

BETTER POLICY BIGGER PRESENCE



2014 MID-SESSION REVIEW

BUILDERS ASSOCIATION OF MINNESOTA
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2014 MID-SESSION REVIEW

Caesar:

*Who is it in the press that calls on me?
I hear a tongue shriller than all the music
Cry "Caesar!" Speak, Caesar is turn'd to hear.*

Soothsayer:

Beware the ides of March.

Caesar:

What man is that?

Brutus:

A soothsayer bids you beware the ides of March.

Julius Caesar Act 1, scene 2, 15-19

BEWARE THE IDES OF MARCH

As Caesar, the Roman dictator, made his appearance before the "press" (crowd) in the streets, a soothsayer issued his famous warning. And Caesar, a very superstitious man, wasn't one to take a soothsayer lightly.

Nor should those with an interest in Minnesota politics and policy take the ides of March lightly. March 15th is Lupercalia, an ancient Roman religious holiday. And, in modern Minnesota politics, it is roughly the same time as the Legislative Policy Committee Deadlines.

This year, the lobbying ides of March came on March 21, the first committee deadline, marched forward through the second committee deadline of March 28, and a reached its zenith with the finance committee deadline on April 4.

"The importance of the ides of March for Caesar is that it was the day he was assassinated by a group of conspirators, including Brutus and Cassius. Despite numerous and improbable portents—the soothsayer's warning, some fearsome thundering, his

wife's dreams of his murder, and so on—Caesar ventured forth on the ides to meet his doom.” eNotes on Shakespeare, www.enotes.com.

The same holds true for the slew of bills meeting their fate during this mid-session marker. Minnesota’s 89th Legislative Session began February 25, 2014.

Mid-Session Milestone

Midway through this session, BAM can report on the fate of several bills to date.

The House has introduced 1,481 bills and the Senate has introduced 1,275 bills.

Needless to say, there is an abundance of failed proposals that have accepted their fate of “death” in 2014 or are looking for a way to be “reincarnated” through a mix of suspended rules and artfully placed amendments.

To date, the residential construction industry has reaped positive outcomes, including the repeal of the business-to-business sales and use taxes while batting down several bills that threatened to harm your bottom line.

Upon completion of session BAM will send a full legislative report to all members.

For now, as we pass by this year’s lobby “ides of March”, we provide you with the following review of bills that have, or would have had, an impact on the residential construction industry.

BILL BY BILL

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

Sprinkler Mandate

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 have been 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 disclosures, at the time of sale, 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 - are potential amendments onto other bills.

- [HF 3190](#) / SF **** sprinkler prohibition
- [HF 3111](#) / [SF 2748](#) 7-7 bill; seven county / 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 promulgate fire code (plus sprinklers)
- [HF 3021](#) / [SF 2623](#) lightweight construction ban
- [HF 3020](#) / SF **** IRC sprinkler disclosure realtors
- [HF 3221](#) / [SF 2740](#) Res GC & Remodeler disclosures & quotes

BAM's guiding policies for these proposals are:

- Repeal code provision: this affects all Minnesotans, and Minnesotans don't want this.
- Establish date certain effective date. (May be Jan. 6, 2015.)
- Stop lightweight construction prohibition.

- Stop “not built to IRC” fire suppression standards notice requirement.

Subcontractor Registration

This bill 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](#) alive as amended; house “hall pass”; senate “2016”
- HF 2198 - Omnibus Jobs Bill (Mahoney); “hall pass”

BAM’s guiding policies for these proposals are:

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

Home Warranty Attorneys Fees & Costs

This bill awards attorneys fees to homeowners who prevail in warranty litigation against builders and remodelers. The bill does not provide the same benefit to builders and remodelers who prevail in litigation. The bill failed to make a deadline hearing, however, it will be given an informational hearing later this spring.

- [HF 2612](#) / [SF 2146](#) “presumed dead”

BAM’s guiding policy for this proposal is:

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

State Rulemaking Bill

As one of the premier “unsession” proposals pursued by Governor Dayton, state agencies devised a bill 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. The bill has been amended to include our desired changes.

- [HF 2724](#) / [SF 2467](#) "life support" but "alive" with amendments

BAM's guiding policy for this proposal is:

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

Statewide Code Inspections & Enforcement

All of these bills aim 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 are all dead for 2014.

- [HF 2377](#) / SF **** Local Governments must enforce "dead"
- HF **** / [SF 1659](#) DOLI must enforce "dead"
- [HF 2197](#) / [SF 1945](#) Mille Lacs "dead"
- [HF 2389](#) / [SF 1914](#) Border Cities "dead"

BAM's guiding policies for these proposals are:

- 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.
 - Mille Lacs County opt out of code enforcement; border-city exception from Minnesota state building code and option to build to adjacent state code; all areas north of Highway 2 exempt from building code enforcement; 7 county 7K square feet geographic & size limitation - sprinkler.

Building Permit Fee Appeals

These bills provide 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 policy for these proposals is:

- 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 Contractor - Public Projects

This bill seeks to prohibit 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 has been amended several times.

- [HF 1984](#) / [SF 1919](#) "alive as amended but may be dead"

BAM's guiding policy for this proposal is:

- 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

These bills are intended to manage the insured and indemnified relationship between owners, general contractors, and subcontractors. They continue the discussion that was had in 2013. The MSA bill would have changed the way insurers are to "defend" during claims and it did not make deadline. The ACEC bill is alive; it narrowly defines design professionals and limits the circumstances where design professionals need to provide indemnification coverage.

- [HF 2090](#) / [SF 1757](#) (ACEC design professionals bill) - "alive" and on floor
- [HF 1927](#) (MSA "defend" bill) - "dead"

BAM's guiding policies for these proposals are:

- 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 carve out bill
 - MSA "defend" bill

Retainage

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

- [HF 952](#) / [SF 841](#) - "dead"

BAM's guiding policy for this proposal is:

- 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

This bill requires mandatory testing for all residential real estate transactions.

- [HF 816](#) / SF *** "dead"

BAM's guiding policy for this proposal is:

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

Street Improvement District Authority

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).

- HF *** / SF *** "maybe dead"; carve out "alive"

BAM's guiding policies for this proposal are:

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

Park Improvement Fees

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

- HF *** / SF *** "dead"

BAM's guiding policy for this proposal is:

- 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.

- HF *** / SF *** "may be alive as part of a bigger bill"

BAM's guiding policies for this proposal are:

- 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

This proposal stems from an interim effort led by the insurance industry and the insured to address issues of insurance fraud. The bill moving through the legislature addresses fraud in the health care arena, but does not discuss construction related matters.

- [HF 3073](#) / [SF 2372](#) "alive"

BAM's guiding policy for this proposal is:

- 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

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.

- [HF 977](#) / [SF 1648](#) "alive"

BAM's guiding policies for this proposal are:

- 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

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 & SIGNED INTO LAW

BAM's guiding policies for this proposal is:

- The business-to-business labor service tax is burdensome and holding back the fragile homebuilding recovery. It must be repealed.

General Business Interests

BAM's guiding policies for these issues are:

- 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 policy for this issue is:

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

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 are:

- 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.
- 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.
- 6 Year Code Cycle - establish a 6-year code cycle by statute.
- Continuing Education - NFPA and state fire marshal desire to be automatically approved as education providers.

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 that worked closely with the Department of Labor and Industry. Mr. Kompelien also 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
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Dan Groteboer, RAB
Edina Realty

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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 has been working 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. We had a record turnout and met with a large percentage of the Legislature. Look for more details in the post-session legislative report.

Thank you to our Government Relations Committee members who have been meeting weekly 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.

There's more to do this session - it's only half over - so it's good to know we have a rockstar team assembled. Stay tuned.

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