

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 2444

SPONSOR: Comprehensive Planning, Local and Military Affairs Committee, Regulated Industries Committee and Senator Gutman

SUBJECT: Construction Industry Licensing

DATE: April 12, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Martin</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable/CS</u>
2.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill includes provisions recommended by the Department of Business and Professional Regulation for boards and professions related to the construction industry, including building inspectors and administrators, asbestos abatement contractors, and electrical and alarm system contractors. While primarily technical and clarifying in nature, the bill does provide new grounds for disciplining local building code administrators and inspectors, and it specifically describes unlicensed contracting and makes it unlawful for a contractor without a state issued certificate or registration to pull a building permit.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 20.165, 468.609, 468.621, 469.001, 469.002, 469.004, 469.005, 469.006, 469.011, 469.012, 469.013, 471.045, 481.222, 489.109, 489.13, 489.503, 489.511, 489.513, 489.519, and 489.537.

II. Present Situation:

Building Code Administrators and Inspectors, Part XII, Chapter 468, F.S. Part XII of Chapter 468, F.S., establishes licensure requirements and other regulations for building code administrators, inspectors, and plans examiners. The current methods for qualification of a building code inspector or plans examiner do not include a path that gives credit for technical experience and technical education. There is no explicit requirement that the building code administrator (BCA), or any other licensee under this part, obtain a contractor's registration or certification number prior to issuing a building permit, nor are there explicit grounds for discipline if the person responsible for issuing the permit fails to do so.

Regulation of Building Code Administrators, Inspectors, and Plans Examiners is currently designated as part XII of chapter 468, F.S. Previously, it had been designated as part XIII of that same chapter.

Asbestos Abatement, Chapter 469, F.S. The Asbestos School Hazard Abatement Reauthorization Act (ASHARA), a federal program, is not defined in chapter 489. ASHARA has been adopted as superseding the Asbestos Hazard Emergency Response Act of 1986 (AHERA), a previous federal asbestos program. AHERA has been superseded by ASHARA. However, AHERA has essentially been adopted as part of the newer ASHARA, so references to AHERA will not necessarily be incorrect in all instances.

There are no continuing education requirements for licensure renewal of asbestos abatement contractors or consultants. Chapter 469, F.S., currently requires both the asbestos contractor/supervisor course and the project designer course to meet the requirements for taking the asbestos consultant examination.

There currently is no standard regarding the regulation of asbestos abatement contractors or consultants that allows (or disallows) a licensee to qualify more than one business organization. However, such a standard, allowing each licensee to qualify more than one business organization, exists with regard to other professions, such as electrical and alarm system contractors, in part II, chapter 489, F.S.

The Joint Administrative Procedures Committee has made recommendations for standard statutory language granting rulemaking authority.

Current law requires an asbestos contractor's onsite supervisor to complete an asbestos project management and supervision course. That requirement is established in s. 469.012, F.S., by cross-reference to s. 469.005(2)(a), F.S. However, the asbestos project management and supervision course was recently moved from s. 469.005(2)(a) to s. 469.005(3)(a), F.S., without changing the cross-reference.

The practice statute does not require project designers to take the 3-day project designer course.

Construction Contractors, Part I, Chapter 489, F.S. The department indicates that because local jurisdictions issue local construction licenses, some local jurisdiction officials and private citizens are under the mistaken impression that such a local license makes them a state "licensed" contractor. The law provides, however, that to be considered lawfully entitled to act as a contractor in a contractor category regulated under chapter 489, F.S., one must be either registered or certified by the state. The local license is required as a prerequisite for obtaining the state registration. Simply holding that local license, without obtaining the state registration, is not sufficient to lawfully practice as a contractor in a contractor category regulated under chapter 489, F.S.

Pursuant to s. 489.131(5), F.S., building officials must, before issuing a building permit, "ascertain that the applicant contractor is certified or is registered in the area where the construction is to take place."

Electrical and Alarm System Contractors, Part II, Chapter 489, F.S. Companies performing low voltage electrical work on telephone, computer, and cable television systems are exempt from needing an electrical or alarm system contractor's license. However, provisions were adopted several years ago to prevent exempted telecommunications companies from competing with

licensed electrical or alarm system contractors. The language preventing this competition limited the exemption to instances of requested extension of existing telephone service. However, this limitation could also be read to apply to the exemption for cable television work, thereby effectively eliminating the exemption for cable television work.

The Electrical Contractor Licensing Board (ECLB) recommends requiring an applicant for the unlimited alarm system contractor's license to have proper experience in commercial systems.

Some applicants for state registration read s. 489.513, F.S., to allow an occupational license to qualify them to obtain a state registration. The statute is not clear. However, the intent has been to require a local professional license, not simply a local occupational license. A local occupational license is more properly characterized as a business tax, and does not require any professional qualifications for its issuance.

In 1988, the statutory authority of registered contractors to install alarm systems, including heat and smoke detectors, was deleted.

III. Effect of Proposed Changes:

Building Code Administrators and Inspectors

Section 1 amends s. 468.609(2)(c), F.S., 1998 Supplement, to provide a path to licensure for a building code inspector or plans examiner that gives credit for technical experience and technical education.

Section 2 amends s. 468.621(1), F.S., 1998 Supplement, by creating subsection (h) to provide that a licensee under this part may be disciplined if the licensee issues a building permit to a contractor without first obtaining the contractor's certification or registration number.

Sections 3-7 amend ss. 20.165, 471.045, 481.222, 489.109, and 489.519, F.S., making technical, cross-reference changes in each section, to account for the fact that this part was moved from part XIII of chapter 468 to part XII, chapter 468, F.S. These sections also correct the name of the Florida Building Code Administrators and Inspectors Board.

Asbestos Abatement

Section 8 adds the definition of ASHARA, the Asbestos School Hazard Reauthorization Act, to the definitions in s. 469.001, F.S. It also modifies subsection (18) by adding language to reflect a National Emission Standards for Hazardous Air Pollutants (NESHAP) standard, not rule.

Section 9 amends s. 469.002(1)(a) and (e), F.S., 1998 Supplement, to replace, where appropriate, all references to the former federal legislation, the Asbestos Hazard Emergency Response Act of 1986 (AHERA), 15 U.S.C. s. 2601, with ASHARA.

Section 10 creates subsection (3) of s. 469.004, F.S., 1998 Supplement, to establish continuing education requirements for licensure renewal of asbestos abatement contractors or consultants. The asbestos abatement consultant must complete a two-day course during each of the preceding two years. The asbestos contractor must complete a one-day course during that same time period.

Section 11 deletes the current requirement in s. 469.005(2)(a), F.S., 1998 Supplement, that completion of an asbestos contractor/supervisor course is a prerequisite to qualifying for licensure as an asbestos consultant or asbestos contractor.

Section 12 amends s. 469.006(6), F.S., 1998 Supplement, to allow an asbestos abatement consultant or contractor to qualify more than one business organization by establishing the same standard currently in use in part II of chapter 489, F.S., regarding electrical and alarm system contractors. That standard focuses on presentation of evidence that the qualifying agent has both the capacity and intent to supervise each business organization.

Section 13 amends s. 469.011, F.S., to provide specific rulemaking authority to the department and specifically references ASHARA as criteria to be considered in promulgating those rules.

Section 14 revises the education requirements of s. 469.012, F.S., to require that each onsite supervisor for an asbestos contractor complete an asbestos contractor/supervisor course prior to engaging in onsite supervision.

Section 15 amends s. 469.013, F.S., 1998 Supplement, to require project designers to take a minimum 3-day project designer course in order to retain Environmental Protection Agency accreditation.

Construction Contractors

Section 16 creates s. 489.13, F.S., to clarify that a local contractor's license is not sufficient to allow a person to practice as a contractor under part 1 of chapter 489, F.S. The person also must be certified or registered with the state. In addition, building officials are prohibited from issuing a building permit unless the requesting contractor is certified or registered with the state in the appropriated contractor category. Also, persons working outside the geographical scope of their registration are guilty of unlicensed activity for purposes of this part.

Electrical and Alarm System Contractors

Section 17 substantially rewrites s. 489.503(14), F.S., 1998 Supplement, to clarify the existing exemptions for low voltage cable TV work and low voltage telecommunications work by placing them in separate paragraphs.

Section 18 amends s. 489.511, F.S., 1998 Supplement, the prerequisites for applicants for an unlimited alarm system contractor's license, to require that at least 40% of the applicant's requisite experience be in commercial type alarms. It further provides that the qualifications for an electrical specialty contractor are the same as for other types of contractors licensed under this part. Finally, it provides that upon issuance of any certificate, any previously issued registered licenses for the classification in which the certification is issued are rendered void.

Section 19 clarifies s. 489.513, F.S., 1998 Supplement, that a local professional license, which is designated as a certificate of competency, is needed as a prerequisite to obtaining a state registration. In addition, this section repeals s. 489.513(7), F.S., which specifies that the Department of Business and Professional Regulation and the Construction Industries Licensing Board are not responsible for providing discipline to locally registered contractors tracked by the

department's automated information system. This system will, when developed, track code violation and disciplinary information on registered contractors, as provided by local jurisdictions.

Section 20 amends s. 489.537, F.S., 1998 Supplement, to allow registered electrical contractors to install heat and smoke detectors in residential buildings.

Section 21 provides an effective date of July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may require some contractors pursue additional education, or pursue state registration or certification, to continue operating in the same capacity as contractors.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

