

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: CS/SB 2014

SPONSOR: Commerce & Economic Opportunities Committee & Senator Latvala

SUBJECT: Elevator Safety Act

DATE: April 18, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Birnholz	Maclure	CM	Favorable/CS
2.	Wiehle	Caldwell	RI	Favorable
3.			AGG	
4.			AP	
5.				
6.				

I. Summary:

This committee substitute provides for a type two transfer [s. 20.06(2), F.S.] of the regulation of elevators pursuant to ch. 399, F.S., from the Department of Business and Professional Regulation to the Department of Community Affairs (DCA). An Elevator Safety Committee (committee) is established within the Florida Building Commission (commission) of DCA. The committee shall provide to the commission state regulations for the equipment regulated by ch. 399, F.S., and shall develop an enforcement program that ensures compliance with the requirements of that chapter.

This committee substitute also provides that ch. 399, F.S., may be cited as the “Elevator Safety Act”; defines terms related to conveyances; provides regulatory standards for elevators and similar equipment; provides for permits for conveyance construction or alteration; provides for licenses for elevator contractors and certificates of competency for elevator mechanics and elevator inspectors; provides for fees and penalties; provides for increased elevator inspection; and repeals existing provisions relating to certificates of competency and construction permits.

This committee substitute substantially amends the following sections of the Florida Statutes: 399.01, 399.02, 399.03, 399.061, 399.07, 399.10, 399.105, 399.11, 399.125, and 399.13. This committee substitute creates ss. 399.001, 399.049, and 399.106, F.S. This committee substitute repeals ss. 399.045 and 399.05, F.S.

II. Present Situation:

Department of Business and Professional Regulation Bureau of Elevator Safety

The Bureau of Elevator Safety (bureau) (within the Division of Hotels and Restaurants of the Department of Business and Professional Regulation) enforces Florida's elevator safety laws to ensure safety for persons using vertical transportation (*i.e.*, elevators, escalators, dumbwaiters, moving walks, inclined stairway chairlifts, and inclined or vertical wheelchair lifts).¹ The bureau's duties include approval of elevator plans, issuance of construction and alteration permits, registration of elevator companies, and issuance of certificates of competency. Annual service maintenance contract status verification and renewals of certificates of operation are coordinated with the Bureau of Licensure (within the Division of Hotels and Restaurants of the Department of Business and Professional Regulation).

The bureau currently has nine full-time-equivalent positions and a FY 2000-01 budget of \$669,208.² Trust fund revenues associated with the bureau (s. 399.05, F.S.) are estimated to be approximately \$4,881,903 in FY 2000-01.³

The bureau won a 2000 Davis Productivity Award for designing and entering data into an elevator tracking system database.⁴ The database tracks productivity and efficiency of inspectors and determines the most cost effective ways to use state vehicles.

Florida Building Commission and Code

Pursuant to ch. 98-287, F.S., the Board of Building Codes and Standards was re-constituted as the Florida Building Commission (commission). The commission is located within the Department of Community Affairs for administrative purposes. Its 23 members are appointed by the Governor, subject to confirmation by the Senate. (s. 553.74, F.S.) The members include contractors, engineers, code enforcement officials, insurance industry representatives, an educator, and a member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in this state.

The commission is charged with developing and implementing a statewide building code. To that end, the commission has promulgated the necessary rules for adoption of Florida's Unified Building Code that, effective July 1, 2001, will replace over 400 building codes administered by a variety of state agencies and local governments.⁵ Consistent with the commission's intent to

¹ See <http://www4.myflorida.com/dbpr/myflorida/business/learn/bureaus/hr/05hrelev.html>.

² Executive Office of the Governor's *Policy and Budget Recommendations Fiscal Year 2001-2002*.

³ Department of Business and Professional Regulation Hotels and Restaurants Program, *Legislative Budget Request, FY 2001-2002*, p. 17.

⁴ See <http://www.floridatxwatch.org/dpa/winners.htm>

⁵ See ch. 2000-141, L.O.F.; Department of Community Affairs, *The Florida Building Code, The Florida Building Commission Report to the Florida Legislature*, February 2001, p. 1.; and Office of Program Policy Analysis and Government Accountability, *DBPR Assumes Regulation of Educational Building Code Inspectors*, Report No. 99-41, March 2000, p. 2.

include as many interests as possible in the development of the code, the commission convened more than 20 public hearings in addition to the public comment times provided at each of the commission's monthly meetings and Special Issues Ad Hoc Committee meetings. In the time since the first drafting of the code, the 2000 Legislature directed the commission to make a series of changes to the draft code and provide recommendations to the 2001 Legislature on several issues. (ch. 2000-141, L.O.F.) The commission completed the tasks mandated by the Legislature and included all of its recommendations in *The Florida Building Code, The Florida Building Commission Report to the Florida Legislature* (February 2001).

National Elevator/Escalator Standards

Most state and local elevator/escalator codes are based on certain national trade standards. The most widely used standards are published by the American Society of Mechanical Engineers (ASME) under the auspices of the American National Standards Institute (ANSI). These standards include:

- ASME A17.1 (Safety Code for Elevators and Escalators): This national standard safety code covers the design, construction, installation, operation, testing, maintenance, repair of elevators, dumbwaiters, escalators, walks, material lifts and dumbwaiters with automatic transfer devices, and private residence inclined lifts. This code applies primarily to new installations.⁶
- ASME A17.2.2 (Inspectors' Manual for Hydraulic Elevators): This manual gives detailed procedures for the inspection and testing of hydraulic elevators conforming to the requirements of the A17.1 Code and for the testing and inspection of hydraulic elevators installed prior to the adoption of the 1996 edition of the code.⁷
- ASME A17.2.3 (Inspectors' Manual for Escalators and Moving Walks): This manual gives detailed procedures for the inspection and testing of escalators and moving walks conforming to the requirements of the A17.1 Code and for the testing and inspection of escalators and moving walks installed prior to the adoption of the 1996 edition of the code.
- ASME A17.3 (Safety Code for Existing Elevators and Escalators): This code covers retroactive requirements for existing elevators and escalators. The purpose of this code is to establish minimum requirements that will provide a reasonable degree of safety for the general public.
- ASME QEI-1 (Standard for the Qualification of Elevator Inspectors): This standard covers the requirements for the qualification and duties of inspectors and inspection supervisors engaged in the inspection and testing of equipment within the scope of the A17.1 Code. It also includes requirements for the accreditation of organizations that

⁶ See <http://www.normas.com/ASME/pages/A17.1.html>.

⁷ For the explanations of ASME A17.2.2, A17.2.3, A17.3, and QEI-1, see <http://www.asme.org/cns/departments/Safety/Public/A17/index.html>.

- certify inspectors and inspection supervisors as meeting the QEI criteria. QEI-certified inspectors must follow A17.2 procedures for inspection.⁸
- ASME A18.1 (Safety Standard for Platform Lifts and Stairway Chairlifts): This safety standard covers the design, construction, installation, operation, inspection, testing, maintenance, and repair of inclined stairway chairlifts and inclined and vertical platform lifts intended for transportation of a mobility impaired person only.⁹

Another organization that publishes elevator safety standards is the American Society of Civil Engineers (ASCE). The ASCE 21 Code relates to Automated People Mover Standards.

Florida's elevator/escalator safety code is currently named the Florida Elevator Safety Code.¹⁰ This code is included in ch. 61C-5, F.A.C. Chapter 61C-5.001, F.A.C., specifically provides:

The installation and maintenance of elevators, dumbwaiters, escalators, moving walks, manlifts, inclined and vertical wheelchair lifts, and inclined stairway chairlifts, in Florida, shall be governed by the following standards, which are hereby adopted by reference, with certain amendments and exclusions. This rule shall not apply to hand-operated dumbwaiters, construction hoists, or other similar temporary lifting or lowering apparatus.

- (1) American National Standard Safety Code for elevators and escalators, ASME A17.1, 1996 edition, effective 10-4-00 and ASME A17.1a, 1997 addenda, effective 10-04-00, and ASME A17.1b, 1998 addenda, effective 10-4-00.
- (2)(a) American National Standard Inspectors Manual for Electric Elevators, ASME A17.2.1, 1996 edition, including ASME A17.2.1a, 1997 Addenda and ASME A17.2.1b, 1998 Addenda.
 - (b) American National Standard inspectors Manual for Hydraulic Elevators ASME A17.2.2, 1997 edition including ASME A17.2.2a, 1998 Addenda.
 - (c) American National Standard Inspectors Manual for Escalators and Moving Walks, ASME A17.2.3, 1998 edition.
- (3) American National Standard Safety Code for Manlifts, ASME A90.1, 1992 edition.
- (4) National Fire Protection Association, NFPA-70, National Electrical Code, 1999 edition ...
- (8) Specifically excluded from ASME A17.1, 1996 edition and supplements are:

⁸ Interview with Joe Pang, Elevator Inspector Certifying Organizations Committee, American Society of Mechanical Engineers, April 6, 2001.

⁹ See ASME A-17.1 Code – 2000, p. xxi.

¹⁰ Chapter 2000-141, L.O.F., amends s. 399.02, F.S., effective July 1, 2001, to replace the authority of the Department of Business and Professional Regulation to adopt an elevator safety code with authority to develop such code and submit it to the Florida Building Commission for adoption within the Florida Building Code.

- (a) Part XVIII, entitled Screw Column Elevators.
- (b) Part XXI, entitled Private Residence Inclined Stairway Chairlifts and Inclined and Vertical Wheelchair Lifts.
- (c) Section 1200 General Requirements, Rule 1200.1 Conformance with Safety Code for Existing Installations.
- (d) Part V, Private Residence Elevators.

Current Law

Chapter 399, F.S., relates to the regulation of elevator design, installation, alteration, and inspection. Section 399.01, F.S., provides definitions of key terms used in the chapter. Those definitions include the following:

- “Division” means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation;
- “Elevator” means one of the following mechanical devices:
 - a hoisting and lowering mechanism, equipped with a car and platform that moves in guide rails and serves two or more landings to transport material or passengers or both;
 - an escalator, which is a power-driven, inclined continuous stairway used for raising or lowering passengers;
 - a dumbwaiter, which is a hoisting and lowering mechanism equipped with a car of limited size which moves in guide rails and serves two or more landings;
 - a moving walk, which is a type of passenger-carrying device on which passengers stand or walk and in which the passenger-carrying surface remains parallel to its direction of motion and is uninterrupted;
 - an inclined stairway chairlift, which is a device used to transport physically handicapped persons over architectural barriers; or
 - an inclined or vertical wheelchair lift, which is a device used to transport wheelchair handicapped persons over architectural barriers;
- “Alteration” means any change or addition to the equipment other than maintenance, repair, or replacement;
- “Certificate of competency” means a document issued by the division which evidences the competency of a person to construct, install, inspect, maintain, or repair any elevator;
- “Certificate of operation” means a document that authorizes an elevator owner to operate the elevator and that is issued to the elevator owner when the division finds that the elevator complies with the requirements of ch. 399, F.S.;
- “Elevator company” means any person that constructs, installs, inspects, maintains, or repairs any elevator; and
- “Service maintenance contract” means a contract that provides for routine examination, lubrication, cleaning, adjustment, replacement of parts, and performance of applicable code-required safety tests on a traction elevator and annual relief pressure test on a hydraulic elevator and any other service, repair, and maintenance sufficient to ensure the safe operation of the elevator.

As amended by ch. 2000-141, L.O.F., s. 399.02, F.S., will provide, effective July 1, 2001, that the division shall develop and submit to the Florida Building Commission for consideration an elevator safety code, which, when adopted within the Florida Building Code, applies to the installation, relocation, or alteration of an elevator for which a permit has been issued after October 1, 1990, and which must be the same as or similar to the latest revision of "The Safety Code for Elevators and Escalators ASME A17.1." This section also lists the following equipment as not being covered by this chapter: elevators, inclined stairway chairlifts, and inclined or vertical wheelchair lifts located in private residences; elevators in television and radio towers; hand-operated dumbwaiters; sewage pump station lifts; automobile parking lifts; and certain equipment covered in the Elevator Safety Code. This section further provides that the division shall annually review the provisions of the Safety Code for Elevators and Escalators ASME A17.1, or other related model codes and amendments thereto, and recommend to the Florida Building Commission revisions to the Florida Building Code to maintain the protection of the public health, safety, and welfare.

As amended by ch. 2000-141, L.O.F., s. 399.03, F.S., will provide, effective July 1, 2001, that:

- each elevator shall comply with the edition of the Florida Building Code that was in effect at the time of receipt of application for the construction permit for the elevator;
- each alteration to, or relocation of, an elevator shall comply with the edition of the Florida Building Code that was in effect at the time of receipt of the application for the construction permit for the alteration or relocation; and
- when any change is made in the classification of an elevator, the elevator shall comply with all of the requirements of the version of the Florida Building Code that were in effect at the time of receipt of the application for the construction permit for the change in classification.

Section 399.035, F.S., provides elevator accessibility requirements for the physically handicapped.

Section 399.045, F.S., provides policies and procedures regarding certificates of competency. Any person may apply to the division for a certificate of competency. An applicant for a certificate of competency must file a written application showing to the satisfaction of the Division of Hotels and Restaurants (division) (of the Department of Business and Professional Regulation) that the applicant:

- has a degree in mechanical or electrical engineering or equivalent work experience in the construction, installation, inspection, maintenance, and repair of elevators as determined by the division by rule; and
- has passed an examination approved by the division covering the construction, installation, inspection, maintenance, and repair of elevators.

This section also establishes application and renewal fees and provides criteria for the suspension or revocation of a certificate.

Section 399.05, F.S., provides that, before any elevator is installed, relocated, or altered, detailed plans and specifications of the elevator must be submitted to the division for approval, and a

construction permit must be obtained from the division for such work. When plans and specifications have been submitted to and approved by the division, a construction permit shall be issued upon payment of the construction permit fee. The elevator may not be operated until it has been inspected and a certificate of operation has been issued by the division, unless a temporary operation permit has been issued by the division. Prior to issuance of a construction permit to install, relocate, or perform major alterations to an elevator, the elevator company shall have on file with the division a certificate of comprehensive general liability insurance evidencing coverage limits in the minimum amount of \$100,000 per person and \$300,000 per occurrence.

Section 399.061, F.S., provides that elevators and escalators subject to ch. 399, F.S., must be either:

- inspected pursuant to s. 399.13, F.S., by a third-party inspection service certified as a qualified elevator inspector; or
- maintained pursuant to a service maintenance contract continuously in force. (All elevators covered by a service maintenance contract must be inspected by a certificate-of-competency holder at least once every two years. However, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection is required so long as the service contract remains in effect.)

This section further provides that the division may inspect an elevator whenever necessary to ensure its safe operation. Whenever the division determines from the results of any inspection that, in the interest of the public safety, an elevator is in an unsafe condition, the division may seal the elevator or order the discontinuance of the use of the elevator until the division determines by inspection that such elevator has been satisfactorily repaired or replaced so that the elevator may be operated in a safe manner. When the division determines that an elevator is in violation of this chapter, the division may issue an order to the elevator owner requiring correction of the violation.

Section 399.07, F.S., provides policies and procedures relating to certificates of operation, temporary operation permits, and the fees for both.

Section 399.10, F.S., charges the division with the duty of enforcing the provisions of this chapter and provides the division with necessary rulemaking authority.

Section 399.105, F.S., provides for administrative fines for violations of certain provisions of this chapter.

Section 399.11, F.S., provides for criminal penalties for violations of certain provisions of this chapter.

Section 399.125, F.S., provides that, within five working days after any accident occurring in or upon any elevator, which accident results in bodily injury or death to any person and which is presumptively caused by the malfunction of the equipment or misuse by a passenger of the equipment, the elevator owner shall report to the division the date and time of the accident, the location of the elevator involved in the accident, whether there exists a service maintenance

contract, and, if so, with whom. Any elevator owner who fails to file such report within five working days after an accident is subject to an administrative fine in an amount not to exceed \$500.

As amended by ch. 2000-141, L.O.F., s. 399.13, F.S., will provide, effective July 1, 2001, that the division may enter into contracts with municipalities or counties under which such municipalities or counties will issue construction permits, temporary operation permits, and certificates of operation; will provide inspection of elevators; and will enforce the applicable provisions of the Florida Building Code. Each contract must require the municipality or county to keep certain records for inspection by the division.

Task Force on Escalator Safety

On May 6, 1998, former Department of Business and Professional Regulation Secretary Richard T. Farrell appointed a special Escalator Safety Task Force to review issues involving escalators and moving walks and to increase public awareness about safely using those conveyances. The task force met several times and heard from many individuals, including representatives of the escalator industry, representatives of the user community, inspectors, associations, owners of equipment, code enforcement authorities, consumer advocates, safety experts, and manufacturers. During the course of the discussion, the task force determined it would focus on two areas: education and statutory/regulatory recommendations. Ultimately, the task force recommended the following:¹¹

- endorse the Safe-T Rider[®] Program and encourage the Department of Education to recommend that state school systems adopt the program as an ongoing part of their safety and health curriculum;¹² task force members testified that children, along with the elderly, are most likely to be involved in escalator accidents;¹³
- encourage state and local code enforcement authorities and the elevator industry to promote the Safe-T Rider[®] Program to school systems in their areas;
- require the Division of Hotels and Restaurants to work with state firefighters and law enforcement officers to encourage the implementation of the Safe-T Rider[®] Program in conjunction with their safety training programs;
- develop a series of brochures for the general public on escalator, elevator, and moving walkway safety tips;
- develop articles for newsletters, periodicals, etc.;
- promote the use of public service announcements;

¹¹ See *Report of the Task Force on Escalator Safety*, Department of Business and Professional Regulation, December 1998.

¹² Safe-T Rider[®] is a character developed by the Elevator Escalator Safety Foundation (EESF) to teach young children safety rules for riding on elevators. The EESF (<http://www.eesf.org>) is a non-profit organization whose mission is to educate the public on the safe and proper use of elevators, escalators, and moving walks through informational programs. The EESF also produces A Safe Ride[®], a safety program for senior citizens.

¹³ Amended minutes of the Escalator Safety Task Force Meeting, May 13 and 26, 1998.

- extend safety programs to include convention centers, malls, airports, and amusement parks;
- promote on-the-job safety programs to include the proper use of elevators and escalators;
- promote use of safety programs for senior citizens;
- target youth programs and religious and civic organizations;
- amend s. 399.03(1), F.S., to enable adoption of Part V and Part IX of the ASME A17.3 Safety Code as it applies to existing escalators and moving walkways and permit enhancement of existing equipment;
- propose revisions to ASME A17.1 and A17.3 to incorporate additional safety requirements, such as enhanced lighting at transition areas and color-contrast combplates;
- review existing statutes, rules, and codes to identify and propose modifications to language which currently limits the use of certain safety devices, including additional signage;
- revise s. 399.125, F.S., requirements for reporting of accidents, to include more specific information;
- create a requirement that any state-required report by the escalator company must be signed by a certificate of competency holder and list the certificate number;
- propose legislation to develop standards for routine preventive maintenance of escalators and moving walkways;
- propose revision to ch. 399, F.S., to increase inspection of escalators to annually;
- request that the Legislature authorize additional personnel to increase the number of inspectors;
- review existing statutes regarding the issuance and renewal of certificates of competency for the purpose of intensifying the qualifications;
- propose revisions to existing statutes regarding the requirements for licensing or certifying escalator personnel; and
- consider the development of training requirements for escalator service and installation personnel.

Elevator and Escalator Statistics

There are approximately 51,000 licensed elevators and 1,100 licensed escalators in the state.¹⁴ Based on legislative committee staff analysis of accident data published on the Department of Business and Professional Regulation (DBPR) website, the number elevator accidents decreased slightly between 1999 and 2000 while the number of escalator accidents increased slightly.¹⁵

¹⁴ The staff analysis for SB 1016 (2000) reported that there are 51,809 “elevators” in the state. However, because the statutory definition of “elevator” includes “escalator” [s. 399.01(5), F.S.], the 1,100 escalators estimated by the Department of Business and Professional Regulation in its *Report of the Task Force on Escalator Safety* (December 1998, p. 2.) must be subtracted from 51,809.

¹⁵ The DBPR Division of Hotels and Restaurants published “elevator” accident statistics in its FY 1999-2000 Annual Report. Committee staff was unable to verify the accuracy of the data. The division reported the following number of accidents: FY 1994-95 (603), FY 1995-96 (543), FY 1996-97 (460), FY 1997-98 (480), FY 1998-99 (427), and FY 1999-00 (534).

	1999	2000	Percentage Difference
Elevator Accidents	91	85	(6.6%)
Escalator Accidents	229	234	2.2%

According to the Consumer Product Safety Commission’s Injury Cost Model, each injury has an average “societal cost” of approximately \$12,000. This “societal cost” includes medical costs, work losses, quality of life and pain and suffering costs, and product liability insurance administration and litigation costs.¹⁶

Based on legislative committee staff analysis of available accident data, it appears that the ratio of accidents to conveyances in the state in 1999 and 2000 was below the national average in 1994, the most recent year for which U.S. Consumer Product Safety Commission statistics for the national average of elevator and escalator accidents are readily available and publicly accessible.¹⁷

	National Average in 1994	State Average in 1999	State Average in 2000
Elevator Accident Rate	.015	.002	.002
Escalator Accident Rate	.221	.208	.213

III. Effect of Proposed Changes:

This committee substitute provides for a type two transfer [s. 20.06(2), F.S.] of the regulation of elevators pursuant to ch. 399, F.S., from the Department of Business and Professional Regulation to the Department of Community Affairs (DCA). An Elevator Safety Committee (committee) is established within the Florida Building Commission (commission) of DCA. The committee shall provide to the commission state regulations for the equipment regulated by ch. 399, F.S., and shall develop an enforcement program that ensures compliance with the requirements of that chapter.

This committee substitute also provides that ch. 399, F.S., may be cited as the “Elevator Safety Act”; defines terms related to conveyances; provides regulatory standards for elevators and similar equipment; provides for permits for conveyance construction or alteration; provides for licenses for elevator contractors and certificates of competency for elevator mechanics and elevator inspectors; provides for fees and penalties; provides for increased elevator inspection; and repeals existing provisions relating to certificates of competency and construction permits.

The following is a section-by-section analysis of this committee substitute.

¹⁶ See U.S. Consumer Product Safety Commission, *Escalator Petition (CP 97-1)*, August 2000, p. 5, and U.S. Consumer Product Safety Commission, *Estimating the Cost to Society of Consumer Product Injuries: The Revised Injury Cost Model*, January 1998, p. 7.

¹⁷ If a comparison is done based on unverified statistics from the DBPR Division of Hotels and Restaurants FY 1999-2000 Annual Report, the 1994 national accident rate average would be .025 while the state averages would be the following: FY 1994-95 (.012), FY 1995-96 (.010), FY 1996-97 (.009), FY 1997-98 (.009), FY 1998-99 (.008), and FY 1999-00 (.010).

Section 1 of this committee substitute provides that ch. 399, F.S., may be cited as the “Elevator Safety Act.” This section also provides legislative intent regarding the use of unsafe and defective lifting devices, including elevators.

Sections 2 and 3 of this committee substitute amend ss. 399.01 and 399.02, F.S., to alter the range of devices regulated under state law. Specifically:

- The term “automated people mover” is added to mean an installation as defined in the Florida Building Code.
- The term “conveyance” is added to mean an elevator, dumbwaiter, escalator, moving sidewalk, platform lift, stairway chairlift, and automated people mover.
- The term “department” is added to mean the Department of Community Affairs.
- The term “elevator helper/apprentice” is added to mean a person who works under the general direction of an elevator mechanic with a certificate of competency.
- The term “elevator inspector” is added to mean a person, as defined in ASME QEI as an inspector, who possesses an elevator inspector’s certificate of competency in accordance with ch. 399, F.S.
- A second definition for the term “escalator” is added under s. 399.01(10), F.S. [*See* s. 399.01(5)(b), F.S., for the first definition of the term.] “Escalator” is defined to mean an installation defined as an escalator in the Florida Building Code.
- The term “existing installation” is added to mean an installation defined as “installation, existing” in the Florida Building Code.
- The term “license or certificate of competency” is added to mean a written license or certificate of competency issued by the department authorizing a person, firm, or company to carry on the business of erecting, constructing, installing, altering, servicing, repairing, maintaining, or performing inspections of elevators or related conveyances covered by ch. 399, F.S.
- The term “elevator contractor’s license” is added to mean a license that is issued to an elevator contractor who has proven his or her qualifications and ability and has been authorized by the department to possess this type of license. It entitles the holder to engage in the business of erecting, constructing, installing, altering, servicing, testing, repairing, or maintaining elevators or related conveyances covered by ch. 399, F.S.
- The term “inspector certificate of competency” is added to mean a certificate of competency that is issued to an ASME QEI certified elevator inspector who has proven his or her qualifications and ability and has been authorized by the department to possess this type of certificate of competency. It entitles the holder to engage in the business of inspecting elevators or related conveyances covered by ch. 399, F.S.
- The term “limited elevator contractor’s license” is added to mean a license that is issued by the department authorizing a person, firm, or company who employs individuals to carry on a business of erecting, constructing, installing, altering, servicing, repairing, or maintaining platform lifts and stairway chairlifts within any building or structure, including private residences.

- The term “elevator mechanic certificate of competency” is added to mean a certificate of competency that is issued to a person who has proven his or her qualifications and abilities and has been authorized by the department to work on conveyance equipment. It entitles the holder to install, construct, alter, service, repair, test, maintain, and perform electrical work on elevators or related conveyances covered by ch. 399, F.S.
- A second definition for the term “moving walk or sidewalk” is added under s. 399.01(20), F.S. [See s. 399.01(5)(d), F.S., for the first definition of the term “moving walk.”] “Moving walk or sidewalk” is defined to mean an installation as defined in the Florida Building Code.
- The term “private residence” is added to mean a separate dwelling or a separate apartment in a multiple dwelling which is occupied by members of a single-family unit.
- The term “repair” is added to mean a repair as defined in the referenced standards and does not require a permit.
- The term “temporarily dormant elevator, dumbwaiter, or escalator” means an installation whose power supply has been disconnected by removing fuses and placing a padlock on the mainline disconnect switch in the “OFF” position. The car is parked and the hoistway doors are in the closed and latched position. A wire seal is installed on the mainline disconnect switch by a certificate of competency elevator inspector. This installation may not be used again until it has been put in safe running order and is in condition for use. Annual inspections shall continue for the duration of the temporarily dormant status by a certificate of competency elevator inspector. The temporarily dormant status is renewable on an annual basis and may not exceed a five-year period. The inspector shall file a report with the chief elevator inspector describing the current conditions. The wire seal and padlock may not be removed for any purpose without permission from the elevator inspector.
- The current definitions of “alteration,” “certificate of competency,” “division,” and “elevator company” are stricken.
- The definition of “certificate of operation” is amended to mean a document issued by the department which indicates that the conveyance has had the required safety inspection and tests and that fees have been paid as provided in ch. 399, F.S.

Inconsistencies, redundancies, and incomplete referencing among these definitions and their application throughout the amended and unamended provisions of ch. 399, F.S., might complicate the implementation of the provisions of this committee substitute. Specifically:

- The terms “automated people mover,” “escalator,” “existing installation,” and “moving walk or sidewalk” are defined in this committee substitute based on their definitions in the Florida Building Code. However, these terms are currently either not defined or indirectly defined in the Florida Building Code. DCA has stated that it will incorporate such definitions in the Florida Building Code before the effective date of this committee substitute.
- Although the terms “conveyance” and “elevator” appear to reference different equipment, it appears that these terms are used interchangeably in some sections of this committee substitute. The term “elevator” includes escalators, dumbwaiters, moving walks, inclined stairway chairlifts, and inclined or vertical wheelchair lifts. Although the term

“conveyance” includes elevators, dumbwaiters, escalators, moving sidewalks, and stairway chairlifts, the term also includes platform lifts (addressed in ASME A18.1, Safety Standard for Platform Lifts and Stairway Chairlifts rather than in ASME A17.1, Safety Code for Elevators and Escalators) and automated people movers (addressed in ASCE 21, Automated People Mover Standards). Thus, the use of the term “conveyance” appears to be inconsistent with the use of the term “elevator” in certain instances within this committee substitute, including:

- the term “conveyance” is used within the definition of “temporary operation permit,” while the term “elevator” is used within s. 399.07(2), F.S., regarding the issuance of temporary operation permits;
- the terms “conveyance” and “elevator” are used to refer to the same piece of equipment within the same sentence in s. 399.03(5), F.S., as amended; and
- the terms “conveyance” and “elevator” are both used within s. 399.061(1), F.S., as amended.

Furthermore, there are numerous references throughout the amended and unamended provisions of ch. 399, F.S., to the term “elevator” that would not appear to capture all of the equipment included in the definition of “conveyance.”

- There appears to be redundancy within several sections of this committee substitute as a result of the inclusion of the terms “escalator,” “dumbwaiter,” “moving walk,” “inclined stairway chairlift,” and “inclined or vertical wheelchair lift” in the definition of “elevator” and the inclusion of the term “elevator” in the definition of the term “conveyance.” For example:
 - the definition of the term “conveyance” includes the terms “elevator,” “dumbwaiter,” “escalator,” “moving sidewalk,” and “stairway chairlift” (Dumbwaiters, escalators, moving walks, and stairway chairlifts are all within the definition of the term “elevator.”);
 - the definitions of the terms “license or certificate of competency,” “elevator contractor’s license,” and “inspector certificate of competency” contain references to inspecting “elevators or related conveyances” (Elevators are within the definition of the term “conveyance.”);
 - this committee substitute defines the new term “temporarily dormant elevator, dumbwaiter, or escalator” (Dumbwaiters and escalators are within the definition of the term “elevator.”) (This definition also includes the term “certificate of competency elevator inspector” even though, by definition, an elevator inspector must have a certificate of competency.); and
 - s. 399.106(4), F.S., (as created) references rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation, or inspection of elevators, dumbwaiters, and escalators. (Dumbwaiters and escalators are within the definition of the term “elevator.”)
- The term “moving walk” is defined in s. 399.01(6), F.S., (as amended) and used in ss. 399.02 and 399.049, F.S., (as amended and created, respectively). The term “moving walk or sidewalk” is defined in s. 399.01(21), F.S., (as amended) with the term “moving sidewalk” being used in several provisions of this chapter, including the definition of the term “conveyance” and s. 399.049, F.S., (as created).

- Unlike the other components of the term “conveyance,” the term “platform lift” is not separately defined within s. 399.01, F.S.
- Although defined in s. 399.01, F.S., (as amended), the new terms “elevator helper/apprentice” and “limited elevator contractor’s license” do not appear to be used within ch. 399, F.S.
- The definition of the term “repair” includes a reference to “referenced standards.” It is unclear, though, which standards are being referenced.
- Despite the definitions amended and created in s. 399.01, F.S., this committee substitute amends s. 399.02, F.S., to provide that ch. 399, F.S., covers the design, construction, operation, inspection, testing, maintenance, alteration, and repair of the following equipment and its associated parts and hoistways:
 - hoisting and lowering mechanisms equipped with a car or platform which move between two or more landings (including, but not limited to, elevators, platform lifts, and stairway chairlifts);
 - power-driven stairways and walkways for carrying persons between landings (including, but not limited to, escalators and moving walks);
 - hoisting and lowering mechanisms equipped with a car which serves two or more landings and is restricted to the carrying of material by its limited size or limited access to the car (including, but not limited to, dumbwaiters, material lifts, and dumbwaiters with automatic-transfer devices); and
 - automatic guided transit vehicles on guideways with an exclusive right-of-way (including, but not limited to, automated people movers). [s. 399.02(2), F.S.]

It should be noted that, although defined in s. 399.01, F.S., (as amended) as components of the term “elevator,” escalators, moving walks, and dumbwaiters are classified separately from elevators in this section. Moreover, there is no reference to the term “conveyance,” which would appear to include all of the examples listed in the categories provided in s. 399.02(2), F.S.

- The term “elevator company” is used within s. 399.02(5)(d), F.S., and other sections of ch. 399, F.S., although the definition for the term was stricken by this committee substitute.

Section 3 of this bill also provides that equipment not covered by ch. 399, F.S., includes, but is not limited to:

- personnel hoists and material hoists within the scope of ANSI A10 as adopted by the Florida Building Code;
- man lifts within the scope of ASME A90.1 as adopted by the Florida Building Code;
- mobile scaffolds, towers, and platforms within the scope of ANSI A92 as adopted by the Florida Building Code;
- powered platforms and equipment for exterior and interior maintenance within the scope of ASME A120.1 as adopted by the Florida Building Code;
- conveyors and related equipment within the scope of ASME B20.1 as adopted by the Florida Building Code;

- cranes, derricks, hoists, hooks, jacks, and slings within the scope of ASME B30 as adopted by the Florida Building Code;
- industrial trucks within the scope of ASME B56 as adopted by the Florida Building Code;
- portable equipment, except for portable escalators that are covered by the Florida Building Code;
- “tiered” or piling machines used to move materials to and from storage located and operating entirely within one story;¹⁸
- equipment for feeding or positioning materials at machine tools and printing presses;
- skip or furnace hoists;
- wharf ramps;
- railroad car lifts or dumpers; and
- line jacks, false cars, shafters, moving platforms, and similar equipment used for installing an elevator by a contractor licensed in this state.

Unlike in current law, elevators, inclined stairway chairlifts, and inclined or vertical wheelchair lifts located in private residences are now subject to the provisions of this chapter. It should also be noted that, according to DCA, several of the codes referenced above have not yet been adopted into the Florida Building Code. DCA has stated that it will incorporate such references in the code before the effective date of this committee substitute.

Section 3 of this committee substitute also provides that DCA (instead of the Department of Business and Professional Regulation’s Division of Hotels and Restaurants) shall develop and submit to the Florida Building Commission an elevator safety code, which, when adopted within the Florida Building Code, applies to the installation, relocation, or alteration of an “elevator” for which a permit has been issued after October 1, 1990, and which must be the same as or similar to the latest revision of “The Safety Code for Elevators and Escalators ASME A17.1, ASME A17.3, ASME A18.1, and ASCE 21.”¹⁹ However, the ASCE 21 Code applies to automated people movers and does not appear to be included in the definition of the term “elevator” under s. 399.01(6), F.S., as amended. [It should also be noted that s. 399.02(2), F.S., (as amended) creates a separate paragraph (b) for automated people movers.]

Section 3 of this committee substitute also changes references to the term “division” to “department” in order to reflect the moving of regulatory responsibility from the Department of Business and Professional Regulation’s Division of Hotels and Restaurants to DCA.

Section 4 of this committee substitute amends s. 399.03, F.S., by striking the existing language regarding elevator compliance with the Florida Building Code and adding new language that includes the following:

¹⁸ It appears that the term “tiered” is incorrect. *See* the “Technical Deficiencies” section of this analysis.

¹⁹ The title “The Safety Code for Elevators and Escalators” only applies to ASME A17.1. *See* the “Technical Deficiencies” section of this analysis.

- A conveyance covered by this chapter may not be erected, constructed, installed, or altered within buildings or structures unless a permit has been obtained from the department before the work is commenced. When any material alteration is made, the device must conform to applicable requirements of the Florida Building Code for the alteration.
- The department shall provide by rule for permit application requirements and permit fees.
- Permits may be revoked for specified reasons.
- Permits may expire for specified reasons.
- All new conveyance installations must be performed by a person to whom a license to install or service a conveyance has been issued. Subsequent to installation, the licensed person, firm, or company must certify compliance with the applicable sections of this chapter and the Florida Building Code. Before any conveyance is used, the property owner or lessee must obtain an inspection from a licensed inspector not employed or associated with the elevator contractor, certifying that the elevator meets the safety provisions of the Florida Building Code. Upon successful inspection, the property owner or lessee must apply to DCA for a certificate of operation. It is the elevator contractor's responsibility to complete and submit a "first-time registration" for the new installation.
- The certificate of operation fee for all existing platform and stairway chairlifts for private residences and any renewal certificate fee is waived. DCA or its designee shall inspect all existing platform lifts and stairway chairlifts for private residences subsequent to an inspection by a person, firm, or company licensed to inspect such conveyances.
- A certificate of operation is renewable annually except for certificates issued for platform and stairway chairlifts for private residences, which are valid for a period of three years.

Section 5 of this committee substitute creates a new s. 399.049, F.S., to provide for the licensing of elevator contractors, mechanics, and inspectors. The following are included in the provisions of this section:

- Prospective elevator contractors must apply for a license with DCA. Prospective elevator mechanics must apply for a certificate of competency with DCA.²⁰ Prospective elevator inspectors must have ASME QEI certification before applying for a certificate of competency with DCA. The application shall contain information as provided by rule, including satisfactory evidence that an applicant is or will be covered by general liability, personal injury, and property damage insurance. When the "division" receives an application, it may issue a certificate of competency that may be renewed every four years.²¹ DCA shall set the fee for a certificate of competency and any subsequent renewal.
- This section provides the following qualifications for becoming an elevator mechanic:

A certificate of competency may not be granted to any person who has not proven his or her qualifications and abilities as provided by rule, including, but not limited to the following:

²⁰ The elevator mechanic must work under the direct supervision of a licensed elevator contractor.

²¹ The term "division" should be "department." See the "Technical Deficiencies" section of this analysis.

(a) An acceptable combination of documented experience and education, including no less than 3 years' work experience in the elevator industry, in construction, maintenance and service, and repair, as verified by current and previous employers licensed to do business in this state and satisfactory completion of a written examination on the most recent referenced codes and standards approved by the department, as provided by rule.

(b) Any person who furnishes the department with acceptable proof that he or she has no less than 3 years' work experience as an elevator constructor, maintenance, or repair person without direct and immediate supervision for a licensed electrical elevator contractor licensed to do business may be entitled to receive a certificate of competency without an examination upon application and payment of the certificate of competency fee. A person must apply within 1 year after the effective date of this act.

(c) A certificate of completion and successful passing of the mechanic examination of a nationally recognized training program for the elevator industry such as the National Elevator Industry Education Program or its equivalent, or a certificate of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those in this chapter approved by the department, and registration with the Bureau of Apprenticeship and Training, U.S. Department of Labor, or a state apprenticeship council.

(d) A certificate of competency shall be issued upon application without examination to an individual holding a valid certificate from a state having standards substantially equal to those of the elevator safety provisions incorporated into the Florida Building Code. Department procedures for approving other state certification shall be adopted by rule.

Paragraph (b), in granting an exemption to the examination, provides that the exempt person "may be entitled to receive a certificate of competency without an examination upon application and payment of the certificate of competency fee"; however, it is unclear whether the person must still pass the national mechanic examination or complete an apprenticeship program as provided in paragraph (c). Likewise, it is unclear whether a person holding a valid certificate of competency from a state having standards substantially equal to those of the elevator safety provisions incorporated into the Florida Building Code [paragraph (d)] must pay a certificate of competency fee and/or meet the requirements in paragraph (c).

- A prospective elevator inspector must meet the current ASME QEI-1, Standards for the Qualifications of Elevator Inspectors.
- A prospective elevator contractor must have five years of work experience in the elevator industry in construction, maintenance, and service or repair or satisfactory completion of a written examination on elevator codes and standards adopted by rule of the department

and administered by the department or an approved provider. However, a license may be issued to a person holding a valid license from a state having substantially equivalent licensing standards as determined by the department according to rule.

- This section provides for the granting of certificates of competency in emergency situations.
- A renewal of a certificate of competency is conditioned upon the submission of a certificate of completion of a course designed to ensure the continuing education covering new and existing elevator safety provisions of the Florida Building Code.
- This section provides for the suspension or revocation of a certificate of competency or the imposition of an administrative penalty of no more than \$1,000 per violation for any licensee or certificateholder who commits one or more of the following violations:
 - any false statement as to a material matter in the application;
 - fraud, misrepresentation, or bribery in securing a license or certificate of competency;
 - failure to notify the department and the owner or lessee of an elevator or related mechanism that is not in complete compliance with the provisions of the elevator safety code incorporated into the Florida Building Code; or
 - violation of any provision of this chapter.

Despite the provision for an administrative fine, the catch line for s. 399.049, F.S., (as created) only references the suspension or revocation of a license or certificate of competency.

Section 6 of this committee substitute amends s. 399.061, F.S., to increase elevator inspection requirements. Current law provides that elevators must be either:

- inspected pursuant to a contract with a city or county, by a third-party inspection service certified as a qualified elevator inspector; or
- maintained pursuant to a service maintenance contract continuously in force and inspected by a certificate-of-competency holder at least once every two years. (However, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection is required so long as the service contract remains in effect.)

This section amends s. 399.061(1)(a), F.S., to provide that all elevators must be either:

- inspected annually by either a certified elevator inspector through a third-party inspection service or by a municipality or county under contract with DCA; or
- maintained pursuant to a service maintenance contract continuously in force and inspected by a certificate-of-competency holder at least once every two years.

This section eliminates the exemption for an elevator that is not an escalator or a dumbwaiter and that serves only two adjacent floors and is covered by a service maintenance contract. This section also requires conveyance owners to have an elevator mechanic inspect and test their conveyances at the intervals required for compliance with ASME A17.1, A18.1, and ASCE 21; it is unclear how this testing will be implemented in conjunction with either the annual or biennial inspections described above.

This section also provides that DCA shall employ state elevator inspectors to conduct the inspections and tests required by s. 399.061(1)(a), F.S., and may charge an inspection fee for each inspection sufficient to cover the costs of that inspection. It is unclear, though, how this provision requiring state employees to conduct inspections will be implemented with the provisions of s. 399.061(1)(a), F.S., which allow for third-party inspection service, municipality, and county inspections.

This section changes references to the term “division” to “department” in order to reflect the moving of regulatory responsibility from the Department of Business and Professional Regulation’s Division of Hotels and Restaurants to DCA.

Section 7 of this committee substitute amends s. 399.07, F.S., to:

- change references to the term “division” to “department” in order to reflect the moving of regulatory responsibility from the Department of Business and Professional Regulation’s Division of Hotels and Restaurants to DCA;
- provide that the annual fee for issuance of a certificate of operation must be set by DCA pursuant to rule (instead of capping the fee at \$100 for an elevator not covered by a service maintenance contract or at \$50 for an elevator covered by a service maintenance contract); and
- provide that the fees from the issuance and renewal of certificates of operation and from the issuance of temporary operation permits must be deposited in the “Operational” Trust Fund.²²

It should also be noted that the certificate of operation provisions in s. 399.07(1), F.S., appear to overlap and, in some instances, conflict with the same type of provisions in s. 399.03, F.S., (as created). For example, s. 399.07(1)(b), F.S., provides for a blanket one-year validity period for a certificate of operation, while s. 399.03(7), F.S., (as created) provides that a certificate of operation issued for platform and stairway chairlifts for private residences are valid for three years.

Section 8 of this committee substitute amends s. 399.10, F.S., to change references to the term “division” to “department” in order to reflect the moving of regulatory responsibility from the Department of Business and Professional Regulation’s Division of Hotels and Restaurants to DCA.

Section 9 of this committee substitute amends s. 399.105, F.S., to increase the cap on administrative fines imposed by DCA from \$500 to \$1,000, provide that administrative fines collected by DCA must be deposited into the “Operational” Trust Fund, and change references to the term “division” to “department” in order to reflect the moving of regulatory responsibility

²² Although there does not appear to be an “Operational” Trust Fund for DCA, the department does deposit funds in an “Operating” Trust Fund. See the “Technical Deficiencies” section of this analysis.

from the Department of Business and Professional Regulation's Division of Hotels and Restaurants to DCA.²³

Section 10 of this committee substitute creates s. 399.106, F.S., to establish the Elevator Safety Committee (committee). The organization and powers of the committee are as follows:

- The committee is created within the Florida Building Commission (commission) of DCA. The committee shall consist of seven members to be appointed by the commission:
 - one representative from a major elevator manufacturing company or its authorized representative;
 - one representative from an elevator servicing company;
 - one representative from a building design profession;
 - one representative of the general public;
 - one representative of a local government in this state;
 - one representative of a building owner or manager; and
 - one representative of labor involved in the installation, maintenance, and repair of elevators.

The committee members shall serve for terms of four years.

- The committee shall meet and organize in conjunction with the next regularly scheduled meeting of the commission and at times considered necessary for the consideration of code rules and regulations to be provided to the commission.
- The committee may consult with engineering authorities and organizations concerned with standard safety codes for recommendations to the Florida Building Commission's rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation, or inspection of elevators, dumbwaiters, and escalators, and the qualifications that are adequate, reasonable, and necessary for the elevator mechanic, contractor, and inspector.
- The committee may recommend appropriate legislation to the commission.
- The committee shall provide to the commission state regulations for the equipment regulated by this chapter. The regulations include the Safety Code for Elevators and Escalators, ASME A17.1; the Safety Code for Existing Elevators and Escalators, ASME A17.3; the Safety Standards for Platform Lifts and Stairway Chairlifts, ASME A18.1; the Standards for the Qualification of Elevator Inspectors, ASME QEI-1, and Automated People Mover Standards, ASCE 21. It should be noted that the current Elevator Safety Code does not reference ASME A17.3, A18.1, or QEI-1. This section further provides that the committee may recommend and the commission may grant exceptions and variances from the literal requirements of applicable codes and standards, regulations, or local ordinances in cases in which the variances would not jeopardize the public safety and welfare. Although this section provides that "[t]he committee shall hold hearings, hear appeals, and rule upon appeals within 30 days after the appeal," there is no reference to the provisions of ch. 120, F.S., the Administrative Procedure Act.

²³ Although there does not appear to be an "Operational" Trust Fund for DCA, the department does deposit funds in an "Operating" Trust Fund. See the "Technical Deficiencies" section of this analysis.

- The committee shall develop an enforcement program that ensures compliance with the requirements of this chapter. The program must include random on-site inspections and tests on existing installations and periodic inspections and tests of persons who have been issued a license or certificate of competency under this chapter.
- Any person may request an investigation into an alleged violation of this chapter by giving notice to the department of such violation or danger. If upon receipt of such notification the department determines that there are reasonable grounds to believe that a violation or danger exists, the department shall investigate as soon as practicable to determine if a violation or danger exists. If the department determines that there are no reasonable grounds to believe that a violation or danger exists, the department shall notify the party in writing of that determination.

Section 11 of this committee substitute amends s. 399.11, F.S., to change references to the term “division” to “department” in order to reflect the moving of regulatory responsibility from the Department of Business and Professional Regulation’s Division of Hotels and Restaurants to DCA and to change a cross-reference from “s. 399.045” to “s. 399.049” in order to reflect the repeal of s. 399.045, F.S., and the creation of s. 399.049, F.S. It should be noted that, while s. 399.11(2), F.S., provides for penalties for a person who falsely represents himself or herself as a holder of a certificate of competency pursuant to s. 399.049, F.S., there is no such provision in this section for a person who falsely represents himself or herself as a holder of a license pursuant to that section.

Section 12 of this committee substitute amends s. 399.125, F.S., to increase the administrative fine amount for failing to file an elevator accident report pursuant to this section from \$500 to \$1,000. This section of the committee substitute also changes references to the term “division” to “department” in order to reflect the moving of regulatory responsibility from the Department of Business and Professional Regulation’s Division of Hotels and Restaurants to DCA.

Section 13 of this committee substitute amends s. 399.13, F.S., to change references to the term “division” to “department” in order to reflect the moving of regulatory responsibility from the Department of Business and Professional Regulation’s Division of Hotels and Restaurants to DCA.

Section 14 of this committee substitute repeals s. 399.045, F.S., (providing policies and procedures regarding certificates of competency) and s. 399.05, F.S., (regarding construction permits).

Section 15 of this committee substitute provides for a type two transfer [s. 20.06(2), F.S.] of the regulation of elevators pursuant to ch. 399, F.S., from the Department of Business and Professional Regulation to the Department of Community Affairs.

Section 16 of this committee substitute provides that this act shall take effect January 1, 2002.

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:**

This committee substitute provides that the Department of Community Affairs (DCA) shall provide by rule for permit fees [s. 399.03(2), F.S., as amended], certificate of competency fees [s. 399.049(5)(a), F.S., as created], inspection fees [s. 399.061(2), F.S., as amended], and certificate of operation fees [s. 399.07(1)(d), F.S., as amended]. Until DCA establishes the fee amounts, the effect of this committee substitute on state revenues will be indeterminate.

B. Private Sector Impact:

It appears that this committee substitute increases regulation of the elevator industry. This additional regulation may improve the safety of elevators and escalators, thus benefiting the citizens of the state.

Section 455.201, F.S., provides the following legislative intent with regard to the regulation of professions and occupations by the Department of Business and Professional Regulation (department) and its boards:

(1) It is the intent of the Legislature that persons desiring to engage in any lawful profession regulated by the department shall be entitled to do so as a matter of right if otherwise qualified.

(2) The Legislature further believes that such professions shall be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state. Such professions shall be regulated when:

(a) Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation.

(b) The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation.

(c) Less restrictive means of regulation are not available.

(3) It is further legislative intent that the use of the term “profession” with respect to those activities licensed and regulated by the department shall not be deemed to mean that such activities are not occupations for other purposes in state or federal law.

(4)(a) Neither the department nor any board may create unreasonably restrictive and extraordinary standards that deter qualified persons from entering the various professions. Neither the department nor any board may take any action that tends to create or maintain an economic condition that unreasonably restricts competition, except as specifically provided by law.

(b) Neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention in the state or that places unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment.

(c) The Legislature shall evaluate proposals to increase regulation of already regulated professions or occupations to determine their effect on job creation or retention and employment opportunities.

(5) Policies adopted by the department shall ensure that all expenditures are made in the most cost-effective manner to maximize competition, minimize licensure costs, and maximize public access to meetings conducted for the purpose of professional regulation. The long-range planning function of the department shall be implemented to facilitate effective operations and to eliminate inefficiencies.

C. Government Sector Impact:

This committee substitute provides for a type two transfer [s. 20.06(2), F.S.] of the regulation of elevators pursuant to ch. 399, F.S., from the Department of Business and Professional Regulation (DBPR) to the Department of Community Affairs (DCA). Both DBPR and DCA were preparing analyses of this committee substitute at the time this legislative committee staff analysis was published.

This committee substitute may also have a substantive and/or fiscal impact on local government because of the changing elevator standards.

VI. Technical Deficiencies:

- On page 7, line 30, through page 8, line 2, of this committee substitute, the title “The Safety Code for Elevators and Escalators” should only apply to ASME A17.1, not ASME A17.3, ASME A18.1, or ASCE 21.

- On page 9, line 15, of this committee substitute, it appears that the term “tiered” should be changed to the term “tiering” in order to conform with Section 1.1.2 of the ASME A17.1 Code (2000).
- On page 11, line 22, of this committee substitute it appears that the term “Safety Code” should be changed to “safety code” because, according to the Department of Community Affairs (DCA), the Elevator Safety Code in ch. 61C-5, F.A.C., will be eliminated once regulatory responsibilities are transferred from the Department of Business and Professional Regulation (DBPR) to DCA, pursuant to this committee substitute. According to s. 399.02(1), F.S., (as amended), the Elevator Safety Committee (created within DCA pursuant to s. 399.106, F.S., as created) must develop and submit an “elevator safety code” to the Florida Building Commission for adoption within the Florida Building Code.
- On page 17, line 30, of this committee substitute, the term “division” should be changed to “department” in order to conform with the other terminology changes in the section resulting from the transferring of regulatory responsibilities from DBPR to DCA.
- On page 23, lines 1-2 and 29-30, and page 25, lines 25-26, of this committee substitute, there are references to an “Operational” Trust Fund. Although there does not appear to be an “Operational” Trust Fund for DCA, the department does deposit funds in an “Operating” Trust Fund.

VII. Related Issues:

Although this committee substitute does not amend s. 399.035, F.S., (elevator accessibility requirements for the physically handicapped), this section includes references to the terms “elevator” and “Elevator Safety Code” and to the elevator code “ANSI A17.1.” By referencing the term “elevator,” this section would not appear to apply to certain conveyances (including, it would appear, automated people movers) that are excluded from the definition of the term “elevator.” [s. 399.01(5), F.S.] Additionally, according to the Department of Community Affairs (DCA), the Elevator Safety Code in ch. 61C-5, F.A.C., will be eliminated once regulatory responsibilities are transferred from the Department of Business and Professional Regulation to DCA, pursuant to this committee substitute. According to s. 399.02(1), F.S., (as amended), the Elevator Safety Committee (created within DCA pursuant to s. 399.106, F.S., as created) must develop and submit an “elevator safety code” to the Florida Building Commission for adoption within the Florida Building Code. Finally, because s. 399.035, F.S., was last amended in 1996, there may be new or additional codes or standards (besides ANSI A17.1, for example) that would apply to the provisions of this section.

VIII. Amendments:

None.