

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7047 PCB CCS 17-02 Deregulation of Professions and Occupations
SPONSOR(S): Commerce Committee, Careers & Competition Subcommittee, Beshears
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Careers & Competition Subcommittee	10 Y, 2 N	Wright	Anstead
1) Government Operations & Technology Appropriations Subcommittee	11 Y, 2 N	Topp	Topp
2) Commerce Committee	25 Y, 3 N, As CS	Wright	Hamon

SUMMARY ANALYSIS

The bill amends current law relating to certain professions and business organizations regulated by the Florida Department of Business and Professional Regulation. Specifically, the bill:

- Removes the following professions and entities from DBPR regulation and deletes provisions regulating the professions:
 - Hair braiders,
 - Hair wrappers,
 - Body wrappers,
 - Boxing announcers, and
 - Boxing timekeepers.
- Removes labor organizations and their business agents from DBPR regulation, but generally retains the standards of operation, as well as civil and criminal causes of action.
- Eliminates the requirement that the following licensees obtain a certificate of authorization for their business entities, but allows such licensees to continue to operate their business entities if they apply to be the qualifying agent for such business entity:
 - Asbestos abatement consultants and contractors,
 - Architects,
 - Interior Designers,
 - Landscape architects, and
 - Geologists.
- Reduces the hours of training required to obtain the following licenses:
 - Barbers,
 - Restricted barbers,
 - Nail specialists,
 - Facial specialists, and
 - Full specialists.
- Clarifies the definition of and scope of practice for the following professions:
 - Restricted barbers,
 - Nail specialists,
 - Full specialists,
 - Facial specialists, and
 - Hair braiders.
- Eliminates the requirement that yacht and ship brokers obtain a separate license for each branch office, but retains the requirement that a primary location office be maintained.

The bill will have a significant fiscal impact on DBPR due to a reduction of license fee revenues. DBPR estimates the bill will reduce revenues of \$1,025,771 in FY 2017-18, \$1,600,317 in FY 2018-19, and \$1,025,684 in FY 2019-20.

The bill has an effective date of July 1, 2017.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7047c.COM

DATE: 4/20/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Organizational Structure of the Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation (DBPR), through various divisions, regulates and licenses businesses and professionals in Florida. The divisions established under DBPR include:

- The Division of Administration;
- The Division of Alcoholic Beverages and Tobacco;
- The Division of Certified Public Accounting;
- The Division of Drugs, Devices, and Cosmetics;
- The Division of Florida Condominiums, Timeshares, and Mobile Homes;
- The Division of Hotels and Restaurants;
- The Division of Pari-mutuel Wagering;
- The Division of Professions;
- The Division of Real Estate;
- The Division of Regulation;
- The Division of Technology; and
- The Division of Service Operations.¹

The Division of Professions (Professions) licenses and regulates more than 434,000 professionals through the following professional boards and programs:

- Board of Architecture and Interior Design,
- Asbestos Licensing Unit,
- Athlete Agents,
- Board of Auctioneers,
- Barbers' Board,
- Building Code Administrators and Inspectors Board,
- Regulatory Council of Community Association Managers,
- Construction Industry Licensing Board,
- Board of Cosmetology,
- Electrical Contractors' Licensing Board,
- Board of Employee Leasing Companies,
- Home Inspectors,
- Board of Landscape Architecture,
- Mold-Related Services,
- Board of Pilot Commissioners,
- Board of Professional Geologists.
- Talent Agencies,
- Board of Veterinary Medicine, and
- Florida Board of Professional Engineers.²

The Division of Regulation (Regulations) is the enforcement authority for Labor Organizations and Business Agents, the Florida State Boxing Commission, Farm Labor Program, Child Labor Program, and any professional boards and programs housed within Professions.³ To ensure compliance with applicable

¹ s. 20.165, F.S.

² Florida Department of Business and Professional Regulation, *Division of Professions*, <http://www.myfloridalicense.com/dbpr/pro/index.html> (last visited Feb. 20, 2017).

³ Except the Board of Architecture and Interior Design, and the Florida Board of Professional Engineers. Florida Department of Business and Professional Regulation, *Division of Regulation*, <http://www.myfloridalicense.com/dbpr/reg/index.html> (Feb. 20, 2017).

laws and rules by those professions and related businesses, Regulations investigates complaints, utilizes compliance mechanisms, and performs inspections.⁴

The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH) provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure.⁵ FCTMH has limited regulatory authority over the following business entities and individuals:

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowners' Associations (jurisdiction limited to arbitration of election and recall disputes).⁶

DBPR imposes a \$5 unlicensed activity fee in addition to any initial license fee or renewal fee.⁷

Yacht and Ship Broker Branch Offices

Background

Chapter 326, F.S., governs the licensing and regulation of yacht and ship brokers, salespersons, and related business organizations in the state. The Yacht and Ship Broker's Section, a unit of FCTMH, processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the yacht brokerage industry.

Each yacht and ship broker must maintain a principle place of business in this state and may establish branch offices in the state. A separate license must be maintained for each branch office.

Applicants for a branch office license or a biennial renewal pay a \$100 fee.⁸ There are no requirements of the branch office other than to obtain licensure and there are no inspection requirements.

As of October 2015, there were 73 yacht and ship broker branch office licenses in active status and on average 13 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary cases brought against any yacht or ship broker branch office licenses during the 2012-2015 fiscal years.⁹

Effect of the Bill

The bill amends s. 326.004(13), F.S., by removing the requirement for yacht and ship brokers to obtain a branch office license for each branch office. The bill does not remove the requirement for a broker to be licensed or to maintain a principle place of business in Florida.

⁴ Florida Department of Business and Professional Regulation, *Division of Regulation*, <http://www.myfloridalicense.com/dbpr/reg/index.html> (Feb. 20, 2017).

⁵ Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes*, <http://www.myfloridalicense.com/dbpr/lsc/index.html>, (last visited January 8, 2016).

⁶ *Id.*

⁷ s. 455.2281, F.S.

⁸ Rule 61B-60.002, F.A.C.

⁹ Department of Business and Professional Regulation, *Eliminating Duplicative and Excessive Regulation* (October, 2015), (on file with the Business & Professionals Subcommittee).

Labor Organizations

Background

Part I of ch. 447, F.S., governs the licensing and regulation of labor organizations, and related business agents in the state.¹⁰ The Labor Organizations Program is a program located under Regulations, which processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the labor organization industry.

A labor organization is defined as “[a]ny organization of employees or local or subdivision thereof, having within its membership residents of the state, whether incorporated or not, organized for the purpose of dealing with employers concerning hours of employment, rate of pay, working conditions, or grievances of any kind relating to employment and recognized as a unit of bargaining by one or more employers doing business in this state.”¹¹ In Florida, all labor organizations are required to register with DBPR and all business agents of labor organizations must obtain a license.

Business agents are defined as “[a]ny person, without regard to title, who shall, for a pecuniary or financial consideration, act or attempt to act for any labor organization in:

- The issuance of membership or authorization cards, work permits, or any other evidence of rights granted or claimed in, or by, a labor organization;
- Soliciting or receiving from any employer any right or privilege for employees.”¹²

Applicants for a business agent license shall pay \$25 fee for licensure. Labor organization applicants must pay an annual fee of \$1.

The National Labor Relations Board (NLRB) provides the same type of union oversight as DBPR and is active in Florida, maintaining offices in Tampa and Miami. The United States Department of Labor, Office of Labor Management Standards also registers unions at the federal level.¹³

As of October 2015, there were 309 labor organizations registered and on average 15 new initial registrations issued annually during the 2012- 2015 fiscal years. Additionally, there were 469 business agents licensed and on average 48 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary cases brought against any labor organizations or business agents during 2012-2015 fiscal years.¹⁴

Effect of the Bill

The bill repeals certain provisions which require labor organizations and business agents to be licensed and regulated by DBPR. Specifically, the bill repeals:

- s. 447.04, F.S., regarding the licensure of business agents;
- s. 447.041, F.S., regarding hearings provided to licensees pursuant to ch. 120, F.S.;
- s. 447.045, F.S., regarding confidential information obtained by DBPR during an investigation;
- s. 447.06, F.S., regarding the registration of labor organizations;
- s. 447.12, F.S., regarding the fees for registration;
- s. 447.16, F.S., regarding the renewal of business agent’s license renewal requirements.

Additionally, s. 447.02, F.S., was amended to remove the definition of “department,” and s. 447.09, F.S. was amended to remove any disciplinary action against a business agent regarding licensure.

¹⁰ This does not include certain public employee organizations, which are regulated by the Public Employees Relations Commission, an independent, quasi-judicial agency described in pt. II of ch. 447, F.S.

¹¹ s. 447.02(1), F.S.

¹² s. 447.02(2), F.S.

¹³ Florida Department of Business and Professional Regulation, Agency Analysis of 2017 Senate Bill 802, p. 4 (March 2, 2017)

¹⁴ Eliminating Duplicative and Excessive Regulation, *supra* note 9.

Asbestos Abatement Business Organization

Background

Chapter 469, F.S., governs the licensing and regulation of asbestos abatement in the state. The Asbestos Licensing Unit is a program located under Professions. The program processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the asbestos abatement industry.

An asbestos consultant's license may be issued only to an applicant who holds a current, valid, active license as an architect, professional engineer, professional geologist, is a diplomat of the American Board of Industrial Hygiene, or has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.

A person must be a licensed asbestos consultant in order to:

- Conduct an asbestos survey;
- Develop an operation and maintenance plan;
- Monitor and evaluate asbestos abatement;
- Prepare asbestos abatement specifications.¹⁵

A person must be a licensed asbestos contractor in order to conduct asbestos abatement work.¹⁶

If an applicant for licensure as an asbestos abatement consultant or contractor proposes to engage in consulting or contracting as a business organization, the business organization must be licensed as an asbestos abatement business. Each licensed business organization must have a qualifying agent that is licensed under ch. 469, F.S. If the qualifying agent terminates his or her affiliation with the business organization and is the only qualifying agent for the business organization, another qualifying agent must qualify the business organization within 60 days after the termination, and may not engage in the practice of asbestos abatement until it is qualified.¹⁷

Applicants for an asbestos abatement business license pay an application fee of \$300, an initial licensure fee of \$250, and a biennial renewal fee of \$250 and there are no inspection requirements.¹⁸

As of October 2015, there were 239 asbestos abatement business licenses in active status and on average 12 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary cases brought against any asbestos business licenses during 2012- 2015 fiscal years.¹⁹

Effect of the Bill

The bill removes the requirement for asbestos abatement licensees to obtain a separate license for an asbestos abatement business organization. Instead, if an applicant wants to practice under a firm offering asbestos abatement services, the qualifying agent must apply and have the license issued in his or her name and the business organization name must be noted on the license. The qualifying agent must still be a licensee pursuant to ch. 469, F.S., and must prove he or she is qualified to supervise and financially responsible.

The bill does not amend the responsibilities of licensees under ch. 469, F.S., or otherwise effect the obligations of asbestos abatement consultants or contractors.

¹⁵ s. 469.003, F.S.

¹⁶ s. 469.003(3), F.S.

¹⁷ s. 469.006, F.S.

¹⁸ Rule 61E1-3.001, F.A.C.

¹⁹ Eliminating Duplicative and Excessive Regulation, *supra* note 9.

Barbering

Background

Chapter 476, F.S., governs the licensing and regulation of barbers, restricted barbers, and barbershops in the state. The Barbers' Board is located under Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the barbering industry.

'Barbering' means any of the following practices when done for remuneration and for the public, but not when done for the treatment of disease or physical or mental ailments: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances."²⁰

A 'restricted barber' is a person who has a restricted license to practice barbering. The restricted license limits the licensee's practice to those specific areas in which the applicant has demonstrated competence pursuant to rules adopted by the board. An applicant may obtain a restricted license if he or she:

- has successfully completed an approved restricted barber course; or
- holds or has within the previous 5 years held an active valid license to practice barbering in another jurisdiction or has held a Florida barbering license which has been declared null and void for failure to renew the license, and the applicant fulfilled the requirements for initial licensure; and has not been disciplined relating to the practice of barbering in the previous 5 years; and
- passes a written examination on the laws and rules governing the practice of barbering in Florida.

Barbers and restricted barbers must complete 1,200²¹ hours of training to be eligible for licensure, in addition to passing the applicable exam and paying a \$223.50 fee.²²

Effect of the Bill

The bill reduces and restricts the amount of training for barbers and restricted barbers from 1,200 to 600 for barbers and from 1,200 to 325 for restricted barbers. The type of training prescribed is limited to sanitation, safety, and laws and rules.

The bill clarifies the definition of 'restricted barber' as performing the following services for remuneration:

- hair cutting and styling, including the application of hair tonics and hair spray, but not including the application of other chemical preparations or solutions to the hair;
- full facial shaves;
- mustache and beard trimming; and
- shampooing hair, including the application of shampoos and conditioners and blow drying the hair.

Cosmetology

Background

Chapter 477, F.S., governs the licensing and regulation of cosmetologists, hair wrappers, hair braiders, nail specialists, facial specialists, full specialists, body wrappers, and related salons in the state. The Board of Cosmetology is under Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the cosmetology industry.

The term 'cosmetology' is defined as "the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair

²⁰ s. 476.034(2), F.S.

²¹ Under certain circumstances, an applicant may take the exam after completing 1,000 hours of training. If he or she passes the exam, no more training is required. s. 476.114(c)2., F.S.

²² Rule 61-35.006, F.A.C.

arranging, hair coloring, permanent waving, and hair relaxing for compensation. This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.”²³ Becoming licensed as a cosmetologist requires 1,200 hours of training, which typically costs between \$5,000 and \$20,000.²⁴

Specialty Registrations

A ‘specialist’ is defined as any person holding a specialty registration in one or more of the cosmetology specialties. The term ‘specialty’ is defined as “the practice of one or more of the following:

- Manicuring, or the cutting, polishing, tinting, coloring, cleansing, adding, or extending of the nails, and massaging of the hands. This term includes any procedure or process for the affixing of artificial nails, except those nails which may be applied solely by use of a simple adhesive;
- Pedicuring, or the shaping, polishing, tinting, or cleansing of the nails of the feet, and massaging or beautifying of the feet; and
- Facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, and skin care services.”²⁵

A nail specialist may complete manicures and pedicures. A facial specialist may complete facials. A full specialist may complete manicures, pedicures, and facials.

To qualify for a specialist registration, the applicant must:

- be at least 16 years old;
- obtain a certificate of completion from an approved specialty education program, consisting of:
 - 240 hours of training for a nail specialty,
 - 260 hours of training for a facial specialty, and
 - 500 hours of training for a full specialty;²⁶ and
- submit an application for registration with DBPR with a \$63.50 registration fee.²⁷

Currently, a person who applies polish or paint to fingernails and toenails or makeup²⁸ for compensation needs a cosmetology or specialty license. Texas also currently allows makeup application for compensation without a license.²⁹

Hair Braiding, Hair Wrapping or Body Wrapping Registrations

Hair braiding, hair wrapping, and body wrapping are limited scope cosmetology registrations.³⁰

‘Hair braiding’ means the weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemical treatment and does not include the use of hair extensions or wefts.”

Persons whose occupation or practice is confined solely to hair braiding must:

- register with DBPR,
- pay the applicable \$25 registration fee, and

²³ s. 477.013, F.S.

²⁴ BeautySchools.com, *The Cost of Beauty School*, <https://beautyschools.com/the-cost-of-beauty-school/> (last visited March 3, 2017).

²⁵ s. 477.013, F.S.

²⁶ Ch. 61G5-22, F.A.C.

²⁷ s. 477.0201, F.S.

²⁸ “Makeup” is generally defined as the application of certain cosmetic products such as lipstick, mascara, and foundation to color the face or body. It does not include the application of permanent makeup, which is considered cosmetic tattooing and requires licensure as a tattoo artist from the Florida Department of Health. Merriam-Webster, Inc., *Makeup*, <https://www.merriam-webster.com/dictionary/makeup> (last visited April 20, 2017); Rule 64E-28.002(20), F.A.C.

²⁹ Tex. Occ. Code Ann § 1602.003(b)(3) (West 2015).

³⁰ Described in ss. 477.013 and 477.0132, F.S.

- take a two-day board-approved 16-hour course, consisting of 5 hours of HIV/AIDS and other communicable diseases, 5 hours of sanitation and sterilization, 4 hours of disorders and diseases of the scalp, and 2 hours of studies regarding laws affecting hair braiding.³¹

'Hair wrapping' means the wrapping of manufactured materials around a strand or strands of human hair, for compensation, without cutting, coloring, permanent waving, relaxing, removing, weaving, chemically treating, braiding, using hair extensions, or performing any other service defined as cosmetology.

Persons whose occupation or practice is confined solely to hair wrapping must:

- register with DBPR,
- pay the applicable \$25 registration fee, and
- take a one-day board-approved 6-hour course, consisting of education in HIV/AIDS and other communicable diseases, sanitation and sterilization, disorders and diseases of the scalp, and studies regarding laws affecting hair wrapping.

'Body wrapping' means a treatment program that uses herbal wraps for the purposes of cleansing and beautifying the skin of the body, but does not include the application of oils, lotions, or other fluids to the body, except fluids contained in presoaked materials used in the wraps, or manipulation of the body's superficial tissue, other than that arising from compression emanating from the wrap materials.

A person whose occupation or practice is body wrapping must:

- register with DBPR,
- pay the applicable \$25 registration fee, and
- take a two-day board-approved 12-hour course, consisting of education in HIV/AIDS and other communicable diseases, sanitation and sterilization, disorders and diseases of the skin, and studies regarding laws affecting body wrapping.

Hair braiding, hair wrapping, and body wrapping are not required to be practiced in a cosmetology salon or specialty salon.

Continuing education is not required of hair braiders, hair wrappers, and body wrappers.³²

The Board of Cosmetology issued 28 disciplinary orders against licensed hair braiders, hair wrappers, and body wrappers during the 2012- 2015 fiscal years. These actions generally did not involve consumer injury, but were technical scope of practice violations (e.g. practicing with an expired license or failing to timely renew the license). This constitutes a little over one percent of the 2,690 disciplinary orders issued by the Board of Cosmetology during these fiscal years.³³

Effect of the Bill

The bill clarifies which services can be performed by specialty registration holders, which are outlined as follows:

- Nail specialists can perform: manicuring, or the cutting, polishing, tinting, coloring, cleansing, adding, or extending of the nails, and massaging of the hands. This term includes any procedure or process for the affixing of artificial nails, except those nails which may be applied solely by use of a simple adhesive, pedicuring, or the shaping, polishing, tinting, or cleansing of the nails of the feet, and massaging or beautifying of the feet;
- Facial specialists can perform: facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, and skin care services; and

³¹Courses for hair braiding, hair wrapping, and body wrapping generally cost between \$75 and \$250. Examples include: 1STOPCEU.com, *Home*, <http://www.floridahairbraider.com/> (last visited March 4, 2017); and JT's Beauty Shop, Inc., *Florida State Certified Courses (Theory)*, http://www.jtbeautysalon.com/certified_classes.html (last visited March 4, 2017).

³² s. 477.019(7)(b), F.S.

³³ Agency Analysis of 2017 Senate Bill 802, *supra* note 15, at 4-5.

- Full specialists can perform: manicuring, pedicuring, and facial services, including all services within the definition of nail specialty and facial specialty.

The bill reduces the amount of training hours required for specialty registrations, which must focus primarily on sanitation and safety, from:

- 240 hours to 150 hours for nail specialists,
- 260 hours to 165 hours for facial specialists, and
- 500 hours to 300 hours for full specialists.

The bill adds weaving or interweaving commercial hair without the use of adhesives or bonders and the ability to use extensions or weft to the scope of 'hair braiding.'

The bill removes all licensure and regulatory requirements for hair braiders, hair wrappers, body wrappers, nail polisher or painters, and makeup applicators and makes conforming changes to cross-references.

Architecture and Interior Design Business Organizations

Present Situation

Chapter 481, pt. I, F.S., governs the licensing and regulation of architects, interior designers, and related business organizations in the state. The Board of Architecture and Interior Design is a board located under Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the architecture and interior design industries.

An architecture business corporation, limited liability company, or partnership, which is offering architecture service to the public, must obtain a certificate of authorization prior to practicing.³⁴ One or more of the principal officers of the corporation or limited liability company, or one or more partners of the partnership, must be a licensed architect. Applicants for an architecture business certificate of authorization must pay an application fee of \$100, an unlicensed activity fee of \$5, and a biennial renewal fee of \$125.³⁵ There is no requirement on the business entity other than to obtain licensure and there are no inspection requirements.

Interior design businesses must also obtain a certificate of authorization. At least one principal officer or partner and all personnel who act on the business entity's behalf in the state must be registered interior designers. The initial license fee for a certificate of authorization is \$100 and the biennial renewal fee is \$125.³⁶

As of October 2015, there were 2,747 architecture business licenses and 1,047 interior design business licenses in active status and on average 203 new initial architecture business licenses and 98 interior design business licenses issued annually during the 2012- 2015 fiscal years.

There were 17 disciplinary cases brought against architecture business licenses during the 2012- 2015 fiscal years.³⁷ Typically, the disciplinary actions taken were for operating without a supervising architect and for failing to use a license number in advertisements. During the 2012-2015 fiscal years, the Board of Architecture and Interior Design disciplined licensed interior design business licenses only 4 times without also taking disciplinary action against the qualifying interior designer. In 3 of the 4 disciplinary cases, the business license was retained by the business after the qualifying interior designer had left the firm.³⁸

³⁴ s. 481.219(2)-(3), F.S.

³⁵ Rules 61G1-17.001 and 61G1-17.002, F.A.C.

³⁶ Rule 61G1-17.002, F.A.C.

³⁷ Eliminating Duplicative and Excessive Regulation, *supra* note 9.

³⁸ Agency Analysis of 2017 Senate Bill 802, *supra* note 15, at 5.

Effect of the Bill

The bill removes the requirement that architects and interior designers obtain a separate business license (certificate of authorization) in addition to an individual license. The bill provides that architects and interior designers qualify their business organizations with their individual licenses. The bill provides that architects and interior designers must inform DBPR of any change in their relationship with the qualified business, and the business has 60 days to obtain a replacement qualifying architect or interior designer. The executive director or chair of the Board of Architecture and Interior Design may authorize another registered architect or interior designer employed by the business organization to temporarily service as its qualifying agent for no more than 60 days.

The bill amends s. 481.219(2)(b), F.S., to provide that the Board of Architecture and Interior Design may deny an application to qualify a business organization if the applicant (or others identified in the application as partners, officers, directors, or stockholders who are also officers or directors) “has been involved in past disciplinary actions or on any grounds for which an individual registration or certification may be denied.”

The bill requires the qualifying agent to provide notice to DBPR when he or she begins to conduct business in his or her own name or with another business organization following the previous termination. The qualifying agent or the new business organization must submit the required application information.

The qualifying agent must ensure responsible supervising control of all projects of the business organization and upon termination of his or her employment with a business organization for which he or she qualifies, the agent must notify DBPR of the termination within 30 days.

Landscape Architecture Business Organization

Background

Chapter 481, pt. II, F.S., governs the licensing and regulation of landscape architects and related business organizations in the state. The Board of Landscape Architecture is a board located under the Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the landscape architecture industry.

A corporation or partnership is permitted to apply for a certificate of authorization if:

- One or more of the principles of the corporation, or partners in the partnership, is a licensed landscape architect;
- One or more of the officers, directors, or owners of the corporation, or one of more of the partners of the partnership is a licensed landscape architect;
- The corporation or partnership has been issued a certificate of authorization by the board.³⁹

Applicants for a landscape architecture business certificate of authorization must pay an application fee and initial licensure fee of \$450.00 and a biennial renewal fee of \$337.50.⁴⁰ There is no requirement on the business entity other than to obtain licensure and there are no inspection requirements.

As of October 2015, there were 347 landscape architecture business licenses in active status and on average 31 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary cases brought against any landscape architecture business licenses during the 2012-2015 fiscal years.⁴¹

³⁹ s. 481.319(1), F.S.

⁴⁰ Rule 61G10-12.002, F.A.C.

⁴¹ Eliminating Duplicative and Excessive Regulation, *supra* note 9.

Effect of the Bill

The bill repeals all provisions which require licensees to obtain a certificate of authorization to practice landscape architecture through a business organization. Instead, a licensed landscape architect must apply to qualify the business organization as a qualifying agent if he or she proposes to engage in the practice of landscape architecture as a business organization.

The bill repeals DBPR's authority to issue a certificate of authorization to an applicant wishing to practice as a corporation, limited liability company, or partnership offering landscape architectural services. Furthermore, the bill repeals the board's ability to grant a temporary certificate of authorization for a business organization that is seeking to work on one project in Florida for a period not to exceed a year to an out-of-state corporation, partnership, or firm.

The bill provides that a corporation or partnership is permitted to offer landscape architectural services to the public if:

- One or more of the principles of the corporation, or partners in the partnership, is a licensed landscape architect;
- One or more of the officers, directors, or owners of the corporation, or one of more of the partners of the partnership is a licensed landscape architect.

The qualifying agent must provide notice to DBPR within one month of any change in the information contained in the license application.

The bill removes disciplinary actions against certificates of authorization for business organizations. The bill does not modify the liability of a landscape architect for his or her professional acts.

Geology Business Organization

Background

Chapter 492, F.S., governs the licensing and regulation of geologists and related business organizations in the state. The Board of Professional Geologists is a board located under Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the geology industry.

An individual may not practice geology through a firm, corporation, or partnership offering geological services to the public unless the firm, corporation, or partnership has been issued a certificate of authorization.⁴² A firm, corporation, or partnership is permitted to offer geological services to the public if:

- at all times, the entity has on file with DBPR the name and license number of one or more licensed geologists serving as a geologist with the entity;
- the entity has been issued a certification of authorization by DBPR;
- all final geological documents prepared or approved for the use of the entity shall be dated and signed and sealed by the licensed geologist;
- the entity is not relieved of personal liability due to the fact that a licensed geologist practices at the entity;
- the entity files an application with DBPR.⁴³

Any change in the business operating relationship between the business organization and the qualifying geologist must be reported to DBPR within 30 days.

⁴² s. 492.111(2), F.S.

⁴³ s. 481.319(1), F.S.

Applicants for a geology business certificate of authorization must pay an application fee of \$350.00 and a biennial renewal fee of \$350.⁴⁴ There is no requirement on the business entity other than to obtain licensure and there are no inspection requirements.

As of October 2015, there were 373 geology business licenses in active status and on average 27 new initial licenses issued annually during the 2012- 2015 fiscal years. There were no disciplinary cases brought against any geology business licenses during the 2012-2015 fiscal years.⁴⁵

Effect of the Bill

The bill repeals all provisions which require a certificate of authorization to practice geology through a business organization. Instead, a licensed geologist must apply to qualify the business organization as a qualifying agent if he or she proposes to engage in the practice of geology as a firm, corporation, or partnership.

The qualifying agent is required to update DBPR of any changes in the relationship between himself or herself and the business organization within 30 days.

The bill repeals DBPR's authority to issue a certificate of authorization to an applicant wishing to practice as a firm, corporation, or partnership offering geological services.

Pugilistic Timekeepers and Announcers

Background

Chapter 548, F.S., governs the Florida State Boxing Commission, which is under Regulations. The function of the Commission is to license and regulate professional boxing, kickboxing, and mixed martial arts. The Commission ensures that all matches are conducted in accordance with provisions of state laws and rules. It also makes certain that health and safety requirements are met and that matches are competitive and physically safe for participants. The Commission designates employees to attend the matches, appoints match officials, and ensures the matches are held in a safe and fair manner.

A 'timekeeper' is an individual who is assigned the duties to maintain the time for each round during a pugilistic event.⁴⁶

An 'announcer' is an individual who has the authority to make all announcements, including the result of the event, during a pugilistic event.⁴⁷

In order to obtain a license, a timekeeper or announcer applicant must:

- be at least 18 years of age and
- pay an application fee of \$50.

Currently, there are 5 licensed timekeepers and 2 licensed announcers.⁴⁸

Effect of the Bill

The bill deletes all licensure and regulatory requirements for boxing announcers and boxing timekeepers and makes conforming changes to cross-references.

⁴⁴ Rule 61G10-12.002, F.A.C.

⁴⁵ Eliminating Duplicative and Excessive Regulation, *supra* note 9.

⁴⁶ Rule 61K1-3.0001(19), F.A.C.

⁴⁷ Rule 61K1-3.0001(1), F.A.C.

⁴⁸ Email from Andrew Forst, Legislative Coordinator, Florida Department of Business and Professional Regulation, RE: Timekeeper and Announcer license counts (March 3, 2017).

B. SECTION DIRECTORY:

- Section 1 Amends s. 326.004, F.S., deleting requirement for yacht broker branch office licenses;
- Section 2 Amends s. 447.02, F.S., conforming provisions;
- Section 3 Repeals s. 447.04, F.S., relating to licensure requirements for business agents;
- Section 4 Repeals s. 447.041, F.S., relating to hearings for labor organizations or business agents denied licensure;
- Section 5 Repeals s. 447.045, F.S., relating to confidential application information;
- Section 6 Repeals s. 447.06, F.S., relating to required registration of labor organizations;
- Section 7 Amends s. 447.09, F.S., deleting certain actions relating to right of franchise of a member of a labor organization;
- Section 8 Repeals s. 447.12, F.S., relating to fees;
- Section 9 Repeals s. 447.16, F.S., relating to applicability;
- Section 10 Amends s. 447.305, F.S., deleting provision requiring notification to DBPR;
- Section 11 Amends s. 469.006, F.S., revising licensure requirements for asbestos abatement business entities;
- Section 12 Amends s. 469.009, F.S., conforming provisions;
- Section 13 Amends s. 476.034, F.S., defining 'restricted barber' and 'restricted barbering;'
- Section 14 Amends s. 476.114, F.S., revising barber training requirements;
- Section 15 Amends s. 476.144, F.S., requiring DBPR to license qualified restricted barbers;
- Section 16 Amends s. 477.013, F.S., revising and providing definitions;
- Section 17 Repeals s. 477.0132, F.S., relating to the registration of hair braiding, hair wrapping, and body wrapping;
- Section 18 Amends s. 477.0135, F.S., exempting hair braiders, hair wrappers, body wrappers, nail polishers, and makeup applicators from licensure;
- Section 19 Amends s. 477.019, F.S., conforming provisions;
- Section 20 Amends s. 477.0201, F.S., providing requirements for specialty licenses;
- Section 21 Amends s. 477.026, F.S., conforming provisions;
- Section 22 Amends s. 477.0265, F.S., conforming provisions;
- Section 23 Amends s. 477.029, F.S., conforming provisions;
- Section 24 Amends s. 481.203, F.S., revising definitions for 'certificate of authorization' and 'business organization;'

- Section 25 Amends s. 481.219, F.S., relating to provision relating to regulation of businesses related to interior design;
- Section 26 Amends s. 481.221, F.S., conforming provisions;
- Section 27 Amends s. 481.229, F.S., conforming provisions;
- Section 28 Amends s. 481.303, F.S., deleting the definition of 'certificate of authorization;'
- Section 29 Amends s. 481.311, F.S., conforming provisions;
- Section 30 Amends s. 481.317, F.S., conforming provisions;
- Section 31 Amends s. 481.319, F.S., deleting the requirement for a certificate of authorization and authorizing practice through a corporation or partnership;
- Section 32 Amends s. 481.321, F.S., revising requirements for the display of a certificate number;
- Section 33 Amends s. 481.329, F.S., conforming a cross-reference;
- Section 34 Amends s. 287.055, F.S., conforming a provision;
- Section 35 Amends s. 492.104, F.S., making conforming and technical changes;
- Section 36 Amends s. 492.111, F.S., deleting the requirements for a certificate of authorization for a professional geologist;
- Section 37 Amends s. 492.113, F.S., conforming provisions;
- Section 38 Amends s. 492.115, F.S., conforming provisions;
- Section 39 Amends s. 548.003, F.S., deleting the requirement for the Florida State Boxing Commission to adopt rules relating to a timekeeper;
- Section 40 Amends s. 548.017, F.S., deleting the licensure requirement for timekeepers and announcers;
- Section 41 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The estimated revenue and expenditure figures do not reflect changes made by amendments adopted by the Commerce Committee which restore the licensing schemes for interior designers, talent agents, and auctioneers. DBPR estimates the revenue reduction to state government will be \$3,651,684 over the next three fiscal years, stemming from a reduction of license fees, license renewal fees, and unlicensed activity fees. The estimate is broken down as follows: ⁴⁹

	FY 2017-18	FY 2018-19	FY 2019-20
Revenues: License Fees and Unlicensed Activity Fees	Condominiums (\$4,300)	Condominiums (\$4,300)	Condominiums (\$4,300)
	Professions (\$1,020,471)	Professions (\$1,595,017)	Professions (\$1,020,296)
	Boxing Commission (\$1,000)	Boxing Commission (\$1,000)	Boxing Commission (\$1,000)
Total Fees Reduced	(\$1,025,771)	(\$1,600,317)	(\$1,025,596)
Service Charge to General Revenue – Reduction (8% of revenues reduced above)	(\$82,062)	(\$128,025)	(\$82,048)

2. Expenditures:

DBPR has not estimated the decrease of expenditures based on the reduction of applications processed, investigations conducted, or complaints received.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Labor organizations, pugilistic announcers, pugilistic timekeepers, hair braiders, hair wrappers, body wrappers, nail painters, and makeup artists will no longer need to pay costs associated with professional licensure.

Nail specialists, facial specialists, full specialists, barbers, and restricted barber applicants will require less training to obtain licensure, which may lead to a reduced training cost.

⁴⁹ Total fee reduction based on Department of Business and Professional Regulation bill analysis of SB 802, March 2, 2017 and email from Larry Hurley, March 15, 2017 to Appropriations staff, on file with the Government Operations & Technology Appropriations Subcommittee.

Asbestos abatement consultants and contractors, landscape architects, geologists, interior designers, and architects will no longer need to pay costs associated with retaining certificates of authorization for business organizations.

There may be an increase in the number of people in the workforce practicing their chosen professions.

D. FISCAL COMMENTS:

As of June 30, 2016, the fund balance for the Board of Professional Geologists was negative.

The proposed elimination of the license fees for boards that have a deficit balance will result in the fund accounts closing with a negative balance. Funds with negative balances have borrowed from the other Board Funds during the years they have operated to address the negative balances.⁵⁰

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Application, forms, rules, and rule chapters will need to be updated related to the following licensure programs:

- Condominiums (Yacht and Ship Brokers) – Rules 61B-60.001, 61B-60.002, 61B-60.003, 61B-60.005, F.A.C.;
- Asbestos – Rule 61E1, F.A.C.;
- Barbers – Rule 61G3-16 and 15, F.A.C.;
- Cosmetology Specialties – Rules 61G5-31, 61-35.011, F.A.C.;
- Architecture and Interior Design – Rule 61G1, F.A.C.;
- Landscape Architects – Rules 61G10, 61-35.017, F.A.C.;
- Professional Geologists – Rule 61G16, F.A.C.;
- Labor Organizations – Rule 61E1-4.001; and
- Boxing Announcers and Timekeepers – Rules 61K1-3.002, 61K1-3.009, and 61K1-3.010, F.A.C.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 19, 2017, the Commerce Committee adopted 5 amendments and reported the bill favorably as a committee substitute. The amendments:

- Remove the deregulation of auctioneers, talent agents, and interior designers from the bill;
- Allow interior design businesses to operate with a qualifier who is a licensed interior designer;
- Provide that a cosmetology or specialty license is not required for those persons whose occupation or practice is solely confined to nail painting or makeup application;
- Add definitions for “business organization” and “qualifying agent” as related to landscape architects;

⁵⁰ *Id.* at 9, 10.

- Clarify the definition of “design-build firm” as related to public procurement requirements; and
- Allow hair braiders to use hair extensions or wefts in their practice.

This analysis is drafted to the committee substitute as passed by the Commerce Committee.