

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The mission of the DBPR is to protect the health, safety, and welfare of Florida’s consumers by ensuring that regulated businesses and professions meet prescribed standards. The DBPR enforces compliance with numerous filing and disclosure requirements and various other standards and regulations.

Chapter 455, F.S., provides general powers of the DBPR for the regulation of practitioners under their jurisdiction. Among these powers is the authority to enforce unlicensed activity provisions, including engineers, pursuant to ss. 455.228 and 455.2281, F.S.

Section 455.32, F.S., is cited as the “Management Privatization Act.” Privatized services under the DBPR have been established for the BPE. Section 471.038, F.S., creates the Florida Engineers Management Corporation (FEMC) as a private not-for-profit corporation providing administrative, investigative, and prosecutorial services to the BPE.

Engineers are licensed and regulated by the BPE, under the DBPR, pursuant to chapter 471, F.S. Chapter 471, F.S., provides for testing, licensure, and discipline of engineers. Applicants for licensure must meet character and educational requirements, submit to a background check, and pass two examinations.

“Engineer” is currently defined to include the terms “professional engineer” and “licensed engineer” and means a person who is licensed to engage in the practice of engineering under 471, F.S. “Engineering” includes the term “professional engineering” and is defined to mean:

any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, teaching of the principles and methods of engineering design, engineering surveys, and the inspection of construction for the purpose of determining in general if the work is proceeding in compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services. A person who practices any branch of engineering; who, by verbal claim, sign, advertisement, letterhead, or card, or in any other way, represents himself or herself to be an engineer or, through the use of some other title, implies that he or she is an engineer or that he or she is licensed under this chapter; or who holds himself or herself out as able to perform, or does perform, any engineering service or work or any other service designated by the practitioner which is

recognized as engineering shall be construed to practice or offer to practice engineering within the meaning and intent of this chapter.

In the 2002 legislative session, amendments to s. 471.031, F.S., relating to the prohibition against the use of the title engineer, were enacted pursuant to CS/CS/SB 990 which became chapter 2002-299, Laws of Florida. This section currently specifies that a person may not :

Use the name or title "professional engineer" or any other title, designation, words, letters, abbreviations, or device tending to indicate that such person holds an active license as an engineer when the person is not licensed under this chapter, including, but not limited to, the following titles: "agricultural engineer," "air-conditioning engineer," "architectural engineer," "building engineer," "chemical engineer," "civil engineer," "control systems engineer," "electrical engineer," "environmental engineer," "fire protection engineer," "industrial engineer," "manufacturing engineer," "mechanical engineer," "metallurgical engineer," "mining engineer," "minerals engineer," "marine engineer," "nuclear engineer," "petroleum engineer," "plumbing engineer," "structural engineer," "transportation engineer," "software engineer," "computer hardware engineer," or "systems engineer".

The penalty for a violation is a first degree misdemeanor. Additional penalties include a \$1,000 administrative fine.

Subsequent to the 2002 changes to s. 471.031, F.S., some confusion and concern have been expressed regarding the application of the expanded prohibition against the use of the title of "engineer." One area of concern relates to companies and individuals exempted from licensure under s. 471.003, F.S., and whether the title limitation would be a factor when providing in-house engineering services. Another area of concern relates to the potential impact on current and historical practices and services conducted in-house, primarily, in the aerospace and defense industries in Florida.

In the 2003 legislative session language was enacted as a part of the appropriations implementing bill to limit the application of the new title restrictions during the interim prior to the next legislative session. Section 69 of SB 4-A provides in part:

"...the [DBPR may not] utilize any funds to investigate, prosecute, or maintain any action against any... [aerospace or defense business entity]...[that allow the use of the term engineer by practitioners not licensed in Florida]....

"This section expires July 1, 2004."

Effect of Proposed Changes

The bill addresses provisions of chapter 471, F.S., relating to the regulation of professional engineers and the use of the term "engineer" or other related terms that imply licensure as an engineer.

The bill creates an exemption from licensure requirements to include defense, space, and aerospace companies and employees conducting engineering services in Florida. The bill further specifies that an exemption allows a person to use the title "engineer" within the scope of work conducted under the exemption.

The bill defines "space and aerospace company" as an entity in the business of creating the infrastructure and processes for the space initiative. "Defense company" is defined as an entity that successfully bids a defense contract, as well as, subcontractors under the contract. The definition also includes a business entity holding a contract to provide military products and services to the U.S. Department of Defense, U.S. Department of State, and U.S. Coast Guard.

C. SECTION DIRECTORY:

Section 1. Amends s. 471.003, F.S., to specifically exempt defense, space, or aerospace companies from licensure requirements.

Section 2. Amends s. 471.005, F.S., to create definitions of "space or aerospace company" and "defense company."

Section 3. Amends S. 471.031, F.S., to authorize a person who is exempt from licensure as a result of being associated with the defense, space, or aerospace industries to use the title of "engineer."

Section 4. Effective date - Upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The impact to the state appears to be indeterminate.

The fiscal and economic impact to the state could be a factor relative to the circumstances noted in D. below. Additionally, it could be argued that the state would not see a significant reduction in license fee revenue if aerospace and defense engineers, as defined in the bill, leave Florida to conduct their professions in other states. The number of engineers that have practiced without a license as authorized in the past prior to the 2002 statutory changes which effectively requires licensure is unknown. The DBPR has been restricted from expending revenues to prosecute this potentially unlicensed activity. Additionally, it is currently unknown how many engineers have initiated or completed the licensure process, with appropriate license fees paid.

2. Expenditures:

See 1. above

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

NA

2. Expenditures:

NA

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See A. 1. above.

D. FISCAL COMMENTS:

It could be argued that to require licensure of engineers employed under contract with the aerospace and defense industries in Florida could subject the state to a competitive disadvantage to other states seeking to attract these industries. The prohibition against the use of the title engineer could require licensure of the transient population of these employees who are temporarily located and operating in this state. Licensure requirements may impact the availability of this workforce.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable

2. Other:

None.

B. RULE-MAKING AUTHORITY:

NA

C. DRAFTING ISSUES OR OTHER COMMENTS:

NA

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES