

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 2276

SPONSOR: Senator Clary

SUBJECT: Professional Geology

DATE: March 17, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sumner</u>	<u>Imhof</u>	<u>RI</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill clarifies and makes consistent the use of the terms the “practice of professional geology” and “professional geologist” throughout ch. 492, F.S. The bill provides that a violation of a rule of the Board of Professional Geologist (board) or any order of the board previously entered in a disciplinary hearing is grounds for discipline. The bill also transfers certain duties from the Department of Business and Professional Regulation (department) to the board relating to discipline.

This bill substantially amends the following sections of the Florida Statutes: 492.111, 492.112, and 492.115.

II. Present Situation:

Chapter 492, F.S., provides the framework for the regulation of professional geologists in Florida. The board has rulemaking authority but most of the authority, including discipline and final order authority, rests with the department.

“Geology”, “Professional geologist”, and “Practice of professional geology” are all defined in s. 492.102, F.S. However, the terms are used inconsistently. The practice of geology does not require a license, while the practice of professional geology does. In places throughout the act, the word “professional” is left out when the different sections are referring to a licensed professional geologist.

“Geology”¹ is defined as the science which includes the treatment of the earth and its origin and history, in general; the investigation of the earth’s crust and interior and the solids and fluids, including all surface and underground waters, and gases which compose the earth; the study of the natural agents, forces, and processes which cause changes in the earth; and the utilization of this knowledge of the earth and its solids, fluids, and gases, and their collective properties and processes, for the benefit of humankind.

“Professional geologist”² means an individual who is licensed as a geologist under the provisions of ch. 492, F.S.

“Practice of professional geology”³ means the performance of, or offer to perform, geological services, including but not limited to, consultation, investigation, evaluation, planning, and geologic mapping, but not including mapping as prescribed in ch. 472, F.S., relating to geological work, except as specifically exempted by ch. 492, F.S. Any person who:

- practices any specialty branch of the profession of geology, or
- who by verbal claim, sign, advertisement, letterhead, card or any other means represents herself or himself to be a professional geologist, or
- who through the use of some title implies that she or he is a professional geologist or that she or he is licensed under ch. 492, F.S., or
- who holds herself or himself out as able to perform or does perform any geological services or work recognized as professional geology,

shall be construed to be engaged in the practice of professional geology.

III. Effect of Proposed Changes:

Section 1

Section 489.111((2), F.S., adds the word “professional” in front of the word geology and makes nonsubstantive conforming changes. This subsection requires firms, corporations, or partnerships practicing or offering to practice professional geology to have a certificate of authorization issued by the department. It exempts individuals practicing “professional” geology from obtaining a certificate of authorization.

Section 489.111(4), F.S., adds the word “professional” in front of the word geologist. This subsection provides, in part, that a licensed “professional” geologist practicing through a corporation or partnership is not relieved from personal liability for negligence, misconduct or wrongful acts committed by her or him.

Section 2

Section 492.112(1), F.S., is the prohibitions and penalties section. The bill adds the word “professional” in front of the word geology and geologist under the different subsections and makes nonsubstantive conforming changes.

¹ s. 492.102(3), F.S.

² s. 492.102(6), F.S.

³ s. 492.102(7), F.S.

Section 492.113, F.S., is the disciplinary proceedings section. The bill adds the word “professional” in front of the word geology, adds the word “board” in various subsections and makes nonsubstantive conforming changes. This section describes what acts constitute grounds for which disciplinary action in the practice of “professional” geology may be taken.

Subsection 492.113(1)(f), F.S. provides that violating a rule of the department or board or any order of the department or board previously entered in a disciplinary proceeding is grounds for disciplinary action.

Section 492.113(2), F.S., is amended to transfer authority from the department to the board. This section provides that the board shall specify, by rule, what acts or omissions constitute a violation of subsection (1) of this section.

Section 492.113(3), F.S., is amended to transfer authority from the department to the board. This section provides that when the board finds any person guilty of any of the grounds set forth in subsection (1) of this section it may impose one or more of the penalties provided in the section.

Section 492.113(4), F.S., is amended to provide that the board rather than the department shall certify when a disciplined person has complied with all of the terms and conditions set forth in the final order.

Section 4

Section 492.115, F.S., adds the word “professional” in front of geologist(s). This section provides that a roster showing the names and places of business or residence of all licensed professional geologists and all firms, corporations, or partnerships holding certificates of authorization to practice professional geology in the state shall be prepared annually by the department.

Section 5

The bill provides an effective date of July 1, 2004.

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:

None.

C. Government Sector Impact:

None

VI. Technical Deficiencies:

None.

VII. Related Issues:

The department states that the transfer of final order authority to the board will allow the board, which is more technically versed than the department in the material, to render decisions related to discipline of its licensees. The board having final order authority for disciplinary matters would be consistent with the authority of most of the boards under the umbrella of the department.

VIII. Amendments:

None.