

2017 Mid-Session Review



Builders Association of Minnesota



2017 Mid-Session Report

The Builders Association of Minnesota (BAM) has worked hard to pass common-sense, pro-housing legislation for the first half of the legislative session. In the 2017 session, BAM has coordinated with industry-friendly legislators to craft bills designed to increase housing availability and affordability, raise the professionalism of the building industry, and establish legislative oversight of regulatory processes that increase the cost of housing. With progress made and hearings received for each of BAM's policy priorities, the association and industry is well positioned for a successful second half of session.

The Minnesota Legislative session began on January 3, 2017, and got off to a fast start. As of March 30, 2017, almost 5000 bills have been introduced since the start of session (2300 in the Senate, 2500 in the House), with many being heard in committees before deadline, and included in larger bills. With deadlines early in the session, legislators and staff are scrambling to construct and pass large omnibus bills, which will be the basis for the state's 2018-2019 budget bill (outlined below). 39 new legislators joined us in Saint Paul following the 2016 election. Each new lawmaker brings fresh new ideas to the legislature, and we have greatly enjoyed working with these dedicated public servants hailing from around Minnesota.

There is much work left to do! We are thrilled to have our bills in a good position, and are prepared to hit the ground running again for the next half of session. That's where you come in -- we need our membership to stay engaged! The contacts and relationships our members have with their elected officials are essential to effective advocacy by BAM. To BAM members who have contacted their senators and representatives, *we thank you!* Your involvement truly makes all the difference.

Day at the Capitol

The Builders Association of Minnesota (BAM) had a successful Day at the Capitol with our friends at the MN Association of Exterior Specialists (MNAES). On January 25, 2017, over 60 association members had meetings with their individual legislators to discuss ongoing policy priorities for Minnesota's

building industry. The relationships our members have with their legislators are vitally important to BAM's success at the Minnesota State Capitol!

A big thank you to BAM's 2017 team! Our team includes the following talented people: Remi Stone, Executive Vice President, Forrest Cyr, Director of Government Affairs and Communications, Priscilla Conway, Manager of Operations, Larry Redmond, Brian Halloran, and Andrea Perzichilli of Redmond Associates, Rob Moschet of the McCollum Crowley law firm, Keith Cousins, RAB Public Affairs Director, Jane DeAustin, CMBA Government Affairs, and Lisa Frenette, Frenette Legislative Advisors and the Minnesota Association of Exterior Specialists.

Issues

TOWNHOME DEFINITION HF792 (THEIS, R-ST. CLOUD) / SF578 (DRAHEIM, R-MADISON LAKE)

A top session priority for the BAM, bills to change the definition of a townhome from two or more attached dwelling units to three or more attached dwelling units have passed through the relevant committees in the House and Senate, and are awaiting consideration by both bodies of the legislature on the floor. The bills, SF578 and HF792, promote home-ownership by increasing the availability of market-rate affordable housing throughout Minnesota by reducing costly regulations required for construction.

Working with a strong coalition of various stakeholders, including the city of Moorhead, and a bipartisan group of legislators, BAM's efforts to change the townhome definition has been a demonstration of the power of bipartisanship and coalition building. Further, the authors of the bill have shown incredible leadership in raising awareness of the importance of changing the definition, as well as the importance of timely action.

Authored by industry participants Rep. Tama Theis (R - St. Cloud) and Sen. Rich Draheim (R - Madison Lake), along with a bi-partisan group of 23 co-authors, HF792 and SF578 moved quickly through the committee process, thanks to the leadership of these exemplary lawmakers. Working with other stakeholder groups, including the Department of Labor and Industry (DLI) and the fire service, the bill was amended in the House Jobs Committee to direct the DLI to make changes *to the code through expedited rulemaking*, rather than put code

definitions *into statute*, as well as put a stay on enforcement while the code change process occurs.

The current definition has impacted the border cities especially hard. For example, following the effective date of the 2015 Residential Code, in Moorhead almost all development of twin-homes ceased to take place, with many projects heading across the river to Fargo, ND. BAM thanks Sen. Kent Eken (DFL - Moorhead) and Rep. Ben Lien (DFL - Moorhead) for their testimony in the Senate and the House committees, their efforts to build bi-partisan support for the legislation, and their dedication to increasing housing availability and affordability in Moorhead and Minnesota.

PENALTIES FOR UNLICENSED BUILDERS HF1119 (THEIS, R-ST. CLOUD) / SF1533 (DRAHEIM, R-MADISON LAKE)

In its ongoing effort to help protect Minnesota's consumers and raise the professionalism of the industry, BAM is lobbying to increase the penalty for those operating as a residential contractor without obtaining proper licensure under Minnesota Statute 326B. This will put the industry on par with its real estate and insurance industry peers and assist enforcement agencies who are working to stop unlicensed activity.

Currently a misdemeanor, BAM advocates to reclassify this offense as a gross misdemeanor to align the penalties with comparable professions, deter unlicensed builders with stricter penalties, and encourage enforcement. Sen. Rich Draheim (R - Madison Lake) and Rep. Tama Theis (R - Saint Cloud) are once again the chief authors for industry priority bills (they're awesome!).

The bill met the first and second deadline (March 10 and March 17) in the House, and passed the Senate Jobs Committee on March 15. When it was heard in the House Commerce committee on March 7, HF1119 set a BAM record for quickest bill hearing, clocking in at just less than 3 minutes from testimony to passage! Heard in three committees in the House, HF1119 has broad, bipartisan support. The bill is now waiting on the House floor and is expected to be included in an Omnibus Finance bill.

Increasing the penalty for acting as residential contractor without a license is just the beginning. Going forward, BAM will work with stakeholders to find meaningful solutions to this complex problem, including stiffer administrative

civil penalties, allowing non-payment for work done without a license, and public affairs campaigns to encourage consumers to hire licensed builders.

FIRE CODE TRANSFER FROM DLI TO DPS HF700 (HOWE, R-ROCKVILLE) / NO SENATE COMPANION

This issue surfaced last year and has continued into this legislative session. The fire service community is interested in transferring the responsibility of fire code rulemaking from the Department of Labor and Industry to Department of Public Safety. The bill did not make deadline this year.

DLI HOUSEKEEPING BILL HF1204 (RARICK, R-PINE CITY) / SF1457 (GOGGIN, R-RED WING)

The DLI Housekeeping Bill contains language that repeals outdated statute, and provides technical fixes to unclear, ambiguous, or incorrectly written laws. This bill primarily makes changes to construction codes and licensing, the Combative Sports Commission, and the Occupation Safety and Health Administration.

- Various outdated references to licensing requirements are repealed. The bill also modifies the process for DLI to process incomplete licensing applications.
- Language is corrected to clarify that the use of lead is not required in plumbing for drinking water.
- Amending Minnesota Statute 326B.127, the bill clarifies that the High Pressure Piping Code is part of the State Building Code. It also changes references to high-pressure licensure nomenclature to align with other licenses issued by DLI.

DEED, COMMERCE, DLI BILL HF1081 (GAROFALO, R-FARMINGTON) / SF942 (MILLER, R-WINONA)

This bill is the appropriations bill for the Department of Employment and Economic Development, the Department of Commerce, and the Department of Labor and industry. It also includes policy language for these entities.

- Reduces building permits fees in Minnesota Statute, section 326B.153 for the sliding scale of valuation.
- Requires inspection of public assembly spaces of 200+ occupancy, and that these structures, which are defined in the bill, to comply with the

State Building Code, as well as require DLI enforcement in municipalities that have not adopted the building code by ordinance.

- Increases the payment limits for the contractor recovery fund from \$150,00 to \$300,000.
- Includes language to make wage theft a gross misdemeanor, defines these prohibitive practices, and requires employers to provide employees written notice of pay, benefits, and pay schedule at the start of employment.

APPRAISERS BILL

HF593 (O'DRISCOLL, R-SARTELL) /SF366 (HOUSLEY, R-STILLWATER)

Despite BAM and NAHB's coordination with the appraisers' national association and state chapter, the appraisers choose to move forward with a bill to change how data relating to disciplinary action against an appraiser is handled by the Department of Commerce. Further, it requires disclosure of crimes, fingerprinting, and a criminal background check for an initial real estate appraiser license.

Regretfully, the bill does not take up any provisions to improve the manner in which new homes are appraised, nor does it establish criteria to recognize advanced construction codes or green technologies. BAM will initiate its own bill in 2018.

INTERIM ORDINANCE PUBLIC NOTICE

HF330 (NASH, R-WACONIA) / SF201 (HALL, R-BURNSVILLE)

Partnering with our real estate industry peers at the Minnesota Association of Realtors and BATC, BAM has worked to pass legislation that increases transparency and communication between municipalities and interested parties. This bill, carried by Rep. Jim Nash (R - Waconia), and Sen. Dan Hall (R - Burnsville), requires public notice and approval by a super majority vote of city council members before a housing moratorium can be implemented. The House of Representatives passed the bill on an 87-44 vote. The bill awaits consideration by the Senate.

MINNESOTA COMMON INTEREST OWNERSHIP ACT

HF1538 (SMITH, R-MAPLE GROVE) / SF1455 (DZIEDZIC, DFL-MINNEAPOLIS)

BAM is working alongside a coalition of interested stakeholders, including the cities of Minneapolis and St. Paul, to pass the MN Common Interest Ownership Act (MNCIOA), which will help spur development of owner-occupied multi-family developments by reducing the risk of HOA inspired litigation.

The bill passed the Civil Law committee in the House on Thursday, March 2! Rep. Dennis Smith (R - Maple Grove) authors the bill in the House. In the Senate, Sen. Kari Dziedzic (DFL - Minneapolis), with Sen. Warren Limmer (R - Maple Grove) as co-author, authors the bill. The bill was heard in the Senate on March 17, 2017, which saw the bill amended before it was sent to the floor.

This progress is encouraging. The bill, being acted favorably upon by both of the Judiciary committees in the House and Senate, is positioned on the floors of both chambers to be considered at a later date. For now, the deadlines have been met, and we can breathe a sigh of relief.

LEGISLATIVE OVERSIGHT OF RULEMAKING PROCESS – “THE WISCONSIN RULE”

HF1001 (VOGEL, R-ELKO NEW MARKET) / SF745 (KIFFMEYER, R-BIG LAKE)

BAM, joining with BATC, is advocating for a bill that would require legislative oversight of the rulemaking process for any provision that would increase the cost of housing by \$1000 or more. The bill seeks to increase the affordability of housing more Minnesota’s homebuyers. The bill, carried by Rep. Bob Vogel (R - Elko New Market) and Sen. Mary Kiffmeyer (R - Big Lake), is on the floor of the House, and is in the Finance committee in the Senate.

RADON LICENSING REPEAL

HF334 (ZERWAS, R-ELK RIVER)/ SF639 (HOUSLEY, R-STILLWATER)

The Minnesota Association of Radon Professionals (MARP) is working to repeal the Minnesota Radon Licensing Act. In 2016, this trade association worked with the chairs of the House and Senate Health and Human Services (HHS) committees to amend the Radon Licensing Act that, in part, drastically reduced the Minnesota Department of Health’s (MDH) radon licensure fees. During the 2017 session, MARP introduced legislation that would repeal the licensing act. However, these bills did not meet the required committee deadlines, with both bills stalling in the House and Senate HHS committees.

BAM continues to monitor this initiative and works to ensure that new home construction will remain exempt from any redundant and additional MDH radon systems requirements. The Minnesota Residential Code, promulgated by DLI, already requires radon mitigation systems in new residential construction.

DUTY TO DEFEND

HF746 (LOONAN, R-SHAKOPEE) / SF696 (UTKE, R-PARK RAPIDS)

BAM met with Rep. Bob Loonan (R - Shakopee) and interested parties on Duty to Defend legislation during the first half of the legislative session. From the meeting, it became clear that the myriad of issues addressed will require much more work to find a solution, and BAM will work with all the stakeholders to find solutions to address concerns raised by Duty to Defend legislation.

The bills, HF746, carried by Rep. Bob Loonan (R - Shakopee) and SF696, carried by Sen. Paul Utke (R - Park Rapids), were not heard in either the House or Senate, and did not meet committee deadlines. BAM will continue to engage with the relevant parties on this issue moving forward.

INSURANCE ISSUES

Collaborating with the Minnesota Association of Exterior Specialists, BAM is working to increase communication between contractors, insurance companies, and consumers, while requiring that insurance adjusters be knowledgeable in Minnesota's building codes.

All too often, an insurance adjuster from out-state will not be adequately familiar with Minnesota's building codes, and won't be equipped to provide an accurate assessment of damages. BAM supports the efforts by MNAES to require continuing education for insurance adjusters on building codes in Minnesota, so that consumers receive compensation equal to the damage sustained and contractors are not making required repairs that won't be covered by an insurance company.

Further, BAM has expressed concerns about legislation (**HF2285 (O'Driscoll, R-Sartell) / SF1826 (Koran, R-North Branch)**) that allows insurers' forms - both ACV & RCV - to include depreciation of labor as a potential element to their repair estimates. This bill has stalled for now, but we expect the conversation to continue this year and into next session.

Bonding, Budget, & Taxes

BAM carefully watches the state's big finance bills. Construction career development and housing stimulus programs are tucked away in the budget bills. The bonding bill is the vehicle for capital investments in the state that support development of housing and businesses. The tax bill sets in place the very policies that drive the cost of doing business in Minnesota.

BONDING BILLS

HF892 (URDAHL, R-GROVE CITY)/ SF640 (PAPPAS, DFL-SAINT PAUL)

A bonding bill is traditionally passed in the even-numbered year of a legislative biennium. However, the legislature failed to do so in 2016, leaving the work to be done in 2017. Following passage of a \$1.1 Billion bonding package in 2016 by the House, the Senate moved to amend the bill to include funding for the controversial Southwest light rail system. Since the House had adjourned sine die, the bill was not passed.

With the lack of a transportation bill, the bonding bill has become a central piece to funding Minnesota's transportation needs. No action has been taken to hear the bill so far in the 2017 session. Bonding typically is the subject of much attention in the final weeks of session.

MINNESOTA STATE BUDGET

Odd-numbered years are budget years for the Minnesota legislature. After a hectic first half of the session, the Governor, Senate GOP, and House GOP released their proposed budgets for the state. With much uncertainty at the federal level, the budget will be a source of intense negotiations in the second half of the 2017 session.

In the various budget bills, many provisions are of interest to BAM. Currently, the budget bills are in various forms – a group of omnibus bills from the finance committees in the House and Senate. Of note:

- \$500,000 to continue working to assume state responsibility for section 404 permitting – by a single state permitting authority – and to establish an online permitting portal.

- A total of over \$60 million for workforce development, with \$1,000,000 for each year to the Construction Careers Foundation to encourage careers in the construction industry by:
 - i) Increasing exposure to construction opportunities;
 - ii) Increasing high school construction classes;
 - iii) Increasing summer internship opportunities;
 - iv) Marketing strategies to encourage construction careers.
- \$200,000 each year for Helmets to Hardhats. This program is designed to help military members gain employment in the construction and building industries.
- \$98 million to the Housing Finance Agency
 - i) \$21 million to the Challenge Program, to help spur development of housing in areas where development is not economically feasible;
 - ii) \$4 million for workforce housing development;
 - iii) \$23 million for the Housing Development Fund;
 - iv) \$1.7 million for the Home Ownership Assistance Fund.
- CCLD Fee Reduction (See Above: DEED, Commerce, DLI bill HF1081/SF942)

OMNIBUS TAX BILL

HF4 (DAVIDS, R-PRESTON)/ SF2255 (CHAMBERLAIN, R-LINO LAKES)

In 2016, both the House and the Senate passed the tax bill, which provided middle class tax cuts, including for business property, student loan relief, farmers, tobacco, and many other provisions. However, due to a minor typo in the final bill that could have cost the state \$100 million in lost tax revenue, the Governor vetoed the bill, much to the chagrin of the legislature.

In 2017, similar tax bills are moving. A main difference between the 2016 and 2017 tax bill is a shift of \$450 million dollars from the general fund to be used on roads and bridges. The total package of relief totals \$1.3 billion dollars. In comparison, the Governor's proposal for tax relief totaled \$300 million. During testimony on the omnibus tax bill, the Department of Revenue expressed concerns about the sharp decrease in state revenue.

Items of interest:

- A provision, pushed by our real estate industry partners, provides up to \$15,000 as a subtraction for married, jointly filing first-time homebuyers who save for a down payment in a special account.

- Property tax exemption for the first \$200,000 of commercial-industrial property from the state sales tax.
- Authority to MHFA to allocate \$7 million in tax years 2017-2020 to federal low income housing tax credit eligible projects that are deemed to be not financially feasible. The language requires half of the credits be used for Greater Minnesota projects.

Stay tuned for updates from Saint Paul! Contact Forrest at 612-248-4463, or at Forrest@bamn.org with any questions, or if you'd like to be added to our mailing list to have updates from the Capitol sent to your inbox!

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