dead and Alive

These bills intend to manage the insured and indemnified relationship between owners, general contractors, and subcontractors. They continued the discussion that was had in 2013.

The Minnesota Subcontractors Association (MSA) bill would have changed the way insurers are to “defend” during claims and it did not make deadline but was hung onto the design professionals’ (American Council of Engineering Companies or ACEC) indemnification bill as a hostile floor amendment. It was stripped out of the design professionals’ bill during conference committee.

The ACEC bill passed and was signed into law by the Governor. It narrowly defines design professionals and limits the circumstances where design professionals need to provide indemnification coverage. The law is very similar to the 2013 law and provides that indemnity clauses that require design professionals to hold harmless another for loss or damage is void and unenforceable, except to the extent the obligation to indemnify is covered by insurance.

[HF 2090 / SF 1757](#) Design Professionals Bill; signed into law - [Chapter 257](#)

[HF 1927](#) (MSA “defend” bill) - Dead

BAM’s guiding principles for these proposals:

- Work to make sure there is no further erosion to the statutory indemnification provisions and that all parties have parity in the level of indemnification coverage.
  - ACEC contractual carve out bill
  - MSA “duty to defend” bill

## Retainage - Dead

This proposal demanded retainage (and perhaps final payment) to be held in an interest bearing escrow account. It also set time-specific payouts after “substantial completion” but did not provide a definition of such.

[HF 952 / SF 841](#)

BAM's guiding principle for this proposal:

- Provide that any changes to the state's retainage law will not undermine residential construction contracts that allow for withholding on final payment for outstanding items including punch list fulfillment.

### **Radon - Dead**

This bill would have required mandatory radon testing for all residential real estate transactions.

[HF 816](#) / SF \*\*\*

BAM's guiding principle for this proposal:

- Ensure radon testing and remediation requirements are necessary and only imposed when warranted.

### **Home Owner Associations & Solar Panels - Dead**

A small group of owners in home owner association (HOA) communities advanced a bill to allow the installation of solar panels on roofs of properties they owned, if they had the sole responsibility for maintaining the roof. This issue was reminiscent of the "Direct TV" dish issue that worked its way through the industry in recent years. Making this HOA / solar panel debate more heated, however, was the demand that the legislation apply retroactively as well as prospectively. At the end of the day, legislators refused to entertain the retroactive demands, as that would interfere with existing contracts. This resulted in the proponents quitting their efforts all together.

[HF 2918](#) / [SF 2555](#)

BAM's guiding principle for this proposal:

- Reject legislation that interferes with existing contractual relationships and guard against statewide policy that would undermine the aesthetic controls embedded into association-controlled developments.

### **Street Improvement District Authority - Dead**

Cities looking for alternative ways to finance street improvements have been pursuing legislation that would allow for the collection of fees from properties benefiting from

the improvements (often set on the number of “trip” traffic going to and from a property). This provision was “floated” in 2014 but did not take bill or statutory amendment form this session. It will be back in future years.

BAM’s guiding principles for this proposal:

- Oppose the imposition of street improvement fees on newly development properties
- Preserve residential construction industry carve out

### **Park Improvement Fees - Dead**

This proposal would have expanded the park fee authority granted to local governments.

BAM’s guiding principle for this proposal:

- Oppose the expansion of park fees and dedication authority.

### **DNR Mississippi River Corridor Critical Area**

This proposed idea allows the DNR to overlay its planning and zoning requirements on local government land use standards. It affects the Mississippi River Corridor in the metropolitan area and is intended to supplant a decades old executive order. While it has a metro-only focus, the authority granted could easily be morphed into a broader P&Z mission creep on the part of the agency. BAM worked to make sure the agency didn’t get legislative authority to expand their reach beyond Mississippi River Corridor Critical Area that is geographically limited to the Twin Cities’ area.

BAM’s guiding principle for this proposal:

- Make sure the DNR does not secure legislative authority to burden new development and redevelopment; make sure the agency does not interfere with normal local land use planning and zoning controls.

### **Insurance Fraud - Dead and Alive**

This proposal stemmed from an interim effort led by the insurance industry and the insured to address issues of insurance fraud. The bill addresses fraud in the health

care arena but does not discuss construction related matters. The new law can be found in [Chapter 310](#).

[HF 3073 / SF 2372](#)

BAM's guiding principle for this proposal:

- Insurance industry efforts to reform all segments of fraud related statutes to increase industry and law enforcement cooperation; monitor for changes to "price agreeable contracts", requirements for written estimates, and limiting financial relationships between contractors and public adjusters.

### **Revised LLC Act - New Law**

This bill standardizes Minnesota's LLC statutes by adopting a national model act. It is supported by the State Bar Association and does not impact the business structure of current LLCs. New law found in [Chapter 157](#).

[HF 977 / SF 1648](#)

BAM's guiding principle for this proposal:

- Entire re-write of Minnesota's uniform limited liability company act; monitor and summarize changes impacting members' future business structures.

### **B2B Sales & Use Taxes Repeal - Successful Repeal**

Business-to-business taxes adopted in 2013 caused significant disparity between businesses inside and outside the state. In addition, the resulting spotty and changing enforcement caused uncertainty in tax obligations and compliance concerns.

[HF 1777 / SF 75](#) passed and signed into law as part of [Chapter 150](#).

BAM's guiding principle for this proposal:

- The business-to-business labor service tax is burdensome and holding back the fragile homebuilding recovery. Repeal is necessary.

### **General Business Interests**

BAM's guiding principle for these issues:

- Increase the residential construction industry's presence on matters involving taxes, workers compensation, insurance and insurance fraud, liability, municipal regulation and fees, and government mandates on business.

### **Metropolitan Council Growth Policies**

BAM's guiding principle for this issue:

- Require the Met Council to be responsive to market realities in its forecasting and avoid mission creep.

# LOOKING TO THE FUTURE

## INDUSTRY REGULATION

A long-term objective of the Builders Association of Minnesota is to change the methods and manner in which the residential construction industry is regulated. While 2014 did not bear any legislative fruit for this effort; the ideas have been planted with our construction peers and within the agency.

BAM's guiding policies for this issue:

- DLI needs to be held accountable to the industry and consumers.
- Residential Construction Board - establish a board that controls the standards of education, licensure, and the code promulgation process.
- CCAC & TAC - make the code recommendations issued by Construction Codes Advisory Committee (CCAC) and Technical Advisory Committees (TAC) binding in the rule promulgation process.
- Licensing Prerequisites - work to make the business license and qualified person requirements more meaningful.
- The WI Provision - require that all future code changes that increase the cost of housing by \$1,000 or more are approved by the Legislature.
- Six Year Code Cycle - establish a six-year code cycle by statute. Note, in June 2014, the Department of Labor and Industry issued a statement reporting the 2018 I-Codes will be the next model code to be addressed in Minnesota.
- Continuing Education - ensure that continuing education courses and providers advance the professional integrity of the industry through meaningful codes and business courses.

# THE BAM LEGISLATIVE TEAM

## THE BEST OF THE BEST

United, we are stronger together. And so it is with legislative work. On behalf of the Minnesota homebuilding industry, nearly 3,000 member companies across the state come together and comprise the Builders Association of Minnesota. Together we fight tirelessly for the industry and the membership. Allow us to introduce the rockstar team working on your behalf all year long.



### **Remi Stone, BAM Executive Vice President**

Ms. Stone came on board in January 2013 as BAM's Executive Vice President. She has more than 20 years of extensive experience with the Minnesota state government and the construction industry having previously worked as a lobbyist, practicing attorney, and director of government affairs for several organizations in 23 states and Washington D.C.



### **Larry Redmond, Redmond Associates**

Founder and President of Redmond Associates, Mr. Redmond has been successfully representing clients before federal, state, and local governments since 1977. Prior to that, Mr. Redmond worked in a variety of governmental and political capacities. Among these, he was a political aide to the late Senator and Vice President of the United States, Hubert H. Humphrey.



### **Brian Halloran, Redmond Associates**

Mr. Halloran has been successfully representing clients on behalf of Redmond Associates since 1996. He specializes in lobbying and client strategy development. Mr. Halloran was recognized in *MN Law and Politics* "Top Lobbyists" story as an "Up and Comer" in the field early in his career. Mr. Halloran was also selected as a 2004-2005 Humphrey Policy Fellow.



### **Andrea Perzichilli, Redmond Associates**

Ms. Perzichilli joined Redmond Associates in early 2013 as a lobbyist and brings a wealth of knowledge. She worked as Government Relations Coordinator at a local non-profit health insurance company. She served in Governor Pawlenty's administration and the Governor's Legislative and Cabinet Affairs group. Ms. Perzichilli has also held various staff positions within the Minnesota House and Senate.



### **Rob Moschet, McCollum, Crowley, Moschet, Miller & Laak**

Mr. Moschet is a shareholder at McCollum, Crowley, Moschet, Miller & Laak and provides legal counsel for BAM. His areas of legal practice include civil litigation, construction defects law, insurance law, toxic torts, litigation and trial practice, and arbitration and mediation. Mr. Moschet is a member of Construction Section of the Minnesota State Bar Association as well as the American Bar Association.



### **Chad Kompelien, Kompelien Custom Homes, 2014 President**

Mr. Kompelien, a member for over 20 years, served in several BAM leadership positions before becoming president. He served as president of his local association, WCBA, and as chair of a group working closely with the Department of Labor and Industry. Mr. Kompelien owns a custom home building company and the company SkuttleTight providing patented, fully insulated, gasketed attic access.



### **Mike Paradise, Bigelow Homes, Government Relations Chair**

Mr. Paradise is the 2014 BAM Government Relations Committee chair and president of Bigelow Homes, a home building company that has been a member of the builders association for 30 years. Paradise was president of his local association, Rochester Area Builders, and has served on, and led, many BAM committees as well as technical and working committees assembled by the Minnesota Department of Labor and Industry.



### **James Vagle, BATC Director of Government Affairs**

Mr. Vagle has spent the past 12 years representing the homebuilding industry before the Legislature, state agencies, and local governments. In addition to his advocacy duties, he spearheads BATC's green initiative, Minnesota's Green Path, and also staffs Housing First, BATC's Independent Expenditure Political Fund. Mr. Vagle got his start in politics as a policy staffer for Governor Jesse Ventura. He studied at William Mitchell College of Law and holds a Political Science degree from the University of Minnesota.



### **Jane DeAustin, CMBA Director of Government Affairs**

Ms. DeAustin is Government Affairs Director for the Central Minnesota Builders Association. She is active in the community and frequently appointed to planning committees and task forces. DeAustin was a board member for the local housing coalition and is currently community representative to the St. Cloud Times Editorial Board and chair of the Government Affairs Committee for the St. Cloud Area Chamber of Commerce.



### **Matt Limoges, RAB Director of Public Affairs**

Mr. Limoges joined the Rochester Area Builders staff in 2013. He is responsible for policy development and advocacy at the city, county, and state level, as well as community relations. Mr. Limoges earned a juris doctorate degree from the University of St. Thomas School of Law and clerked for both a public health law center and for Chestnut & Cambronne Attorneys at Law.



### **Pete Coyle, Larkin Hoffman**

Mr. Coyle is a shareholder at Larkin Hoffman Daly & Lindgren Ltd. and a member of the Government Relations and Administrative Law, Real Estate and Land Use practice groups. Mr. Coyle's practice focuses on representing private individuals and companies in their interactions with state and local government agencies and elected bodies. He has been selected for inclusion in Minnesota Super Lawyers® since 2005, and was selected for inclusion in the 2007-2013 editions of The Best Lawyers in America® in the specialty of Real Estate & Land Use.



### **Julie Perrus, Larkin Hoffman**

Ms. Perrus is a shareholder at Larkin Hoffman Daly & Lindgren Ltd. and is chair of the firm's Government Relations practice group. She focuses primarily on administrative law, regulatory and development issues. Ms. Perrus is one of only a few lawyers in the state to achieve LEED AP® accreditation and was selected as a Rising Star® by the Super Lawyers in 2008, 2009 and 2010. In 2012, she was named to the Minneapolis/St. Paul Business Journal's "40 Under Forty."

## BAM Government Relations Committee Members

**Pamela Belz**, BATC  
Senior Housing Partners

**Steve Buss**, RAB  
Cornerstone Builders

**George Cundy**, BATC  
Cundy, Santine, & Assoc Architects

**Larry Curtiss**, NMBA  
Curtiss Construction

**John Eckerman**, RAB  
Boldt Company

**Ben Edwards**, NMBA  
Edwards La Plant Construction

**Mike Gohman**, CMBA  
W Gohman Construction

**Dan Groteboer**, RAB  
Edina Realty

**Terry Hammack**, ABA  
Anderson & Hammack

**Dale Juntunen**, NMBA  
Juntunen Enterprises

**Chad Kompelien**, WCBA/BATC  
Kompelien Custom Homes

**Jerry Kortesmaki**, ABA  
London Road Rental Center

**Keith Kylmala**, ABA  
Kylmala Truss

**Jason McCarty**, BATC  
Westwood Professional Services

**Mark Mikkelson**, BATC  
Andersen Windows

**Steve Noble**, CMBA  
Noble Custom Homes

**Ryan Ohr**, BATC  
IKO

**Kathe Ostrom**, BATC  
CN Ostrom & Son

**Mike Paradise**, RAB  
Bigelow Homes

**Bryan Schoenberger**, LRBA  
Modern Living Concepts

**Stu Thompson**, BATC  
The Builders Group

**Kal Torkelson**, WCBA  
Westcentral Roofing

**Howie Zetah**, HBA  
Zetah Construction

## Thank You to the BAM Team

BAM worked hard this session to defend the industry and make sure our voice is heard.

Thank you to all who joined us at Builder Day at the Capitol. It's so important to meet with your legislators in person; the message delivered is that much stronger.

Thank you to our Government Relations Committee members who met weekly throughout session to guide BAM's lobbying team on critical legislative issues. The industry is very fortunate to have their time and talents.

And last, but certainly not least, thank you to our brilliant, statewide lobbying team!



# BETTER POLICY BIGGER PRESENCE

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## 2014 LEGISLATIVE SUMMARY

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### BUILDERS ASSOCIATION OF MINNESOTA

bamn.org  
651-646-7959

