

HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

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| BILL #: | CS/CS/HB 1137 | FINAL HOUSE FLOOR ACTION: | | |
| SUBJECT/SHORT TITLE | Pinellas County Construction Licensing Board | 114 | Y's 0 | N's |
| SPONSOR(S): | Government Accountability Committee; Careers & Competition Subcommittee; Peters and others | GOVERNOR'S ACTION: | Approved | |
| COMPANION BILLS: | SB 402 | | | |

SUMMARY ANALYSIS

CS/CS/HB 1137 passed the House on February 21, 2018, and subsequently passed the Senate on March 8, 2018.

The Pinellas County Construction Licensing Board (Board) was created by ch. 75-489, Laws of Florida, as amended. The Board is an independent agency and is not funded or operated by Pinellas County government. The function of the Board is to regulate certain construction and home improvement contractors practicing in all Pinellas County jurisdictions. The Board also provides countywide certification and registration of contractors and countywide certification of journeymen.

Currently, the Board is comprised of 21 members who must be nominated by various associations and organizations. The Chair of the Pinellas County Board of Commissioners appoints members to two-year terms.

The bill makes numerous revisions to the Board. Specifically, the bill:

- Reduces the number of Board members from 21 to 15 and revises how Board members must be selected;
- Provides that members may not serve more than two consecutive terms of four years and can be removed at will by the Pinellas County Board of Commissioners (PCBC);
- Provides that the Board is a dependent agency of the PCBC;
- Authorizes PCBC to adopt rules;
- Requires the Board to submit a complete report on finances and administrative activities of the Board at the end of each fiscal year to all local governments in Pinellas County and to the public;
- Provides that the Board will be subjected to periodic audits;
- Requires Board members to file a financial disclosure statement and an annual disclosure of financial interests; and
- Provides for dissolution of the Board if qualified electors of Pinellas County vote in a referendum.

The bill provides that the Board is eligible for state funding for three years after July 1, 2018, to support its operations and staff costs as it transitions to Pinellas County.

The Economic Impact Statement estimates the bill will have a \$987,500 fiscal impact on local expenditures and a \$862,500 fiscal impact on state expenditures for Fiscal Year (FY) 2018-2019 and a \$987,500 fiscal impact on local expenditures and a \$912,500 fiscal impact on state expenditures for FY 2019-2020 for personnel and operating costs, as well as licensing and compliance software.

The bill was approved by the Governor on March 23, 2018, ch. 2018-179, L.O.F., and will become effective on July 1, 2018.

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

STORAGE NAME: h1137z1.LFV.docx

DATE: April 10, 2018

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

The Pinellas County Construction Licensing Board (Board) was created by Chapter 75-489, Laws of Florida, as amended. The Board is an independent agency and is not funded or operated by Pinellas County government. The function of the Board is to regulate certain construction and home improvement contractors practicing in all Pinellas County jurisdictions.¹ The Board also provides countywide certification and registration of contractors and countywide certification of journeymen.² The Board is funded through the collection of money, such as fines and fees, from the registration, certification, and regulation of countywide contractors and journeyman.³

The Board consists of 21 members:⁴

- Two general contractors;
- Two building contractors;
- Two residential contractors;
- One Florida registered architect doing business in Pinellas County;
- One electrical contractor;
- One plumbing contractor;
- One mechanical contractor;
- One roofing or sheet metal contractor;
- One swimming pool, aluminum, or veneer specialty contractor;
- Two fire marshals;
- Three building directors, one each from St. Petersburg, Clearwater, and Pinellas County;
- One North county building director from one of the following municipalities: Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo;
- One South county building director from one of the following municipalities: South Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park;
- One Beach Community building director from one of the following: Town of Belleair Beach, Town of Belleair Shores, City of Redington Beach, City of North Redington Beach, City of Madeira Beach, City of Indian Rocks Beach, Town of Indian Shores, Town of Redington Shores, City of Treasure Island, and City of St. Pete Beach; and
- One consumer member who is a resident and citizen of Pinellas County and who is not and never has been a member or practitioner of any of the trades or professions regulated by the board or a member or practitioner of any closely related trade or profession.

The Chair of the Pinellas County Board of Commissioners appoints members of the Board as follows:⁵

- Three building directors of the City of Clearwater, City of St. Petersburg, and County of Pinellas;
- One north county building director from one of the following municipalities: Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo;
- One south county building director from one the following municipalities: South Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park;
- One Beach Community building director from a list of three nominees submitted by The Barrier Island Governmental Council;

¹ Pinellas County Construction Licensing Board website, available at http://www.pccclb.com/about_us.htm (last accessed 1/7/2018).

² *Id.*

³ Ch. 75-489, Laws of Fla.

⁴ Ch. 75-489, Laws of Fla. as amended by Ch. 03-319, Laws of Fla.

⁵ Ch. 75-489, Laws of Fla. as amended by Ch. 03-319, Laws of Fla.

- A Florida Registered Architect from a list of three recommended architects submitted by the American Institute of Architects Florida Central Chapter, St. Petersburg and Clearwater Sections;
- Two who are primarily engaged in business as general contractors from a list of five submitted by the Associated General Contractors of Mid-Florida, Inc.;
- Two who are primarily engaged in business as building contractors from a list of five submitted by the Contractors and Builders Association of Pinellas County;
- Two who are primarily engaged in the business as residential building contractors from a list of five submitted by the Contractors and Builders Association of Pinellas County;
- One who is an electrical contractor from a list of five supplied by the Electrical Council of Florida, Pinellas County Chapter;
- One who is a plumbing contractor from a list of five supplied by the Pinellas Association of Plumbing-Heating-Cooling Contractors, Inc.;
- Two who are fire marshals, who are active members of the Tampa Bay Area Fire Marshals Association, from a list of five supplied by said association, one of whom serves an initial term of three years, the other two serve an initial term of two years, with successors to serve for a term of two years thereafter;
- One who is a mechanical or Class A air conditioning contractor from a list of five, supplied by the Refrigeration and Air Conditioning Contractors' Association;
- One roofing or sheet metal contractor and one swimming pool, aluminum or veneer specialty contractor; and
- One consumer member.

The building director members from the City of Clearwater, the City of St. Petersburg, and Pinellas County must be permanent members of the Board. The Chair appoints all other members to two-year terms.⁶

The following members must commence their terms in even-numbered years: the Florida registered architect; one general contractor; one building contractor; one residential building contractor; the electrical contractor; one fire marshal; the north county building director; the south county building director; and the Beach Community building director.⁷ The following members must commence their terms in odd-numbered years: one general contractor; one building contractor; one residential building contractor; the mechanical or Class A air-conditioning contractor; the plumbing contractor; one fire marshal; the roofing or sheet metal contractor; the swimming pool, aluminum, or veneer specialty contractor; and the consumer member.⁸

Pinellas County Audit and Grand Jury Report

In 2017, an audit was performed and a grand jury convened to investigate past management, operations, and practices of the Board after numerous complaints were made.

On September 20, 2017, the Pinellas County Division of Inspector General released an audit of the Board⁹ that outlined 93 problems at the agency including governance, finance, information technology, investigative process, licensing of contractors and journeymen, and administrative deficiencies. The audit concluded, "that there is weak oversight, poor management, and inadequate controls over Board processes. The current governance structure does not support the organization."¹⁰

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Pinellas County, Division of Inspector General, *Audit of the Pinellas County Construction Licensing Board*, September 20, 2017, available at http://www.pinellasclerk.org/aspInclude2/pdf/inspector_general/RPT2017-14.pdf (last accessed 1/8/2018).

¹⁰ *Id.* at 2.

On the same day, a grand jury released a report¹¹ and recommended the Board remain an independent agency but with “significant changes.” Some of those changes include:

- Reducing the Board from 21 members to 15;
- Subjecting the Board to a county audit;
- Issuing an annual report on its operations and finances to the public; and
- Requiring Board members to file financial disclosures.¹²

Effect of the Bill

The bill reduces the number of Board members from 21 to 15 and makes the following changes to the membership of the Board and to how each member must be selected:

- Eight members licensed in this state and actively engaged in the designated profession, that must include a:
 - Licensed general contractor;
 - Registered architect;
 - Licensed residential building contractor;
 - Licensed electrical contractor;
 - Licensed plumbing contractor;
 - Mechanical contractor or a Class A air conditioning contractor;
 - Licensed roofing contractor or a licensed sheet metal contractor; and
 - Licensed swimming pool, aluminum, or veneer specialty contractor
- The Pinellas County building official;
- Two consumer representatives not affiliated with the construction industry;
- A fire official;
- Three building officials including a:
 - North county building official from one of the following municipalities: Clearwater, Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo;
 - South county building official from one of the following municipalities: St. Petersburg, South Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park; and
 - Beach community building official from one of the following municipalities: City of Belleair Beach, Town of Belleair Shore, Town of Redington Beach, Town of North Redington Beach, City of Madeira Beach, City of Indian Rocks Beach, Town of Indian Shores, Town of Redington Shores, City of Treasure Island, or City of St. Pete Beach.

All members of the Board are appointed by the Pinellas County Board of Commissioners (PCBC), and must be residents of Pinellas County. The PCBC must appoint members to four-year terms. Board members may not serve more than two consecutive terms, but may be reappointed after a two-year hiatus. However, the limitation does not apply to the governmental building official or fire official appointees. The Board must elect a chair and vice chair to serve two-year terms in those positions.

The bill revises which Board members’ terms expire in even-numbered years and which expire in odd-numbered years. All terms of office expire on September 30 of the last year of the term. The following members’ terms expire in even-numbered years: the licensed general contractor; the registered architect; the licensed residential building contractor; the licensed electrical contractor; one of the consumer representatives; the North County building official; and the Beach Community building official. The following members’ terms expire in odd-numbered years: the mechanical or Class A air-conditioning contractor; the fire official; the licensed roofing or sheet metal contractor; the swimming

¹¹ Grand Jury Presentment to the Honorable Anthony Rondolino, Judge of the Sixth Judicial Circuit Court (Pinellas County, Sept. 20, 2017), available at https://www.pinellasclerk.org/aspInclude2/pdf/inspector_general/GrandJuryPresentmentPCCLB.pdf (last accessed 1/9/2018)

¹² *Id.*

pool, aluminum, or veneer specialty contractor; the licensed plumbing contractor; one of the consumer representatives; and the South County building official.

The bill provides that the Board is a dependent agency of the PCBC. The PCBC is authorized to adopt rules to implement this act, including, but not limited to rules relating to Board finances and contribution for costs associated with this act to be borne by the county, and to remove any Board member at will. The authority of the PCBC over selection of the members of the Board renders the Board a dependent district of the County.¹³ However, the bill does not reduce the Board's regulatory authority, which apparently will continue to control over any conflicting municipal ordinances.¹⁴

The bill provides that Board staff are employees of Pinellas County, which is responsible for all costs associated with the Board. The Board must submit a complete report of its finances and administrative activities as of the end of each fiscal year to all local governments in Pinellas County and to the public. The Board will be subjected to periodic audits performed by a certified auditor chosen by the PCBC.

All Board members are required to file a financial disclosure statement¹⁵ and an annual disclosure of financial interests.¹⁶ The Board is eligible for state funding for three years after July 1, 2018, to support its operations and staff costs as it transitions to being a dependent district of Pinellas County. Lastly, the bill provides for dissolution of the Board if approved by the qualified electors of Pinellas County voting in a referendum.

The Economic Impact Statement estimates the bill will have a \$987,500 fiscal impact on local expenditures and a \$862,500 fiscal impact on state expenditures for Fiscal Year (FY) 2018-2019 and a \$987,500 fiscal impact on local expenditures and a \$912,500 fiscal impact on state expenditures for FY 2019-2020 for personnel and operating costs, as well as licensing and compliance software. These estimates include "\$300,000 per year for implementation of software solution as needed as documented in Pinellas County Inspector General Audit Report (2017-14)." The statement also indicates that the estimate "does not include costs associated with continuation of 6-month pilot program by Pinellas County Sheriff for enforcement as results of pilot are pending analysis and recommendations."

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹³ Section 189.012(2), F.S.

¹⁴ The Pinellas County Charter was created by special act in 1980 and approved by county referendum. *See* ch. 80-590, Laws of Fla. Under the Charter, if a county ordinance conflicts with a municipal ordinance, the county ordinance prevails when it concerns a power of local government lawfully enacted by special law as of the time the Charter was adopted, but the County subsequently could not amend such special law to increase or expand its power, jurisdiction, or services over the municipalities. Art. II, s. 2.01, Pinellas County Charter. As the power of the Board constitutes a power of local government existing as of the date the Charter was adopted, the continuation of its authority in a dependent district of the County by special act of the Legislature would appear to meet the Charter requirements.

¹⁵ *See* FLA. CONST. art. II, s. 8 or s. 112.3144, F.S.

¹⁶ *See* s. 112.3145, F.S.

2. Expenditures:

The Economic Impact Statement estimates the bill will have a negative \$862,500 fiscal impact on state expenditures for Fiscal Year 2018-2019 for personnel and operating costs, as well as licensing and compliance software.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The Economic Impact Statement estimates the bill will have a negative \$987,500 fiscal impact on local expenditures for personnel and operating costs, as well as licensing and compliance software.

C. ECONOMIC IMPACT STATEMENT FILED? Yes No

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 1, 2017

WHERE? *Tampa Bay Times*

E. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?