

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/CS/SB 2262

INTRODUCER: Community Affairs Committee, Regulated Industries Committee and Senator Gaetz

SUBJECT: Department of Business and Professional Regulation

DATE: April 20, 2009 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harrington	Rhea	RI	Fav/CS
2.	Molloy	Yeatman	CA	Fav/CS
3.			GA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The CS/CS/SB 2262 (the CS) eliminates unnecessary regulations and streamlines regulatory procedures for the Department of Business and Professional Regulation (department). The CS:

- deletes the general requirement that an application for licensure include a notarized signature of the applicant in order to facilitate electronic correspondence;
- provides for additional regulations concerning talent agencies;
- increases the maximum penalty guideline for talent agency disciplinary actions;
- provides for a statutory increase on the maximum licensure fee for cosmetologist and construction contractors;
- deletes the authority for a professional board or the department to require a state law and rule portion of an examination;
- deletes the authority for core curriculum courses;
- adds to the list of grounds for discipline of a licensee the failure to report to the department any prosecution in a court of law and failure to complete a treatment program by an impaired practitioner;
- specifies that a representative of the department may voluntarily appear in a criminal proceeding against a licensee in order to provide pertinent information;

- removes the allowance for a practical part of a barber's examination and requires that the barber's examination include a written test only;
- removes the requirement that applicants for registered construction contractor and registered electrical contractor licenses provide a copy of a local occupational license;
- amends the disclosure statement for homeowner-builder permits;
- removes the requirement that an applicant obtain a certificate of authority for a business organization when the applicant proposes to engage in construction contracting under a business organization structure and requires an applicant for a contractor's license to apply to the department to act as the qualifying agent of the business organization as a part of the licensure requirement for registration or certification as a contractor;
- specifies that the Florida State Boxing Commission must approve the sanctioning organization for amateur mixed martial arts events;
- deletes the requirements that certain public lodging establishments post rate schedules in each rentable unit and deletes certain limitations on the ability of public lodging establishments to advertise room rates; and
- removes reference to a 3-year pilot program and establishes procedures that give a restaurant owner the discretion, with local approval by ordinance, to allow patrons to bring their dogs onto outside patio eating areas.

Fiscal – The department projected revenue reductions to approach \$72,800 for FY 2009-2010 and a savings in expenditures of \$176,000 for FY 2009-2010.

This CS amends sections 455.213, 455.227, 468.402, 468.403, 468.409, 468.410, 468.412, 468.413, 468.609, 468.627, 471.0195, 473.305, 473.311, 431.313, 475.175, 475.451, 475.615, 476.134, 476.144, 481.215, 481.313, 489.103, 489.105, 489.109, 489.114, 489.115, 489.117, 489.119, 489.127, 489.128, 489.129, 489.132, , 489.1455, 489.505, 489.513, 489.516, 489.517, 489.521, 489.5315, 489.532, 489.537, 509.233, 548.002, and 548.003, Florida Statutes.

The CS creates section 455.2274, Florida Statutes, reenacts sections 468.436, 468.832, 468.842, 471.033, 472.033, 473.323, 475.25, 475.624, 476.204, 477.029, 481.225, and 481.325, Florida Statutes, and repeals section 509.201, Florida Statutes.

II. Present Situation:

Section 20.165, F.S., establishes the organizational structure of the Department of Business and Professional Regulation (department). The department is delegated responsibility for both professional regulation and business regulation. The divisions include: Administration; Alcoholic Beverages and Tobacco; Certified Public Accounting; Florida Condominiums, Timeshares, and Mobile Homes; Hotels and Restaurants; Pari-mutuel Wagering; Professions; Real Estate; Regulation; and Technology. Section 20.165, F.S., also establishes the authority and structure of the various boards within the department.¹ The Florida State Boxing Commission (boxing commission) is also housed within the department.²

¹ The division of professions is comprised of 14 boards.

² Section 548.003, F.S.

Chapter 455, F.S., specifies the general powers of the department. Each profession is administered either directly by the department or through a separately appointed board, council, or commission. Section 455.01(6), F.S., defines the term “profession” to mean:

“any activity, occupation, profession, or vocation regulated by the department in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”

General Licensing

Chapter 455, F.S., provides general licensing provisions for the department. Under s. 455.213(11), F.S., the department may require submissions and other communications to be provided by electronic means.

Examinations

The department processes applications for licensure and license renewal. Section 455.217(7), F.S., allows a board or the department when there is no board, to require the successful passage of questions relating to state laws and rules as a part of the examination for licensure. These questions are required to be related to the practice of the profession regulated by the respective board or by the department.

Discipline

Currently, s. 455.227, F.S., specifies grounds for disciplinary action by a board or the department. These provisions include, among others, violating any provision of this chapter, the applicable professional practice act, a rule of the department or a board; having a license or the authority to practice the regulated profession revoked, suspended, or otherwise acted against by the licensing authority of “any” jurisdiction for a violation that would constitute a violation under Florida law; and being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in “any” jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

The department noted that there is no current duty on the part of a licensee to report a plea of nolo contendere to a crime or conviction of a crime.³

Under s. 455.227(2)(f), F.S., the board, or the department when there is no board, may provide a penalty that may include:

“placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment...”

³ DBPR Office of Legislative Affairs, 2009 Legislative Analysis Form, SB 2262, on file with the Regulated Industries Committee.

Section 455.2277, F.S., addresses criminal violations and provides:

“the department or the appropriate board shall report any criminal violation of any statute relating to the practice of a profession regulated by the department or appropriate board to the proper prosecuting authority for prompt prosecution.”

Accountancy licensure

A certified public accountant (CPA) is regulated under the jurisdiction of the Board of Accountancy, Division of Certified Public Accountants, within the department. Qualifications for “licensure” include meeting the requirements for good moral character, formal education, and successful completion of a comprehensive licensure examination.

Real estate brokers and sales associates – continuing education

Part I, ch. 475, F.S., regulates real estate brokers, sales associates, and real estate schools. The department is required to renew a license upon the receipt of the renewal application and fee. The renewal application is required to show proof to the Florida Real Estate Commission that the applicant has satisfactorily completed continuing education hours as prescribed by rule of the Florida Real Estate Commission.

Section 475.451, F.S., provides that the continuing education requirements of this chapter do not apply to an “attorney” who is otherwise qualified under this chapter to conduct real estate related activities.

Talent Agents

Part VII, ch. 468, F.S., regulates talent agencies. A person may not act as a talent agent without first obtaining licensure from the department. In order to be licensed, an applicant must establish that they are of good moral character and also must disclose any financial interest in any other business of like nature to the department.⁴

Cosmetologist

Chapter 477, F.S., regulates the practice of cosmetology. An individual cannot practice cosmetology without first being licensed. An applicant for a cosmetologist license must be at least 16 years old, pass a written examination, pay a licensure fee, and have completed a minimum of 1200 hours of training as established by the Cosmetology Board.⁵ Section 477.026(1)(a), F.S., provides that the fee for an initial licensure or licensure renewal for a cosmetologist shall not exceed \$25.

Barbers practical examination

In order to practice barbering services for compensation, an individual must have a barber license or restricted barber license approved by the Barbers’ board and issued by the department. A person holding a restricted barbers’ license is not permitted to provide services involving chemicals.⁶

⁴ Section 468.405, F.S.

⁵ Section 477.019, F.S.

⁶ See, 61G3-16.006(4), F.A.C.

Currently, s. 476.134(1), F.S., authorizes the Barbers' board to adopt rules that may require practical demonstration by an applicant in addition to a written examination.

The DBPR notes that:

“An applicant for a barber’s license must pass a written and a practical demonstration examination for licensure. Cosmetologists take only a written examination. The bill seeks to eliminate the practical examination for barbers. The practical exam is only once a month rotating between 3 locations and a candidate must bring a live model. The written exam is offered computer based at 22 sites across the state and can be taken when the candidate chooses.”⁷

Construction Contracting

Chapter 489, F.S., regulates the practice of contracting. Contractors either must be certified, i.e., licensed by the state to contract statewide, or registered, i.e., licensed by a local jurisdiction and registered by the state to contract work within the geographic confines of the local jurisdiction only.

Section 489.105(3)(a)-(c), F.S., requires licensure for general contractors, building contractors, and residential contractors. Section 489.105(3)(d)-(o), F.S., requires licensure for persons who perform the following categories of construction: sheet metal, roofing, air-conditioning, mechanical, swimming pool/spa, plumbing, underground utility and excavation, and solar contracting. Section 489.109(1)(a), F.S., provides that the initial licensure and licensure renewal for construction contractors shall not exceed \$200.

Counties and municipalities also may issue local professional licenses for certain specialty services that are not specifically defined in s. 489.105(3), F.S. These local licenses for specialty services do not require state registration or certification. Each county and municipality may require different local professional licenses.⁸

Section 489.103, F.S., provides for certain licensure exemptions. Section 489.103(7), F.S., exempts property owners when acting as their own contractor and providing direct, on-site supervision of all work performed not by licensed contractors, when building or improving farm outbuildings or one-family or two-family residences for the owner’s occupancy and use, or improving commercial buildings for the owner’s occupancy or use, provided the property is not offered for sale or lease. The work performed on commercial buildings may not exceed \$75,000.

To qualify for an exemption, the property owner must personally appear and sign the building permit application and must satisfy local permitting agency requirements, if any, proving that the owner has a complete understanding of their obligations. The local permitting agency must provide the person applying for an owner-builder permit with a disclosure statement in

⁷ DBPR Office of Legislative Affairs, 2009 Legislative Analysis Form, SB 2262, on file with the Regulated Industries Committee.

⁸ See, s. 26-91, *Pinellas County Municipal Code*, which requires local licenses for tile and marble installation, irrigation systems, veneer installation, carpentry, and painting.

substantially the following form:

State law requires construction to be done by licensed contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own contractor with certain restrictions even though you do not have a license. You must provide direct, onsite supervision of the construction yourself. You may build or improve a one-family or two-family residence or a farm outbuilding. You may also build or improve a commercial building, provided your costs do not exceed \$75,000. The building or residence must be for your own use or occupancy. It may not be built or substantially improved for sale or lease. If you sell or lease a building you have built or substantially improved yourself within 1 year after the construction is complete, the law will presume that you built or substantially improved it for sale or lease, which is a violation of this exemption. You may not hire an unlicensed person to act as your contractor or to supervise people working on your building. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances. You may not delegate the responsibility for supervising work to a licensed contractor who is not licensed to perform the work being done. Any person working on your building who is not licensed must work under your direct supervision and must be employed by you, which means that you must deduct F.I.C.A. and withholding tax and provide workers' compensation for that employee, all as prescribed by law. Your construction must comply with all applicable laws, ordinances, building codes, and zoning regulations.

Under existing statutory provisions, ss. 489.128(1) and 489.532(1), F.S., as a matter of public policy, contracts entered into on or after October 1, 1990, by unlicensed construction contractors are unenforceable in law or in equity by the unlicensed contractor.⁹

Registration – Local Occupational License

Chapter 489, F.S., requires that all individuals who practice construction contracting and electrical contracting in Florida must either be “certified” or “registered.” Certified contractors are authorized to engage in contracting on a statewide basis. “Registration” allows an individual to practice contracting only in the jurisdiction that issues that individual’s local license. This registration is issued by the DBPR upon proof of local licensure. Such proof consists of an occupational license issued by the local jurisdiction, and evidence of compliance with local licensing requirements.

Construction business organizations – certificate of authority

Part I of s. 489.119 and part II of s. 489.521, F.S., provide that when an individual engages in construction or electrical contracting in the individual’s own name or a fictitious name where the individual is doing business as a sole proprietorship, certification or registration may be issued only to that individual.

⁹ *Boatwright Const., LLC v. Tarr*, 958 So. 2d 1071 (Fla. 5th DCA 2007); *Full Circle Dairy, LLC v. McKinney*, 467 F.Supp 2d1343 (MD Fla. 2006), finding that the statute prohibiting unlicensed contractors from seeking relief did not violate the Florida Constitution’s access to courts provision because of the Legislature’s overriding necessity to regulate the construction industry.

However, if the applicant proposes to engage in contracting in any other type of business organization, such as a corporation or partnership, the business organization must apply for a certificate of authority through a licensed contractor acting as the organization's qualifying agent. As such, the qualifying agent must have a license reflecting that he or she is the qualifying agent of the business, and the business must possess a certificate of authority. Both the license and the certificate of authority are issued by the department. In actual practice the department and industry practitioners refer to the "certificate of authority" of a business entity by the acronym "QB" license, or qualified business license. The terms are synonymous.

Current law provides that the primary qualifying agent is responsible for the business organization's construction work and business practices.

Florida State Boxing Commission

Chapter 548, F.S., governs pugilistic matches in the state, which include boxing, kickboxing, and mixed martial arts. The Florida State Boxing Commission is authorized to administer the provisions of the chapter. By definition, "boxing" means to compete with the fists; "kickboxing" means to compete with fist, feet, legs, or any combination thereof; and "mixed martial arts" means unarmed combat involving the use, of a combination of techniques from different disciplines of the martial arts, including, but not limited to, grappling, kicking, and striking.

Section 548.0065, F.S., provides that no boxing or kickboxing match involving amateurs may be held in Florida unless it is sanctioned and supervised by an amateur sanctioning organization approved by the commission. Provisions of ch. 548, F.S., provide for amateur mixed martial arts events in Florida to be sanctioned and supervised by amateur sanctioning organizations approved by the Florida State Boxing Commission.

Section 548.008, F.S., prohibits certain amateur matches unless sanctioned and supervised by an approved amateur sanctioning organization, any amateur mixed martial arts match, and any professional match from being held unless it meets the requirements of law and rules.

Currently, "match" is defined as "any contest or exhibition."¹⁰

Division of Hotels and Restaurants

The Division of Hotels and Restaurants within the department is charged with protecting the public health, safety, and welfare by enforcing the provisions of ch. 509, F.S., and other laws relating to the inspection and regulation of public lodging establishments and public food service establishments.

Section 509.201, F.S., requires public lodging establishments renting by the day or week to post rate schedules in each rentable unit, showing the maximum amount charged for the unit rented, the amount charged for extra conveniences and the dates during the year when the maximum charges prevail. The rate schedules, along with any changes, must also be submitted to the division. The section also limits the ability of public lodging establishments to advertise their room rates: such advertisements must include additional information, including the number of rental units, the rates of each, whether the rates listed are for single or multiple occupancy, and

¹⁰ Section 548.002(13), F.S.

the dates the rates are in effect. There is an exception for advertisements in guides or directories published by nonprofit organizations and for advertisements in classified sections of newspapers and other publications.

Violations of the notification requirements constitute a second degree misdemeanor. The division may also suspend or revoke the operator's license and impose fines for violations.

Restaurants/Dogs

Pursuant to its rulemaking authority, the Division has adopted the 2001 Food Code published by the U.S. Food and Drug Administration (FDA).¹¹ The Food Code is a reference document that "provides practical, science-based guidance and manageable, enforceable provisions for mitigating risk factors known to cause foodborne illness."¹² Section 6-501.115 of the Code generally prohibits live animals on the premises of food service establishments. "Premises" is defined to mean "[t]he physical facility, its contents, and the contiguous land or property..."¹³ There are limited exceptions to this prohibition including those for patrol dogs accompanying police or security officers and service animals controlled by disabled persons.¹⁴

Section 509.233, F.S., provides for a three-year pilot program that allows patrons' dogs within designated outdoor areas of food service establishments. This section grants municipalities the authority to establish a local exemption procedure, by ordinance, to current division rules that prohibit dogs on the premises of food service establishments. Interested establishments are required to apply for and receive a permit from the governing body of their municipality. Minimum requirements for the information supplied in the application process are outlined. Municipalities are authorized to include additional regulations and limitations to protect the health, safety and general welfare of the public. This section had an effective date of July 1, 2006, and expires on July 1, 2009, unless reenacted by the Legislature.

III. Effect of Proposed Changes:

Section 1. Amends s. 455.213(1), F.S., to remove the general requirement that a license application include the applicant's notarized signature on the document. This change is designed to facilitate computerization and e-processing by the department and to facilitate electronic submission of information by an applicant. Provides that for purposes of compliance with the timelines under the Administrative Procedures Act, ch. 120, F.S., an application is considered received by the department when documents are received in a department approved format and all applicable fees are paid. Conforming reference changes are made in sections 24 through 35 to reflect the changes relating to discipline.

Other sections of the bill relating to notarized signatures include the following:

Section 16. Amends s. 475.175, F.S., to remove the signature requirement for real estate licensure.

¹¹ Rule 61C-1.001(1), F.A.C.

¹² See, the FDA's introduction to the Food Code at <http://www.cfsan.fda.gov/~dms/foodcode.html>, last viewed on April 9, 2009.

¹³ See, s. 1-201.10(b)(67) at <http://www.cfsan.fda.gov/~acrobat/fc05-1.pdf>, last viewed on April 9, 2009.

¹⁴ See, s. 6-501.115 at <http://www.cfsan.fda.gov/~dms/fc01-6.html#6-5>, last viewed on April 9, 2009.

Section 18. Amends s. 475.615, F.S., to remove the signature requirement for real estate appraiser licensure.

Section 2. Expands the grounds for discipline under s. 455.227(1), F.S., to include:

- Failure of the licensee to report the plea to a crime or conviction of a crime to the board or if there is no board, to the department, within 30 days after conviction or entry of a plea to a crime in “any” jurisdiction; and
- Termination from a treatment program for impaired practitioners for failure to comply with the terms for monitoring drug or alcohol rehabilitation progress or success without good cause.

Section 3. Creates s. 455.2274, F.S., to specify that a department representative may voluntarily appear in a criminal proceeding against a licensee in order to provide pertinent information about the licensee, may make recommendations for probation, or may provide other assistance. Authorizes the court to order a department representative to testify in a criminal proceeding related to the license regulated by the department.

Sections 4-9. Amend ss. 468.402, 468.403, 468.409, 468.410, 468.412, and 468.413, F.S., relating to talent agencies, to provide that:

- A person may not advertise or otherwise hold themselves out as a “talent agent” or “talent agency” unless the person is licensed as a talent agency.
- Talent agency records must be readily available for inspection by the department during reasonable business hours.
- A talent agency must give each applicant a copy of the contract within 24 hours after the contract’s execution, and the contract must list the services to be provided, the fees to be charged, and must advise the applicant that he or she has 3 business days to rescind the contract.
- A talent agency may not divide fees with anyone without written consent of the artist.
- The talent agency may assign an engagement contract to another agency only if the artist agrees in writing to the assignment.
- The maximum disciplinary fine is raised from \$1,000 to \$5,000.

Sections 10-12, 21-22, 27, 35, 38. Amend various sections of chapter 468, F.S., to delete outdated requirements for and references to the core curriculum courses of the Florida Building Commission.

Section 13. Amends s. 473.305, F.S., to remove the authority of the Board of Accountancy to establish a late filing fee for the law and rule examinations of CPA’s.

Section 14. Amends s. 473.311, F.S., to remove a reference to law and rule examinations for license renewal for CPAs.

Section 15. Amends s. 473.313, F.S., to remove the reference to law and rule examinations for activating an inactive CPA license.

Section 17. Amends s. 475.451, F.S., to specify that an attorney who is a member in good standing of the Florida Bar and otherwise qualified under chapter 475, F.S., does not have to meet the continuing education requirements for real estate professionals.

Section 19. Amends s. 476.134, F.S., to remove the allowance for a practical demonstration as part of the barbers' examination, and require that the barbers' examination include a written test only for barbering licenses.

Section 20. Amends s. 476.144, F.S., to remove the allowance for a practical demonstration part of the barbers' examination and requires that the barbers' examination include a written test only for restricted barbering licenses.

Section 23. Amends s. 489.103, F.S., to revise the disclosure statement that a homeowner is required to read prior to pulling a homeowner-builder construction permit under an exemption from the law requiring that construction be performed by a licensed contractor. The homeowner is required to read the statement and sign and date the disclosure statement.

Section 24. Amends s. 489.105, F.S., to provide that a specialty contractor is a contractor whose scope of work and responsibility is limited to a particular phase of construction established by board rule.

Section 25. Amends s. 489.109, F.S., to provide that the initial application fee and the renewal fee charged by the Construction Industry Licensing Board (CILB) to apply for and be registered or certified as a qualified business may not exceed \$50. The initial certificate fee and renewal fee for an individual applicant is increased from \$200 to \$250. Makes other technical and conforming changes.

Section 26. Amends s. 489.114, F.S., to make technical and conforming changes.

Section 28. Amends s. 489.117, F.S., to provide that any person engaging in the business of a contractor as defined in s. 489.105(3)(a)-(o), F.S., must be registered prior to engaging in such business in this state. The local jurisdiction is required to notify the CILB within 30 days after licensure of, or any disciplinary action against, a licensed registered contractor. Removes the requirement that applicants for registered construction contractor licenses provide a copy of a local occupational license. Unlike the local contractor's license which must also be registered with the department, the local occupational license does not demonstrate an applicant's qualifications to practice contracting.

Section 29. Amends s. 489.119, F.S., to remove the requirement that an applicant obtain a certificate of authority for a business organization when the applicant proposes to engage in contracting under a business organization structure. Requires an applicant for a contractor's license to apply to the department to act as the qualifying agent of the business organization as a part of the licensure requirement for a registration or certification as a contractor.

Section 30. Amends s. 489.127, F.S., to make technical and conforming changes.

Sections 31 thru 33. Amend ss. 489.128, 489.129, and 489.132, F.S., to make technical and conforming changes.

Section 35. Amends s. 489.505, F.S., to provide that a specialty contractor is a contractor whose scope of practice is limited to a specific segment of electrical or alarm contracting established in a category adopted by board rule.

Section 36. Amends s. 489.513, F.S., to provide that a local jurisdiction is responsible for providing information to the CILB within 30 days after licensure of, or disciplinary action against, a locally licensed contractor registered under part II of chapter 489, F.S., relating to electrical and alarm system contracting. Removes the requirement that the CILB must establish the job scope for any licensure category registered by the CILB.

Sections 37, 39, 40, and 42. Amend ss. 489.516, 489.521, 489.5315, and 489.537, F.S., to remove the requirement that applicants for registered electrical contractor licenses provide a copy of a local occupational license. Unlike the local electrical contractor's license which must also be registered with the department, the local occupational license does not demonstrate an applicant's qualifications to practice electrical contracting.

Section 40. Amends s. 489.532, F.S., to provide that if a state license is not required for the scope of work performed under an electrical or alarm system contract, the individual performing the work may not be considered unlicensed.

Section 43. Amends s. 509.233, F.S., to delete the statement of intent for a 3-year pilot program for local governments to allow patrons' dogs within designed outdoor portions of public food service establishments. Deletes the repeal of the section on July 1, 2009.

Section 44. Amends s. 548.002, F.S., to create a definition for the term "event" to mean "one or more matches comprising a show," for purposes of boxing, kickboxing, or martial arts events.

Section 45. Amends s. 548.003, F.S., to specify that the Florida Boxing Commission may adopt by rule health and safety standards for amateur mixed martial arts events.

Section 46-58. Reenacts provisions of ss. 468.436, 468.832, 468.842, 471.033, 472.033, 473.323, 475.25, 475.624, 476.204, 477.026, 477.029, 481.225, and 481.325, F.S., to incorporate the amendments made by this act.

Section 59. Repeals s. 509.201, F.S., providing for rate notification and advertisement requirements and related enforcement penalties for public lodging establishments.

Section 60. Provides an effective date of July 1, 2009 unless otherwise expressed in this Act.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill would likely result in a reduction in expenses by the practitioners impacted by its provisions. The department noted the following:

“Eliminates the requirement for a business qualified under s. 489.119 to have a certificate of authority which is renewed on a biennial basis resulting in reduced fees and expenditures. Allows for the waiver of the \$5.00 unlicensed activity fee which when implemented will reduce revenues. Eliminates the need for the contract for administration of the Certified Public Accountancy law and rules examination. Eliminates direct costs associated with the practical barber’s licensure examination and lowers the fee charged to candidates.”¹⁵

C. Government Sector Impact:

Revenues - The department projects revenue reductions approaching \$72,800 for FY 2009-2010 based on its “Fiscal Analysis & Economic Impact Statement.”¹⁶ Additional department fiscal projections include the following:

“Elimination of the requirement for new and renewing certified public accounting licensees to take the laws and rules examination will eliminate the need for the contract saving \$107,907 per year.”

“Initial cost for barber written examination revisions will be \$15,000. There will be a recurring cost savings from the elimination of the practical exam of \$28,918 (expense \$15,849 and \$13,068 for exam testing). The \$75.00 fee charged for the practical examination will be eliminated and an increase of \$25 will be applied to the written exam, a net savings to the applicant of \$50. Revenue savings is based on \$50 multiplied by 1,749 applicants.”¹⁷

¹⁵ DBPR Office of Legislative Affairs, SB 2262 [companion to HB 425], 2009 Legislative Analysis Form, dated March 13, 2009, on file with the Regulated Industries Committee.

¹⁶ *Id.*

¹⁷ *Id.*

Expenditures - The department projects expenditure reductions of approximately \$176,000 for FY 2009-2010.¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

The changes made to ss. 489.532(1)(a), and 489.103, F.S., are also included in CS/SB's 674 & 1422. The intent of both bills is the same; however, the language in the bills is slightly different.

The CS/CS/SB 2262 removed section 31 of the CS/SB 2262, which amended paragraph (1)(a) of s. 489.128, F.S., to provide that if a state license is not required for the scope of work performed under a construction contract, the individual performing that work may not be considered unlicensed. In addition, the retroactive application of the amendments to ss. 489.128(1)(a), and 489.532(1)(a), F.S., was removed. However, section 42 of CS/SB 2262, amending paragraph (1)(a) of s. 489.532, F.S., was not removed from the bill.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Community Affairs on April 20, 2009:

Removes revisions to s. 489.128, F.S., relating to contracts entered into by unlicensed contractors, and removes the retroactive application provisions of section 61 of the CS/SB 2262.

CS by Regulated Industries on April 14, 2009:

The CS/SB 2262 changed the title of the bill from “An act relating to the regulation of professions” to “An act relating to the Department of Business and Professional Regulation,” and provides for additional regulation and disciplinary guidelines for talent agents under s. 468, F.S. The bill removes core curriculum course requirements and references from ch. 468, F.S., and amends the homeowner-builder disclosure statement provided before a homeowner can pull a permit in their name. The bill provides that an individual is not considered unlicensed for failing to have a qualified business license.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁸ *Id.*