

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 2268

SPONSOR: Committee on Regulated Industries and Senator Clary

SUBJECT: Contracting

DATE: March 23, 1999

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Martin</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

Contractors can be licensed either through the state or by local authorities. This bill directs the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board to establish the job scope for any licensure category registered under Parts I and II of Chapter 489, Florida Statutes, so as to achieve uniformity among the job scopes currently in use by local jurisdictions. Under certain conditions, the bill would allow current locally licensed contractors to make application to the appropriate board for certification. The bill also directs the Joint Legislative Committee on Intergovernmental Relations, in consultation with the Office of Program Policy Analysis and Government Accountability, to conduct a study to determine the fiscal impact on local governments of instituting a single-tier regulatory system for construction, electrical and alarm system contractors in Florida. Finally, the bill provides that a contractor who has been subjected to an unlawful levy of an occupational license tax may initiate a court challenge. The prevailing party in such a challenge is entitled to recover a reasonable attorney's fee.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 205.065, 489.117, 489.118, 489.513, and 489.514.

## II. Present Situation:

Florida currently has a two-tiered system for licensing in construction. Certain enumerated contractors are certified through the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board (the Boards), with both boards housed in the Department of Business and Professional Regulation. Other contractors are registered with the state and licensed by the local governmental authority. In addition, local governmental authorities have required numerous trades to be licensed in various specialties that have no equivalent at the state licensure level. This has led to confusion on the part of consumers who have difficulty in understanding the present system of multi-tiered, numerically diverse licensing of individuals involved in the contracting industry.

The confusion undoubtedly extends to disciplinary jurisdiction. All certified licensees are subject to discipline by the state through the Boards. Those individuals locally licensed and only registered with the state are subject to discipline by the local jurisdictions wherein they are licensed.

Because of the maze of confusion encircling this licensure process, the legislature established a Construction Industry Study Committee during the 1996 session to review the current scheme of regulation and to recommend changes in statute, process and procedure that would more effectively accomplish the goals of the state as set forth in s. 489.101, F.S., to protect the public from the danger of significant harm from incompetent or dishonest contractors. After several public meetings and substantial work over a five month period, the Committee issued its report in late 1996. Although the committee recommended that the legislature adopt a uniform, single tier licensing system in Florida, that recommendation has yet to be acted upon by the legislature.

### III. Effect of Proposed Changes:

**Section 1** amends s. 489.117, F.S., to require the Construction Industry Licensing Board to establish the job scope for any licensure category registered by the board under this part of the statute, only to the extent necessary to ensure uniformity among the job scopes established by local jurisdictions.

**Section 2** amends s. 489.513, F.S., to apply the same provisions in Section 1 to Part II, Chapter 489, Florida Statutes, dealing with electrical and alarm system contracting, and the Electrical Contractors' Licensing Board.

**Section 3** amends s. 489.118, F.S., to create a mechanism by which contractors who hold a valid registered local license in one of the categories defined in s. 489.105(3)(a)-(p), F.S. can be grandfathered and apply to get certified by the Construction Industry Licensing Board, provided that:

- they have passed a written examination that the board finds to be substantially similar to the examination required to be licensed as a certified contractor,
- have at least 5 years of experience as a contractor in that contracting category,
- have not had a contractor's license ever revoked, suspended in the last 5 years or had a fine in excess of \$500 within the last 5 years, and
- Are in compliance with the insurance and financial responsibility requirements in s. 489.115, F.S.

**Section 4** amends s. 489.514, F.S., to create a similar mechanism for allowing registered contractors under Part II, Chapter 489, Florida Statutes, to be grandfathered and get certified by the Electrical Contractors' Licensing Board, with the same conditions and provisions as stated above.

**Section 5** instructs the Legislative Committee on Intergovernmental Relations, in consultation with the Office of Program Policy Analysis and Government Accountability, to conduct a study on the fiscal impact on local governments of instituting a single tier regulatory system for construction, electrical and alarm system contractors in Florida. Such a system would be established by prohibiting, on a date certain, issuance of new local licenses in any category set forth in s. 489.105(3)(a)- (p), F.S., or in the category of electrical or alarm system contracting. Existing locally licensed construction, electrical and alarm system contractors would have the option of continuing and concluding their careers as locally licensed, registered contractors.

The study must include a survey of local governments to identify the revenues and associated expenditures by those jurisdictions that issue local construction, electrical and system alarm contractor licenses. After determining the 10 most active jurisdictions as a result of this survey, the committee must then prepare analyses of:

- the projected impact upon the relevant offices of those jurisdictions caused by ending local licensure of this group of contractors, and
- the extent to which revenues from licensees are being used to fund activities other than the discipline of such licensees.

**Section 6** amends s. 205.065, F.S., adding language to the existing exemption of contractors licensed by the Department of Business and Professional Regulation who have paid an occupational license tax for the current year to the county or municipality in the state where the person's permanent business location or branch is maintained from the levy of an occupational license tax, or any equivalent registration or regulatory fee on the person for performing work or services on a temporary or transitory basis in another municipality or county. The new language would allow any properly licensed contractor asserting an exemption who is unlawfully required by the local governing authority to pay such a tax, or any equivalent fee to challenge the propriety of the local government's actions. In addition, the prevailing party in the event of such a challenge is entitled to a reasonable attorney's fee.

**Section 7** establishes an effective date of July 1, 1999.

#### **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:**

Contractors who use the grandfathering provisions of this bill to obtain certification will be able to practice their profession throughout Florida, instead of being limited to their local jurisdiction. Further, they will reduce their licensure costs to one fee for certification, instead of two fees, one for local licensure and the other for state registration.

**C. Government Sector Impact:**

Local jurisdictions would lose revenue from issuance of renewal licenses, if locally licensed contractors use the grandfathering provisions to become certified through state licensure. However, with the loss of licenses to the state, the responsibility for discipline would also pass to the state and those local costs associated with the disciplinary process would be substantially reduced.

Local jurisdictions would face potential court challenges to unlawful levies of occupational license taxes, with the additional cost of awarded attorney's fees in those challenges where the levy is determined to be unlawful.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

This bill is a companion to PCB BRCA 99-04.

**VIII. Amendments:**

None.