

2016 Mid-Session Review



Builders Association of Minnesota



TABLE OF CONTENTS

2016 MID-SESSION REVIEW	1
2016 Legislative Session: Nasty, Brutish, and Short	1
Since January 6, 2015	1
Builder Day at the Capitol	2
Issue By Issue	2
Moratoria	2
Retainage	3
Indemnification	3
Radon	4
Construction Careers Pathways	4
Townhouse ICC Definition	4
State Fire Code	5
Patent Trolling	5
Continuing Issues	5
Attorney's Fees Awarded to Homeowners – (HF160/SF104)	5
Border Cities & Mille Lacs County Codes – (HF898/SF1267)	5
Fire Protection Awareness Act (HF991, HF992/No Senate companion)	6
Point of Sale Contamination Awareness Act (HF1523/SF1448)	6
Street Utility Fees (HF1020/SF778)	6
Industry Regulation	6

THE BAM LEGISLATIVE TEAM	7
THE BEST OF THE BEST	7
Remi Stone, BAM Executive Vice President	7
Forrest Cyr, BAM Director of Government Affairs and Communications	7
Larry Redmond, Redmond Associates	8
Brian Halloran, Redmond Associates	8
Andrea Perzichilli, Redmond Associates	8
Rob Moschet, McCollum, Crowley, Moschet, Miller & Laak	8
James Vagle, BATC Director of Advocacy	9
Jane DeAustin, CMBA Director of Government Affairs	9
Taylor Ridderbusch, RAB Director of Public Policy	9
Pete Coyle, Larkin Hoffman	9

2016 MID-SESSION REVIEW

2016 Legislative Session: Nasty, Brutish, and Short

The distinctly unique nature of Minnesota's 2016 legislative session leaves a Hobbesian after-taste. With legislators, staffers, and lobbyists venturing into the untamed territory of the new Senate Office Building (a state of nature?), a social contract emerged. With the session starting on March 8, 2016, (when, in a normal year, the legislature would usually be heading into the first deadline weeks) there was little time or appetite for proactive legislative initiatives, despite a slew of bills being introduced (more on that later). With expectations low and tensions high, it became evident that a strong defense was truly the best offense, and that a strong leadership and collaboration was needed to keep warring factions at bay, and for the goals of the session accomplished.

The result? Yet to be seen. The current situation? Unpredictable. Below is where we stand now. In a session that is nasty, brutish and short, the political winds can change at a moment's notice. Rest assured, your advocates and watchdogs are braving these treacherous waters for the good of the Minnesota building Industry, your businesses, and our communities.

With just under a month to go, much will happen in the coming weeks. Stay tuned, remain vigilant, and be engaged. Our collective voice is strong; it will help us cut through the cacophony at the Capitol, and make our voices heard.

Since January 6, 2015

The MN House has introduced almost 4000 bills in the 2015-2016 biennium, with the senate close behind at one shy of 3600. In the 2007-2008 biennium, the House introduced 4256 bills. Will we reach this astronomical number? Only time will tell. One thing we must remember: All bills can be used as amendments. Your advocates and watchdogs are keeping a watchful eye on these proposed pieces of legislation.

Builder Day at the Capitol

Thank you to all who joined us this year for Builder Day at the Capitol.

We had a wonderful turnout to meet with legislators from both bodies, and from both sides of the isle. Thank you to our 2016 BAM President KC Chermak, and BAM Government Relations Committee Chair Kurt Welker for their dedication to this association, and our advocacy work.

BAM's Government Affairs Committee directs our advocacy work, and our dedicated committee members provide essential feedback, guidance, and insight that make our lobbying efforts effective.

A big thank you to BAM's 2016 lobbying team! Our team includes the following talented people: Executive Vice President Remi Stone, Director of Government Affairs and Communications Forrest Cyr, Larry Redmond of Redmond Associates, Brian Halloran of Redmond Associates, Andrea Perzichilli of Redmond Associates, Rob Moschet of McCollum, Crowley, Moschet, Miller & Laak, James Vagle, BATC Advocacy Director, Taylor Ridderbusch, RAB Director of Public Affairs, Jane DeAustin, CMBA Government Affairs, and BATC's contract lobbyists Pete Coyle of Larkin Hoffman and Matthew Bergeron of Larkin Hoffman.

Issue By Issue

The following is an inventory of the issues the residential construction industry has been working on, along with a mid-session status for each.

Moratoria (HF2585/SF2694)

Much work has been done, in collaboration with BATC, the MN REALTORS, the Minnesota Multi Housing Association, and the Minnesota Consortium of Community Developers, to increase transparency before a land-use moratoria is implemented. The original bills required both a super-majority vote, as well as a 30-day notice period before implementation.

However, legislators in both houses opposed these changes, as well as municipalities, and other stakeholders. As a compromise, an amendment was offered to eliminate the super-majority requirement, and shorten the notice period to 10-days.

While this bill passed through the committee process in the House, it failed to pass the State and Local Government Committee in the Senate, causing it to miss second deadline.

Despite this, a 10-day notice period requirement is included in the State Government Finance bill in the House, authored by Chair Sarah Anderson, and is part of the larger omnibus package (HF3467), which also includes Public Safety and Health and Human Services. The fate of this language will likely be decided in conference committee.

Find the Moratoria whitepaper under the “legislation” tab in the member-only portion of BAM’s website.

Retainage

Bills to modify current retainage laws have moved through both bodies of the legislature. Carried by Sen. Dan Sparks in Senate, and Rep. Jason Rarick in the House, and pushed by the Minnesota Subcontractors Association. The bill clarifies that retainage is included in progress payments requirements, caps retainage at 5%, as well as allow for the cessation of work if prompt payment is not received within ten days.

- HF2451/ SF1898 is on the floor in both the House and the Senate.

BAM’s guiding policies for these proposals are:

- Retainage is not included in residential housing contracts, and BAM worked to make sure that retainage is not required to be withheld. BAM accomplished this by working with the legislature and the various stakeholders to add the following language:

“Nothing in this subdivision is intended to require that retainage be withheld in any building or construction contract.”

The bill is expected to pass with the amendments intact.

Indemnification

The indemnification bills made progress in the legislature last year, and is alive this year. Carried by Senator Vicki Jensen (DFL - Owatonna) in the Senate and Rep. Bob Loonan (R - Shakopee) in the House. These bills are intended to manage the insured and indemnified relationship between owners, general contractors, and subcontractors.

- HF 1099 / SF 924 - On both the Senate and House floor.

The Builders Association of Minnesota opposes changes to the indemnification laws that compromise our existing statutory requirements to maintain insurance as a condition of our licensing scheme or ability to execute equitable contracts.

Radon

The Radon Mitigation Industry has worked hard to modify or repeal the 2015 Radon Licensure Act. In the supplemental appropriations bill, language to reduce fees for licensure, extend the date for radon system tags to January 1, 2018, as well as to “not preclude local governments from requiring additional inspections and permits.” is included in the Senate supplemental omnibus bill, SF2356.

BAM’s guiding policies for this proposal is:

- Ensure radon testing and remediation requirements are necessary and only imposed when warranted, ensure that duplicative and redundant testing is avoided, and make sure that the new home construction exemption is left intact.

Construction Careers Pathways

The Builders Association of Minnesota supports efforts to get new people into the construction industry. Rep. Jason Rarick’s (R-Pine City) bill in the house and Sen. David Tomassoni’s (DFL – Chisholm) bill in the Senate appropriate \$1m to the Construction Careers Foundation to bring more teens and young adults into the trades. This is money well spent, and will help young people pursue meaningful and rewarding careers.

- HF3931 (Dean) / HF3931 (Skoe, Senate Author)

BAM’s guiding policies for this proposal is:

- Support money to increase construction career opportunities for young people statewide.

Townhouse ICC Definition

The Builders Association of Minnesota supports initiatives to statutorily define townhomes as having three or more attached units, instead of the current rule that defines townhomes as two or more attached units. This causes all townhomes to have mandatory sprinklers installed, regardless of the square footage of the units. This has major impacts on the development of more affordable housing options, especially in cities near the borders of our state.

- BAM supports adopting the ICC's definition of a townhouse as three or more attached units, instead of two, as is currently required under the Minnesota State Building Code.

State Fire Code

Earlier in the session, the Department of Labor and Industry floated an idea to move the Fire Codes to the Department of Public Safety, a move BAM opposes. Further, a bill from Rep. Howe proposed *all* the codes be moved over to Public Safety. With the help of our stellar lobbying team, these two problematic initiatives were halted.

Patent Trolling (HF1586/SF1321)

BAM was part of a two year effort to pass legislation in Minnesota to protect small businesses from falling victim to patent trolls. These individuals demand payments for the use of simple technology they claim a patent on to avoid costly litigation. While NAHB continues to work on the issue in Washington, DC, the coalition of several businesses chose to change the law in Minnesota because of the lack of progress being made in Congress.

Continuing Issues

Attorney's Fees Awarded to Homeowners – (HF160/SF104)

The bill was heard very early this session and was vehemently opposed by the industry. The bill proposed attorneys fees be awarded to homeowners prevailing in litigation, but would deny the same right to builders prevailing in litigation. This issue has not been revisited in 2016.

Border Cities & Mille Lacs County Codes – (HF898/SF1267)

Both of these bills seek to change the nature of code enforcement in local jurisdictions. The border city bill proposed to relieve 5 cities along the Red River to from Minnesota's statewide building code in favor of North Dakota's building code. The Mille Lacs bill allows the county to stop its inspection services. Both bill cause policy concerns for the industry – from licensing and liability problems with the border city idea to the shift away from code enforcement statewide.

Further, an amendment was discussed briefly in the Jobs, Agriculture, and Rural Development committee to allow for the border cities carve out. BAM does not support a patchwork adoption or enforcement of the code.

Fire Protection Awareness Act (HF991, HF992/No Senate companion)

Under this proposal, residential builders would have been required builders to show a video to prospective homebuyers about the merits of sprinklers and disclose new homes built in Minnesota do not comply with the ICC model residential code. No hearing have been granted for these bills

The industry opposes this bill and it did not get a hearing prior to deadline.

Point of Sale Contamination Awareness Act (HF1523/SF1448)

This bill would have required real estate sellers to disclose whether there is or ever has been soil or water contamination on the property. The industry has joined with our realtor friends to monitor this bill as it may have unintended negative consequences. No action has been taken on these bills.

Street Utility Fees (HF1020/SF778)

A street utilities bill would have given municipalities the authority to create street utility zones to collect revenue for street repairs and maintenance. This bill is currently tabled in the State Government Committee in the Senate, and hasn't seen any action.

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.

BAM's guiding policies for this issue is:

- 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 CCAC and TAC binding on the rule promulgation process.
- 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.

- Unlicensed activity - Increased penalty for unlicensed building activity. The groundwork was laid for this policy piece, and potential authors in the House have stated their willingness to pursue this in 2017.

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 that works on your behalf all year long.



Remi Stone, BAM Executive Vice President

Ms. Stone came on board in January 2013 as BAM's new 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.



Forrest Cyr, BAM Director of Government Affairs and Communications

Mr. Cyr has been with BAM since July 2015. Mr. Cyr works to communicate legislative and political information to BAM's statewide membership, as well as represent BAM at the Minnesota State Capitol. Prior to working for BAM, he worked as a lobbyist with Redmond Associates, representing BAM, as well as clients in the health care industry. He also has campaign experience.



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 for as Government Relations Coordinator at a local non-profit health insurance company. Ms. Perzichilli 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.



James Vagle, BATC Director of Advocacy

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 has 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.



Taylor Ridderbusch, RAB Director of Public Policy

Mr. Ridderbusch joined the Rochester Area Builders staff in 2015. He is responsible for policy development and advocacy at the city, county, and state level, as well as community relations. Mr. Ridderbusch hails from Wisconsin.



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.