

# 2016 Session Review



Builders Association of Minnesota



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# 2016 SESSION REVIEW

## 2016 Legislative Session: A \$4 Million Success

**Saint Paul, MN - May 23, 2016 11:53pm** - In the depths of the Minnesota Capitol Building, a staffer waits for the green light to run the bonding bill across the street to the new Minnesota Senate Building. With controversy on the House floor regarding how amendments would be offered, time was running out. With mere minutes left in the session, the House passed the bonding bill. With no time to lose, this intrepid house staffer ran across University Ave, dodged light-rail trains, and weaved through throngs of cheering lobbyists and staff with a freshly minted bonding bill, on its way to passage. The House adjourns sine die.

Then, disaster struck. The bill fails. With additional amendments offered by the Senate, the bonding bill was destined to fail, as the House adjourned, and were unable to receive amended bills. The bonding bill failed, and nothing could be done to change that. The clock strikes midnight. No bonding bill.

The following days included much finger-pointing, blame, and political posturing, leaving many to ask questions such as: Will there be a special session, what will be worked on, and will the Governor's requests be met? Only time will tell.

Only two of the four "big bills" were sent to the Governor's desk. One bill passed, and one failed. **The supplemental budget bill, containing BAM language, was signed!** The supplemental budget bill included money for broadband, workforce development, and other areas of priority for the legislature. However, the tax bill was not signed, with the Governor using the "pocket veto" to kill the bill, which contained an error that could have cost the state over \$100 million. Now the negotiations for bonding and taxes, as well as additional spending, are ongoing, with no end in sight.

Where does this leave BAM? In a good position. BAM lobbied hard to get money for youth in construction, **getting \$4 million dollars by 2019 for the Construction Careers Foundation!** Also, BAM stopped problematic legislation by working with legislative leadership on both sides of the isle, as well as helped pass meaningful patent troll enforcement legislation. 2016, despite the drama, was productive for BAM. Thank you to our wonderful team and engaged members for their hard work this session! We couldn't do it without you.

## Since January 6, 2015

The MN House introduced 4032 bills in the 2015-2016 biennium, with the Senate close behind at one shy of 3600. With such a high number, why is does so little get done?

## 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's 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 session report for each.

### **4 Million Dollars for Construction Careers Pathways - Included in Supplemental Budget Bill**

The Builders Association of Minnesota supports efforts to get middle and high-school aged youth into the construction industry! BAM lobbied for funding for the Construction Careers Foundation, and helped secure **\$4 million** by 2019. This money will help young people pursue meaningful and rewarding careers, as well as help address the building industry's workforce issues

The money will be used for:

- Increase statewide youth construction exposure
- Provide summer internships in construction
- Enhance marketing efforts for the construction employment to young people
- Assist graduating high school seniors to obtain employment in construction.
- Help veterans, women, and minority groups enter the construction workforce.

BAM's guiding policies for this proposal is:

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

### **Indemnification - Stopped**

The indemnification bills made progress in the legislature this year, with both bills advancing to the floors of both the House and the Senate. Both bills were stopped after pressure from concerned stakeholders, including MNDOT, AGC, BAM, BATC. 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 resisted 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.

### **Moratoria - Passed House, Not Senate**

Much work was done in collaboration with BATC, the MN REALTORS, the Minnesota Multi Housing Association, and the Minnesota Consortium of Community Developers to increase transparency and due process before a land-use moratorium is implemented. The original bills required both a super-majority vote, as well as a 30-day notice period before implementation. As a compromise, an amendment was offered to eliminate the super-majority requirement, and shorten the notice period to 10-days.

Working with our bi-partisan allies in the House, we were able to pass the Moratoria bill on the floor, as well as have it included in the House Supplemental Budget Bill. However, the conference committee did not adopt the language in the the Supplemental Budget Committee hearing, despite pressure from BAM, BATC, and other advocacy groups.

The League of Minnesota cities, as well as the municipalities and stakeholders, opposed these common-sense transparency laws. In the end, the changes were not made.

BAM will continue to work with lawmakers to pass these meaningful reforms in future sessions.

Read more about the proposed interim ordinance changes by reading our summary, under the “legislation” tab in the member-only portion of BAM’s website.

### **Patent Trolling - Passed!**

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.

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

### **Radon - Passed with BAM Comfort Language in the Supplemental Budget Bill**

The Radon Mitigation Industry has worked hard to modify the 2015 Radon Licensure Act to reduce licensure fees, limit who is required to be licensed, and update exemptions. **BAM made sure that no new tests would be required for newly constructed homes under 326B.**

Included in the Supplemental Appropriations Bill is 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.” The language was included in the conference committee report, and was signed by the Governor on 6/1/16.

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.

### **Retainage - Passed with BAM Language**

Bills to modify current retainage laws have moved through both bodies of the legislature, and were signed by the Governor. Carried by Sen. Dan Sparks in Senate, and Rep. Jason Rarick in the House, and pushed by the Minnesota Subcontractors Association. The law 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. BAM worked with stakeholders and legislators to ensure that retainage was not a *required* contract item.

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.”

### **State Fire Code - Halted Before Session**

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 by woking with our friends at DLI and in the legislature.

## **Bills Killed**

### **Attorney’s Fees Awarded to Homeowners – (HF160/SF104)**

The bill was heard very early in the 2015 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 was not revisited in 2016.

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

Both of the bills offered sought to change the nature of code enforcement in local jurisdictions. The border city bill proposed to relieve five cities along the Red River 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 bills cause policy concerns for the industry – from licensing and liability problems with the border city idea to the shift away from code enforcement statewide.

In the 2016 session, an amendment was discussed briefly in the Jobs, Agriculture, and Rural Development committee to allow for the border cities carve out. This amendment was withdrawn by the author. BAM does not support a patchwork adoption or enforcement of the code.

## **Fire Protection Awareness Act (HF991, HF992/No Senate companion) - Stopped**

Under this proposal, residential builders would have been required 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 has been granted for these bills in either session of the biennium.

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

## **Point of Sale Contamination Awareness Act (HF1523/SF1448) - Stopped**

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 joined with our Realtor friends to monitor this bill as it may have unintended negative consequences. No action has been taken on these bills during either session of the biennium.

## **Street Utility Fees (HF1020/SF778) - Stopped**

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, as the bill got a ton of pushback from numerous Minnesota industries.

## **Going Forward**

### **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.

- 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



## **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.













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