

By the Committee on Business Regulation & Consumer Affairs
and Representatives Burroughs, Lynn, Wise, Melvin and Wallace

1 A bill to be entitled
2 An act relating to the Board of Professional
3 Engineers; creating s. 471.038, F.S.; providing
4 legislative findings and intent; providing
5 definitions; creating the Florida Engineers
6 Management Corporation; providing for the
7 organization, powers, and duties of the
8 corporation; providing limitations on
9 authority; providing for records; providing an
10 appropriation; providing an effective date.
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12 Be It Enacted by the Legislature of the State of Florida:
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14 Section 1. Section 471.038, Florida Statutes, is
15 created to read:
16 471.038 Florida Engineers Management Corporation.--
17 (1) SHORT TITLE.--This section may be cited as the
18 "Florida Engineers Management Corporation Act."
19 (2) DEFINITIONS.--As used in this section, the term:
20 (a) "Board" means the Board of Professional Engineers.
21 (b) "Board of directors" means the board of directors
22 of the Florida Engineers Management Corporation.
23 (c) "Corporation" means the Florida Engineers
24 Management Corporation.
25 (d) "Department" means the Department of Business and
26 Professional Regulation.
27 (e) "Secretary" means the Secretary of Business and
28 Professional Regulation.
29 (3) FINDINGS OF FACT AND LEGISLATIVE INTENT.--
30 (a) It is the finding of the Legislature that the
31 privatization of certain functions that are performed by the

1 department for the board will encourage greater operational
2 and economic efficiency and, therefore, will benefit regulated
3 persons and the public.

4 (b) It is the intent of the Legislature that a single
5 nonprofit corporation be established to provide
6 administrative, investigative, and prosecutorial services to
7 the board and that no additional nonprofit corporation be
8 created for these purposes.

9 (c) It is further the intent of the Legislature that
10 the corporation assume, by July 1, 1998, all duties assigned
11 to it.

12 (4) FLORIDA ENGINEERS MANAGEMENT CORPORATION;
13 ORGANIZATION, POWERS, AND DUTIES.--The Florida Engineers
14 Management Corporation is created to provide administrative,
15 investigative, and prosecutorial services to the board in
16 accordance with the provisions of chapter 455 and this
17 chapter. The corporation may hire staff as necessary to carry
18 out its functions. Such staff are not public employees for the
19 purposes of chapter 110 or chapter 112. The provisions of s.
20 768.28 apply to the corporation, which is deemed to be a
21 corporation primarily acting as an instrumentality of the
22 state, but which is not an agency within the meaning of s.
23 20.03(11). The corporation shall:

24 (a) Be a Florida corporation not-for-profit,
25 incorporated under the provisions of chapter 617.

26 (b) Provide administrative, investigative, and
27 prosecutorial services to the board in accordance with the
28 provisions of chapter 455 and this chapter.

29 (c) Receive, hold, and administer property and make
30 expenditures for the benefit of the board.

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1 (d) Be approved by the board and the department to
2 operate for the benefit of the board and in the best interest
3 of the state.

4 (e) Operate under a fiscal year that begins on July 1
5 of each year and ends on June 30 of the following year.

6 (f) Have a seven-member board of directors, three of
7 whom are to be appointed by the secretary, and four of whom
8 are to be appointed by the board. The members of the board of
9 directors must be registrants regulated by the board. The
10 corporation shall select its officers in accordance with its
11 bylaws. The members of the board of directors may be removed
12 by the board, with the concurrence of the department, for the
13 same reasons that a board member may be removed.

14 (g) Operate under a written contract with the
15 department which is approved by the board and renewed
16 annually. The contract must provide for:

17 1. Approval of the articles of incorporation and
18 bylaws of the corporation by the department and the board.

19 2. Submission by the corporation of an annual budget
20 that complies with board rules for approval by the board and
21 the department.

22 3. Annual certification by the board and the
23 department that the corporation is complying with the terms of
24 the contract in a manner consistent with the goals and
25 purposes of the board and in the best interest of the state.
26 This certification must be reported in the board's minutes.

27 4. Appointment by the department of a contract
28 administrator to actively supervise the administrative,
29 investigative, and prosecutorial activities of the corporation
30 to ensure compliance with the contract and the provisions of
31 chapter 455 and this chapter and to act as a liaison for the

1 department, the board, and the corporation to ensure the
2 effective operation of the corporation.

3 5. Funding of the corporation through appropriations
4 allocated to the regulation of professional engineers from the
5 Professional Regulation Trust Fund.

6 6. The reversion to the board, or the state if the
7 board ceases to exist, of moneys and property held in trust by
8 the corporation for the benefit of the board, if the
9 corporation is no longer approved to operate for the board or
10 the board ceases to exist.

11 (h) Provide for an annual financial and compliance
12 audit of its financial accounts and records by an independent
13 certified public accountant in conjunction with the Auditor
14 General. The annual audit report must be submitted to the
15 board and the department for review and approval. Copies of
16 the audit must be submitted to the secretary, the President of
17 the Senate, the Speaker of the House of Representatives, and
18 the chairs of the applicable legislative committees of
19 substance, together with any other information requested by
20 the secretary, the board, or such legislative leaders. The
21 Auditor General shall conduct a performance audit of the
22 corporation for the period beginning January 1, 1998, through
23 January 1, 2000, and thereafter at the request of the Joint
24 Legislative Auditing Committee.

25 (i) Submit to the secretary, the board, the President
26 of the Senate, the Speaker of the House of Representatives,
27 and the chairs of the applicable legislative committees of
28 substance, on or before January 1 of each year, a report on
29 the status of the corporation which includes, but is not
30 limited to, information concerning the programs and funds that
31 have been transferred to the corporation. The report must

1 include: the number of license applications received, the
2 number of such applications approved and denied, and the
3 number of licenses issued; the number of examinations
4 administered and the number of applicants who passed or failed
5 the examination; and the number of complaints received, the
6 number determined to be legally sufficient, the number
7 dismissed, the number determined to have probable cause, the
8 number of administrative complaints issued and the status of
9 the complaints, and the number and nature of disciplinary
10 actions taken by the board.

11 (5) LIMITATIONS ON AUTHORITY.--

12 (a) The corporation may not exercise any authority
13 specifically assigned to the board under chapter 455 or this
14 chapter, including determining probable cause to pursue
15 disciplinary action against a licensee, taking final action on
16 license applications or in disciplinary cases, or adopting
17 administrative rules under chapter 120.

18 (b) The department shall retain the independent
19 authority to open, investigate, or prosecute any cases or
20 complaints, as necessary to protect the public health, safety,
21 or welfare. In addition, the department shall retain sole
22 authority to issue emergency suspension or restriction orders
23 pursuant to s. 120.60 and to prosecute unlicensed activity
24 cases pursuant to ss. 455.228 and 455.2281.

25 (6) RECORDS.--Corporation records are public records
26 subject to the provisions of s. 119.07(1) and s. 24(a), Art. I
27 of the State Constitution; however, public records exemptions
28 set forth in ss. 455.217, 455.225, and 455.229 for records
29 created or maintained by the department shall apply to records
30 created or maintained by the corporation. The department and
31 the board shall have access to all records of the corporation,

1 as necessary, to exercise their authority to approve and
2 supervise the contract.

3 Section 2. In addition to moneys appropriated for the
4 operation of the state Board of Professional Engineers, the
5 sum of \$800,000 is appropriated from the account of the state
6 Board of Professional Engineers in the Professional Regulation
7 Trust Fund to fund the startup and first-year operation of the
8 Florida Engineers Management Corporation.

9 Section 3. This act shall take effect July 1, 1997.

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