

1989

Session Law 89-162

Florida Senate & House of Representatives

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S 1213 GENERAL BILL/CS/1ST ENG by Economic, Professional and Utility Regulation; Kirkpatrick (Compare CS/H 117, CS/H 393, CS/H 976, CS/H 988, CS/1ST ENG/H 1142, CS/H 1324, CS/1ST ENG/H 1427, CS/H 1431, H 1558, CS/1ST ENG/S 467, CS/S 656, CS/S 1121, CS/S 1135)

Professional Reg./Fees & Licenses: eliminates ceiling on initial license fees; requires D.P.R. or respective regulatory boards to charge an examination review fee; amends certain provision re disciplinary proceedings; provides exemption from assessments under Fla. Birth-Related Neurological Injury Compensation Plan for certain osteopathic physicians; modifies requirements for licensure by endorsement as an architect or interior designer, etc. Amends F.S. Appropriation: \$65,000. Effective Date: 07/01/89.

04/10/89 SENATE Filed

04/14/89 SENATE Introduced, referred to Economic, Professional and Utility Regulation -SJ 161

04/28/89 SENATE Extension of time granted Committee Economic, Professional and Utility Regulation

05/04/89 SENATE On Committee agenda—Economic, Professional and Utility Regulation, 05/08/89, 1:15 pm, Room-1C-(309)—On reconsideration

05/11/89 SENATE On Committee agenda—Economic, Professional and Utility Regulation, 05/15/89, 10:00 am, Room-1C-(309)

05/12/89 SENATE Extension of time granted Committee Economic, Professional and Utility Regulation

05/15/89 SENATE Comm. Report: CS by Economic, Professional and Utility Regulation, placed on Calendar -SJ 381

05/18/89 SENATE CS read first time -SJ 383

05/25/89 HOUSE On Committee agenda—Appropriations, 05/25/89, 8:00 am, 21-HOB—Not received

05/25/89 SENATE Placed on Special Order Calendar -SJ 449; Amendments adopted -SJ 463; CS passed as amended; YEAS 38 NAYS 0 -SJ 466

05/26/89 HOUSE In Messages

05/29/89 HOUSE On Committee agenda—Appropriations, 05/30/89, 8:00 am, 21-HOB—Not referred or received

05/30/89 HOUSE Received, referred to Appropriations -HJ 778

05/31/89 HOUSE Withdrawn from Appropriations -HJ 892; Placed on Calendar

06/02/89 HOUSE Read second time; Read third time; CS passed; YEAS 106 NAYS 0 -HJ 1334

06/03/89 Ordered enrolled -SJ 1406

06/12/89 Signed by Officers and presented to Governor

06/27/89 Approved by Governor; Chapter No. 89-162; See also: CS/SB 467 (Ch. 89-115), CS/HB 1142 (Ch. 89-66) & CS/HB 1427 (Ch. 89-374)

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Heffner</u> <i>JWH</i>	<u>Krasovsky</u> <i>(P)</i>	1. <u>EPUR</u>	<u>FAV/CS</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Professional Regulation

BILL NO. AND SPONSOR:

CS for SB 1213 by
EPUR and Senator Kirkpatrick

I. SUMMARY:

A. Present Situation:

Part II of Chapter 455, F.S., contains the general regulatory authority of the Department of Professional Regulation (DPR). The primary function of the DPR is to protect consumers by ensuring the minimum competency of regulated practitioners through the administration of entrance requirements and the enforcement of disciplinary procedures for 42 professions. The chapter authorizes the DPR to charge an initial licensure fee, not to exceed \$200, before issuing a license to any person certified as having met the licensure requirements imposed by law or rule. The chapter also provides procedures that the DPR must adhere to when investigating complaints and prosecuting licensees who violate their respective practice act.

Section 455.219, Florida Statutes, requires each regulatory board within the DPR to adopt rules setting the licensure fees needed to cover the costs of regulation. Licensure fees adopted by the boards must be based upon cost estimates prepared by the DPR. The various practice acts contain statutory fee caps that the boards and the DPR cannot exceed in setting fees. All funds collected by the DPR from fees, fines or costs awarded the department by the courts are deposited in the Professional Regulation Trust Fund.

Section 459.0085, Florida Statutes, requires that an applicant, as a condition of licensing and prior to the issuance, renewal or reactivation of an inactive license for the practice of osteopathic medicine, must satisfactorily demonstrate to the board and the DPR that he is financially responsible for paying any claims or costs which could arise from his practice of osteopathic medicine. The section contains a number of methods by which an applicant can demonstrate his financial responsibility to the board and DPR.

Section 460.4065, Florida Statutes, establishes requirements that applicants must meet in order to become licensed, by endorsement, as a chiropractic physician.

Chapter 481, Florida Statutes, provides for the regulation of architects, landscape architects, and interior designers practicing in Florida. Part I of the chapter establishes a Board of Architecture and Interior Design and establishes requirements that applicant's must meet in order to become licensed by endorsement. The chapter also establishes certain requirements that licensees must meet in order to offer architectural services to the public through a corporation or partnership.

Chapter 489, Florida Statutes, provides for the regulation of contractors, electrical contractors, and septic tank contractors practicing in Florida. The chapter establishes the

Construction Industry Licensing Board, requires that applicants meet certain prerequisites in order to sit for the licensure examination and provides for disciplinary proceedings when a licensee violates the act or board rules. In addition, the chapter establishes requirements that a partnership, corporation, business trust or other legal entity must meet in order to do business as a sole proprietorship.

B. Effect of Proposed Changes:

The committee substitute deletes the \$200 cap on initial licensure fees, allowing fees to be set by rule without limitation. It also authorizes the boards, or the DPR when there is no board, to charge an examination review fee, not to exceed \$75 per review. The committee substitute amends the statutory fee caps for approximately 31 professions and occupations that are regulated by the DPR. Increasing the statutory fee caps will allow those boards presently operating in a deficit to recover their deficit and should prevent other boards from incurring a deficit.

The committee substitute authorizes the DPR to provide a licensee with a notice of noncompliance for an initial offense of a minor violation, instead of initiating investigative proceedings. If a licensee does not correct the violation within 15 days, the DPR may initiate regular disciplinary proceedings. The committee substitute also authorizes the DPR to require supporting information or documentation, as necessary, prior to determining that a complaint is legally sufficient.

The committee substitute exempts certain physicians from paying an assessment to the Florida Birth-Related Neurological Injury Compensation Plan. Physicians are exempt from the plan if they are a resident physician, assistant resident physician, or intern in a board approved postgraduate training program and supervised by a physician who participates in the plan.

The committee substitute increases the requirements that applicants must meet in order to become licensed, by endorsement, to practice architecture. In addition to existing requirements, the bill requires that applicants possess a valid license to practice architecture in another state or jurisdiction of the United States. The committee substitute also requires that licensees, who qualify an architectural corporation to do business as a sole proprietorship, notify the DPR within 30 days of terminating employment with that firm.

The Construction Industry Licensing Board is required by the committee substitute to provide the legislature with a report, by March 1, 1990, regarding its revised certification examination. The committee substitute requires that the DPR form a committee to review the certification exam for possible discriminatory questions. The committee substitute also authorizes the board to require that licensees, found guilty of a violation involving financial or general business practices, obtain continuing education.

The committee substitute repeals section 460.4065, Florida Statutes, which establishes requirements that applicants must meet in order to become licensed, by endorsement, as a chiropractic physician. In addition, the committee substitute provides the DPR with a \$65,000 appropriation to implement the provisions of the act.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The committee substitute contains provisions which increase the statutory fee caps for approximately 31 professions and

occupations regulated by the DPR. As a result, both applicants for licensure and current licensees will be required to pay higher fees. These costs will most likely be passed on to the public in the form of higher fees for regulated services.

B. Government:

The DPR estimates that it will cost \$65,000 to modify the administrative rules which are affected by this committee substitute.

III. COMMENTS:

None at this time.

IV. AMENDMENTS:

None.

STORAGE NAME: h988s.rr
DATE: June 5, 1989

HOUSE OF REPRESENTATIVES
COMMITTEE ON REGULATORY REFORM
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS\HB 988

RELATING TO: Professional Regulation

SPONSOR(S): Regulatory Reform and Representative Kelly

EFFECTIVE DATE: July 1, 1989

COMPANION BILL(S): CS/SB 1213

OTHER COMMITTEES OF REFERENCE: (1) Finance and Tax
(2) Appropriations

I. SUMMARY:

The bill would restructure the statutorily allowable fee caps that various boards under the jurisdiction of the Department of Professional Regulation could levy on their respective professions. The bill would also increase the maximum allowable administrative fine that may be imposed by the boards. The three year residency requirement would not longer be required for foreign medical graduates.

A. PRESENT SITUATION:

The Department of Professional Regulation (DPR) is the state agency responsible for the regulation of 42 professions and occupations. The department and the various boards are funded through licensure and other fees paid by the professions and occupations regulated. The law requires each board to determine licensure fees based on estimates of the cost to regulate their respective professions or occupations.

Fees are also intended to cover the expenses of DPR administrative support, issuance of licenses, administration of examinations, receipt of consumer complaints, investigation of complaints, legal prosecution, DOAH hearings, and Attorney General office legal support to the boards.

The funds collected from fees and disciplinary fines are deposited in the Professional Regulation Trust Fund. The Legislature appropriates funds from this trust fund to cover all operations of the department and the boards. DPR maintains separate accounts within the trust fund for each profession regulated.

The boards are authorized by law to set a fee structure for their profession within the statutorily allowed limits that will cover the total costs of regulation. Fees generally refer to 00213

application, examination, reexamination, initial licensure, biennial licensure, renewal, late renewal, inactive status, and reactivation.

Most of the fee structure is statutorily capped. When the board or the department determine that the current fee structure is not sufficient to cover the activities related to that profession or occupation, they propose increases in the fee caps. Sometimes unforeseen expenses such as litigation drain the resources of the board resulting in a deficit.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 988 would amend the fee structure of various professions and occupations by increasing the caps of their fees to provide the boards sufficient room for growth and the ability to increase fees as needed rather than having a board run the possibility of a deficit. The fee cap increases are targeted only for those areas within each profession where current fees are not adequate to fund the current and projected expenditures.

The maximum allowable administrative fine that could be levied is increased from \$1,000 to \$5,000.

A graduate of a foreign medical institution seeking licensure pursuant to subsection (9) of section 458.311, Florida Statutes, 1988 Supplement, would not be required to reside in Florida three years immediately preceding application.

The bill would authorize the expenditure of \$65,000 from the Professional Regulation Trust Fund for fiscal year 1989-90 to implement the provisions of this bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

Cost for Rule Changes:

Department Staff Time	\$ 250.
20 man-hours @ \$12.50/hr	
Board Meeting Time	1,050.
½ day @ \$2,100/day	
Attorney General's Cost	750.
15 hours @ \$50/hour	

Total Cost for Rule Changes	\$ 65,000.
32 professions @ \$2,050.	

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2. Recurring or Annualized Continuation Effects:

none

3. Long Run Effects Other Than Normal Growth:

The bill gives these boards sufficient room for adjustments to their fee structures without having to return each legislative session.

4. Appropriations Consequences:

\$65,000 is appropriated from the Professional Regulation Trust Fund for the fiscal year 1989-90 to implement the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

none

2. Recurring or Annualized Continuation Effects:

none

3. Long Run Effects Other Than Normal Growth:

none

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Fees for the affected professions would be increased only after board approval based on increased costs of regulation to avoid deficits.

2. Direct Private Sector Benefits:

Continued regulation of the respective profession or occupation.

3. Effects on Competition, Private Enterprise, and Employment Markets:

none

D. FISCAL COMMENTS:

The bill changes the fee structure for 32 professions whose current fee structure is not adequate to fund the current and projected expenditures. Only the boards of those professions or occupations can actually impose higher fees on the members of their professions and only through public meetings.

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III. LONG RANGE CONSEQUENCES:

Should enable the boards under the jurisdiction of the Department of Professional Regulation to maintain quality regulation of their professions and eliminate deficits, current or projected and provide room for growth.

IV. COMMENTS:

The Department conducted an extensive analysis of each profession's current and projected trust fund balances, revenues and expenditures and determined that 16 professions currently have a cash balance deficit and 20 professions are projecting a cash balance deficit by the fiscal year 1990-91. Of those, the statutory fee structure of 32 of the professions are not adequate.

V. FINAL ACTION:

CS/HB 988 died on the House calendar. Similar provisions were passed by the Legislature in CS/SB 1213 which was approved by the Governor on June 27, 1989; chapter 89-162, Laws of Florida.

VI. SIGNATURES:

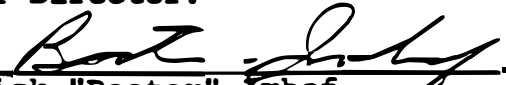
SUBSTANTIVE COMMITTEE:

Prepared by:



Jim Cordero

Staff Director:



Patrick "Booter" Imhof

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

STORAGE NAME: h1324-f.rr
DATE: July 6, 1989

HOUSE OF REPRESENTATIVES
COMMITTEE ON REGULATORY REFORM
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 1324 (similar provisions passed in CS/SB 1213 & CS/HB 1427)
RELATING TO: Veterinary Medical Practice
SPONSOR(S): Representative Mackey
EFFECTIVE DATE: October 1, 1989
COMPANION BILL(S): CS/SB 656, CS/HB 988, CS/SB 1213, CS/HB 1427
OTHER COMMITTEES OF REFERENCE: (1) Finance & Taxation
(2) Appropriations

I. SUMMARY:

CS/HB 1324 would make a number of changes to the practice of veterinarian medicine (chapter 474, Florida Statutes).

A. PRESENT SITUATION:

Chapter 474, Florida Statutes, mandates the Board of Veterinary Medicine, within the Department of Professional Regulation to regulate the practice of veterinary medicine.

The terms "client" and "patient" are used within numerous state and federal drug laws. However, veterinarians are in a unique situation in that the client is not the patient. This unique relationship is not provided for in the definitions section of chapter 474, Florida Statutes.

Section 474.207, Florida Statutes, provides for the licensure and examination of veterinarians. In order to become licensed by the Board of Veterinarian Medicine, an applicant must:

- Have completed the application form and remitted the \$100 application fee.
- Be a graduate from a college of veterinary medicine which has been approved by the board.
- Receive a passing score on each portion of the three-part written veterinarian examination.

Currently, if a foreign graduate of an unaccredited veterinary school applies for licensure, the board must review the transcripts of the foreign graduate and determine if the curriculum is equal to or greater than the curriculum of an accredited school. The Department of Professional Regulation reports that in most cases, the curriculum is deficient, and does

STORAGE NAME: h1324-f.rr

DATE: July 6, 1989

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not meet the criteria established by the board. According to the board, the foreign transcript review process is both time-consuming and financially burdensome.

Section 474.207, Florida Statutes, also provides allowances for those who fail the examination, and for applicants who are awaiting the results of the veterinarian examination.

In addition, section 474.2115, Florida Statutes, requires all establishments, permanent or mobile, where veterinary medicine is practiced obtain a premise permit. The application, along with the permit fee of \$25 must be filed within thirty (30) days subsequent to the opening of the establishment. However, the section does not provide for the renewal of premise permits nor renewal permit fees. Nor does section 474.215, Florida Statutes, provide the board with the authority to inspect drug records, and insure that state and federal drug laws are adhered to.

Section 474.213, Florida Statutes, provides restrictions for those who practice veterinary medicine, and also provides penalties for persons who are in violation of these restrictions. However, the department reports that non-licensed persons have "held themselves out to the public as veterinarians." This section does not address those applicants who have attempted to obtain licensure by fraudulent representation.

Section 474.214, Florida Statutes, provides a number of violations which constitute grounds for the Board of Veterinary Medicine to take disciplinary action against veterinary medicine applicants or licensees. The section also provides penalties which the board can impose as a result of these violations. However, the board feels deficiencies in the statutory language prohibits it from disciplining licensees appropriately, as well as prohibits the board from providing adequate safeguards to the public.

Veterinary licensure by endorsement is provided for in section 474.217, Florida Statutes. The statute states that the department shall issue a license by endorsement to any applicant who demonstrates, to the board, the he:

- Has submitted the \$250 licensure by endorsement application fee.
- Holds, and has held for at least three years, a valid license to practice veterinary medicine in another state or a territory of the United States, provided that the requirements for licensure in the issuing state are substantially similar to, equivalent to, or more stringent than the provisions of chapter 474, Florida Statutes; or is a graduate from a college of veterinary medicine which has been

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STORAGE NAME: h1324-f.rr

DATE: July 6, 1989

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approved by the board, and demonstrates knowledge of the laws and rules of chapter 474, Florida Statutes.

As presently written, section 474.217, Florida Statutes, would allow an applicant who passed examinations as long as 30 years ago, and who has not practiced for several years to apply for, and be eligible -- through endorsement -- for licensure.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 1324 would clearly define the terms "client," "patient," and "veterinarian-client-patient relationship," as used in chapter 474, Florida Statutes, which will assist the board's ability to discipline those veterinarians who not comply with state and federal drug laws.

The bill would also specify that, prior to qualifying for examination, graduates of unaccredited veterinary schools must have graduated from a college of veterinary medicine listed in the American Veterinary Medical Association Roster of Veterinary Colleges of the World, and have completed the certification program offered by the Educational Commission for Foreign Veterinary Graduates. This would eliminate the board from having to review foreign licensure applicant transcripts, which are often time-consuming and financially burdensome.

CS/HB 1324 would also allow any applicant, who has been certified by the board prior to this bill becoming law, an additional three times to pass the examination before being required to complete the Educational Commission for Foreign Veterinary Graduates program as state above. In addition, the bill would provide that any foreign applicant failing to pass the examination in three attempts would have an opportunity to demonstrate their competence, without having to provide transcripts which may be unobtainable due to political conditions in their native country.

In addition, CS/HB 1324 would change the premise permit application fee from \$25 to \$250, which would offset the costs for application processing and for conducting the initial inspection of the establishment. The bill would also clarify the board's authority to inspect drug records to insure that state and federal drug laws are being adhered to. The department would also be given the authority to deny a premise permit if an inspection or investigation disclosed that the establishment fails to meet board inspection standards. The bill would clarify that the premise permit is the property and responsibility of the veterinarian in charge of the location, and not the owner of the business who may or may not be a veterinarian. In addition, the bill would give the board the authority to adopt rules for biennial inspections of the veterinarian establishments.

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The bill would require any veterinarian holding a premise permit, and wishing to continue practicing veterinary medicine at that establishment to biennially apply for a renewal permit. A renewal fee is required to accompany the application, which could not exceed \$250.

CS/HB 1324 would also clarify that licensed veterinarians cannot use medicinal drugs or controlled substances for anything more than specific treatment of animal patients, for which there is a documented veterinarian-patient-client relationship.

Finally, CS/HB 1324 would provide that applicants seeking licensure by endorsement would be required to demonstrate -- to the board -- that the applicant was actively practicing veterinary medicine three years immediately preceding their application for licensure, and has knowledge of the Florida's laws and rules for the practice of veterinarian medicine.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The increase of the premise permit fee, and the premise permit renewal fee can often be expected to be passed on to the consumer.

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

The Department of Professional Regulation reports that an application and fee for an initial premise permit is currently in force, however, no statutory provision has been made for the renewal of premise permits. Based on 1,181 veterinary establishments within the state, and the estimated \$100 premise permit renewal fee, the revenue college during the 1990 biennium is estimated at \$118,000.

In addition, the department reports that the clarification of education requirements in section 474.207, Florida Statutes, should represent an annual cost-savings of approximately \$20,000. The department reports these savings are based on the elimination of legal costs, court reporter costs, and board meeting time expended on formal hearings for denial of applications.

III. LONG RANGE CONSEQUENCES:

CS/HB 1324 is consistent with section 187.201(21), Florida Statutes, the State Comprehensive Plan for government to economically and efficiently provide the amount and quality of services required by the public.

IV. COMMENTS:

CS/HB 1324 is also consistent with the House of Representatives mission statements set forth for the Regulatory Reform Committee to "Ensure that the statutes foster only necessary and effective

regulations of Florida's business sector to protect the public interest" and to "Review and change regulatory laws dealing with professions, occupations and businesses so that they protect the public health, safety, and welfare, without having costs greater than the benefits conferred."

V. FINAL ACTION:

CS/HB 1324 died on the House Calendar. Similar provisions were passed by the Legislature in CS/HB 1427 and CS/SB 1213. CS/HB 1427 became law without the Governor's signature on July 6, 1989; chapter 89-374, Laws of Florida, and CS/SB 1213 was approved by the Governor on July 27, 1989; chapter 89-162, Laws of Florida.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:



Marcia A. Mathis

Staff Director:



Patrick L. "Booter" Imhof

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

STORAGE NAME: h1431sa-f.rr
DATE: June 28, 1989

HOUSE OF REPRESENTATIVES
COMMITTEE ON REGULATORY REFORM
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 1431 (similar provisions passed in CS/SB 1213 and CS/HB 1142)

RELATING TO: Professional Regulation

SPONSOR(S): Committee on Regulatory Reform and Representative Kelly

EFFECTIVE DATE: October 1, 1989

COMPANION BILL(S): CS/SB 1213, CS/HB 1142, CS/HB 117, CS/HB 988, H 1558

OTHER COMMITTEES OF REFERENCE: (1) Finance and Taxation
(2) Appropriations

I. SUMMARY:

This bill would amend chapters 455, 459, 460, 481, and 489 Florida Statutes, which regulate various professions under the Department of Professional Regulation and its regulatory boards. The bill would also correct statutory cross-references in chapters 395, 401, 458, and 466, Florida Statutes.

PRESENT SITUATION:

Part II of chapter 455, Florida Statutes, sets standards for the regulation of occupations and professions by the Department of Professional Regulation and its regulatory boards. Chapter 459, Florida Statutes, regulates the practice of osteopathic medicine. Chapter 460, Florida Statutes, regulates chiropractic physicians. Part I of chapter 481, Florida Statutes, regulates the practice of architecture. Part I of chapter 489, Florida Statutes, regulates construction contracting.

B. EFFECT OF PROPOSED CHANGES:

This bill would amend several sections of chapter 455, Florida Statutes, which set standards for the regulation of professions and occupations by the Department of Professional Regulation. It would also amend chapter 459, Florida Statutes, relating to certain financial responsibility requirements for osteopathic physicians; chapter 481, Florida Statutes, relating to licensure by endorsement as an architect; chapter 489, Florida Statutes, relating to the review of the certification examination for contractors and disciplinary proceedings against certified or registered contractors; and chapter 460, Florida Statutes, relating to licensure by endorsement as a chiropractic physician.

The bill would correct cross-references which appear in chapters

395, 401, 458, 466, and 489, Florida Statutes.

The substantive changes made by the bill are discussed in the section-by-section analysis below.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Would remove the \$200 cap on initial licensure fees from section 455.213(2), Florida Statutes. As a result of this change, fees set would be limited only if an initial licensure fee cap exists within the statute regulating a particular profession. In the absence of such a statutory cap, the board or department could set the initial licensure fees for each profession at any level necessary to cover the profession's regulatory costs.

Section 2. Would amend section 455.217, Florida Statutes, to require licensure candidates to pay a fee to review their examinations. The examination review fee would be set by the board or the department and could not exceed \$75. Applicants are currently entitled to review their examination questions, answers, papers, grades, and grading key, unless prohibited or limited by security or access guidelines of national examinations, but are not charged a fee to cover the costs of the review.

Section 3. Would amend section 455.225, Florida Statutes, to allow the department to collect additional information to establish legal sufficiency of a complaint before proceeding with a full-blown investigation. The bill would require that investigative reports be submitted to probable cause panels after the investigation is complete and legally sufficient.

The department would also be authorized to issue a notice of noncompliance for initial offenses involving certain minor violations instead of initiating an investigation. Each board, or, in the absence of a board, the department would establish by rule minor violations which do not endanger the public health, safety, and welfare and which are not indicative of inability to practice the profession. Licensees would be given 15 days to take corrective actions after receiving a notice of noncompliance. Regular disciplinary proceedings would be instituted if the licensee failed to initiate corrective action within that timeframe.

Sections 4, 5, & 6. Correct statutory cross-references.

Section 7. Would amend section 459.0085, Florida Statutes, which prescribes financial responsibility requirements for osteopathic physicians. The bill would add provisions, similar to those provided in section 766.314(4), exempting resident osteopathic physicians, assistant resident osteopathic physicians, and interns in approved post-graduate training programs from payment

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of the \$5,000 assessment for participation in the Florida Birth-Related Neurological Injury Compensation Plan. Such residents, assistant residents, and interns are now considered "participating physicians," without having to pay the assessment, if they are supervised by a physician who participates in that plan. The effect of adding this language in section 459.0085, Florida Statutes, would be to allow the Board of Osteopathic Medical Examiners to adopt rules relating to those provisions. Section 766.314(4), Florida Statutes, applies to both physicians and osteopathic physicians but refers only to rules made by the Board of Medicine. The Board of Medicine regulates only those physicians licensed under chapter 458, Florida Statutes.

Section 8. Corrects statutory cross-references.

Section 9. Would amend section 481.213(3)(c), Florida Statutes, to modify those provisions for licensure by endorsement as an architect which are based on certification by the National Council of Architectural Registration Boards (NCARB). To be eligible for licensure under the proposed revision, an NCARB-certified applicant would have to have passed the prescribed licensure exam and be validly licensed in another state or U.S. jurisdiction. Applicants who obtained their license after June 30, 1984, would also be required to meet the same degree requirements as applicants for licensure by examination, i.e., a 5-year degree in architecture. Currently, NCARB-certified applicants are eligible for licensure by endorsement with less than a 5-year degree by virtue of having satisfied NCARB education standards. However, NCARB-certified applicants who obtained a degree in architecture after July 1, 1984, must meet Florida's 5-year degree requirement.

Section 10. Corrects statutory cross-references.

Section 11. Would amend section 489.111, Florida Statutes, to require the Construction Industry Licensing Board and the Department of Professional Regulation to report specific information to the Legislature regarding each administration of the revised contractor certification examination. The report would be due March 1, 1990. The bill would require the department to ensure that a sensitivity review committee, including various minority/ethnic groups, is established to review that examination. The bill would prohibit the inclusion of any examination question that the committee found to be discriminatory against any ethnic/minority group.

Section 12. Would amend section 489.129, Florida Statutes, to mandate that continuing education in financial or general business practices be imposed by the Construction Industry Licensing Board when disciplining any certified or registered contractor for a violation involving such practices.

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Section 13. Would repeal section 460.4065, Florida Statutes, which provides for licensure by endorsement as a chiropractic physician. As a result of this change, all applicants for licensure as a chiropractic physician would have to satisfy the requirements of section 460.406, Florida Statutes, for licensure by examination. Currently, an applicant can be licensed by endorsement if he: (1) is at least 18 years old; (2) is of good moral character; (3) is a graduate of an accredited chiropractic college; and (4) either has held an active chiropractic physician license for at least five years, which was issued by another state, U.S. territory, or the District of Columbia under substantially equivalent or more stringent licensure standards, or has met Florida's education, experience, and examination requirements.

Section 14. Provides an effective date of October 1, 1989.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

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C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

If initial fees are increased, initial licensees would incur additional costs.

Requiring applicants to pay an examination review fee would directly increase costs to applicants who review their examination.

It is generally assumed that licensure costs are passed on to the consumer in fees for professional services. Costs that may be passed on as a result of this bill are thought to be negligible.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

Removing the initial license fee cap would allow that fee to be raised without limit, unless a specific statutory cap exists for the regulated profession. This would allow initial license fees to be increased as necessitated by each profession's projected operating deficits. If this bill becomes law, fee increases are anticipated. Another bill introduced this session, CS/HB 988, would remove the initial licensure fee caps in several regulatory statutes and increase the existing fee cap in others.

The department conducted 3,666 examination reviews during FY 87-88 at a total cost of \$140,679. No fee is charged to provide this required service to examination candidates. The required examination review fee proposed by this bill could generate revenues to cover these costs.

The department's investigative costs should be reduced as a result of this bill. The bill would allow the department to collect additional information to determine the legal sufficiency of a consumer complaint before conducting a full-blown investigation. Issuing a notice of noncompliance for minor violations could result in the resolution of complaints without additional investigatory costs. Any reduction in costs could be ultimately reflected in the fees charged to licensees.

There should be no additional costs as a result of the requirement that a sensitivity review committee be established to review the contractor examination. The department's testing service already utilizes a sensitivity review committee to review all tests they provide under chapter 489, Florida Statutes. If this current situation changes, the department would incur costs associated with establishing a new sensitivity review committee.

III. LONG RANGE CONSEQUENCES:

This bill is consistent with the state plan goal 21 for government to economically and efficiently provide the amount and quality of services required by the public.

IV. COMMENTS:

This bill would give the Department of Professional Regulation the flexibility to maximize the use of its investigatory resources. This is consistent with the 1989-90 Legislative Issues Conference policies on governmental efficiency and effectiveness.

This bill would incorporate the CS/HB 117, as adopted by the Committee on Regulatory Reform, to provide for review of the revised contractor certification examination; for review of that examination by a sensitivity review committee; and for mandatory continuing education for contractors found guilty of violations involving financial or general business practices.

V. FINAL ACTION:

CS/HB 1431 died in the Committee on Appropriations. Similar provisions passed in CS/SB 1213, were approved by the Governor on June 27, 1989, as chapter 89-162, Laws of Florida. Provisions identical to section 9 of CS/HB 1431 were passed by the Legislature as section 5 of CS/HB 1142 which was approved by the Governor on June 16, 1989, as chapter 89-66, Laws of Florida.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by:


Sheila A. Hill

Staff Director:


Patrick L. "Booter" Imhof

SECOND COMMITTEE OF REFERENCE:
Prepared by:

Staff Director:

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STORAGE NAME: h0976-f.go
DATE: June 30, 1989

HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENTAL OPERATIONS
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 976 (as enacted in CS/SB 467 and CS/SB 1213)

RELATING TO: Design-Build Contracting

SPONSOR(S): Committee on Governmental Operations and Representative Grindle

EFFECTIVE DATE: CS/SB 467: Upon becoming law
CS/SB 1213: July 1, 1989, or upon becoming law, whichever occurs later

DATE BECAME LAW: CS/SB 467: June 26, 1989
CS/SB 1213: June 27, 1989

CHAPTER #: CS/SB 467: 89-115, Laws of Florida
CS/SB 1213: 89-162, Laws of Florida

COMPANION BILL(S): CS/SB 467 (similar) and CS/SB 1213 (compare)

OTHER COMMITTEES OF REFERENCE: (1) Appropriations
(2)

I. SUMMARY:

A. SHORT SUMMARY:

This bill amends the chapters of the Florida Statutes regulating architects, landscape architects, engineers, and construction contractors to allow certified or registered general contractors to negotiate and perform design-build contracts.

B. PRESENT SITUATION:

The state regulates the professions of engineers, architects, landscape architects, and construction contractors. As currently written, Florida Statutes do not allow a general contractor to negotiate or perform design-build contracts unless the contractor is a licensed or registered architect, landscape architect, or engineer.

In design-build contracting, a client hires one organization to design, contract for, and construct a building. This relieves the client of having to negotiate separate contracts with an architect, landscape architect, engineer, and general contractor. Using design-build contracting can result in a building being completed more quickly.

C. EFFECT OF PROPOSED CHANGES:

The bill amends the various chapters of the Florida Statutes regulating architects, landscape architects, engineers, and construction contractors to allow certified or registered general contractors to negotiate and perform design-build contracts. Under the bill, architecture, engineering, or contracting tasks must be offered and rendered by a licensed, certified, or registered member of the appropriate profession.

D. SECTION-BY-SECTION ANALYSIS AS ENACTED IN CS/SB 467 AND CS/SB 1213:

Section 1 in CS/SB 467 and Section 67 in CS/SB 1213 - Amends s. 471.003(2)(j), Florida Statutes, to allow certified or registered general contractors to negotiate or perform services under a design-build contract as long as engineering services offered or rendered under the contract are offered or rendered by a licensed or registered engineer.

Section 2 in CS/SB 467 and Section 68 in CS/SB 1213 - Amends s. 481.229, Florida Statutes, 1988 Supplement, to create a new subsection to allow certified or registered general contractors to negotiate or perform services under a design-build contract as long as architectural services offered or rendered under the contract are offered or rendered by a licensed architect.

Section 3 in CS/SB 467 and Section 69 in CS/SB 1213 - Amends s. 489.103(16), Florida Statutes, 1988 Supplement, to allow licensed architects, landscape architects, and engineers to negotiate or perform services under a design-build contract as long as contractor services offered or rendered under the contract are offered or rendered by a certified or registered general contractor.

Section 4 in CS/SB 467 and Section 70 in CS/SB 1213 - Amends s. 481.329, Florida Statutes, 1988 Supplement, to create a new subsection to allow certified or registered general contractors to negotiate or perform services under a design-build contract as long as landscape architectural services offered or rendered under the contract are offered or rendered by a licensed architect, landscape architect, or engineer.

Section 5 in CS/SB 467 - Provides an effective date of upon becoming a law.

Section 71 in CS/SB 1213 - Provides an effective date of July 1, 1989, or upon becoming a law, whichever occurs later.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

See "Fiscal Comments," below.

2. Recurring or Annualized Continuation Effects:

See "Fiscal Comments," below.

3. Long Run Effects Other Than Normal Growth:

See "Fiscal Comments," below.

4. Appropriations Consequences:

See "Fiscal Comments," below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

See "Fiscal Comments," below.

2. Recurring or Annualized Continuation Effects:

See "Fiscal Comments," below.

3. Long Run Effects Other Than Normal Growth:

See "Fiscal Comments," below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

See "Fiscal Comments," below.

2. Direct Private Sector Benefits:

See "Fiscal Comments," below.

3. Effects on Competition, Private Enterprise, and Employment Markets:

See "Fiscal Comments," below.

D. FISCAL COMMENTS:

According to a 1989 study published by the University of Florida's School of Building Construction, design-build can result in a building being constructed more quickly, with minimal involvement on the owner's part. However, design-build can also result in increased costs for maintenance and daily operation, because the building might be designed more for ease of construction than for efficiency of operation. Therefore, if design-build works "well," the public and private sectors would benefit because buildings would be built more quickly. If design-build does not work "well," however, the public and private sectors might not benefit because the building could cost more to operate and maintain.

III. LONG RANGE CONSEQUENCES:

The State Comprehensive Plan does not address the issues contained in this bill.

IV. COMMENTS:

Neither the House's Issues Conference Policy Statements nor the Governmental Operations Committee's Mission Statement address the issues contained in this bill.

V. SIGNATURES:

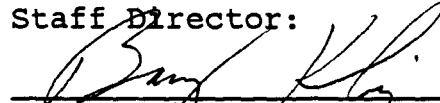
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Staff Director:

Staff Director:
