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HOUSE OF REPRESENTATIVES
SMARTER GOVERNMENT COUNCIL
ANALYSIS

BILL #: CS/HB 489
RELATING TO: Land Surveying and Mapping
SPONSOR(S): Council for Smarter Government and Representative(s) Henriquez

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) BUSINESS REGULATION YEAS 11 NAYS 0
 - (2) SMARTER GOVERNMENT COUNCIL YEAS 11 NAYS 0
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

The bill addresses several provisions of law relating to surveyors and mappers. The bill defines the terms: "employee" as a person who receives compensation from an employer who pays appropriate federal taxes and provides workers compensation; "subordinate" is defined as an employee who works directly under the supervision of a properly licensed surveyor or mapper; "monument" to be an object occupying a corner of real property or other reference point; "legal entity" to be a business operating under a fictitious name and is certified by the board; and "retired professional surveyor and mapper" as a person who is no longer licensed and is approved by the board as retired.

The bill expands the exemptions from licensure if a person works as a subordinate to a registered person in responsible charge of the subordinate. The new exemptions include "subordinate employees" of: 1) state or local government, 2) employee leasing companies, and 3) registered surveyors and mappers.

The bill requires an out of state applicant for licensure under the reciprocal licensing provisions to have had eight years of subordinate work experience in their home state and to pass the portion of the Florida licensure examination relating to Florida law and rules.

The bill amends the current provisions that allow surveyors and mappers to enter upon private property to include subordinates. The authority to enter upon property is expanded to include seeking out monuments. The bill allows subordinates to enter upon private property to locate monuments if regulations pertaining to security and other health and safety precautions are observed. The bill separates liability provisions for agriculture lands.

The bill is not anticipated to have a significant impact on state or local government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 472, F.S., requires the Board of Professional Surveyors and Mappers (board), under the Department of Business and professional Regulation (DBPR), to license, regulate and discipline surveyors and mappers. This program is designed for the primary purpose of eliminating, according to the statements of legislative intent, the significant threat (economic) to the public presented by improper surveying and mapping of land, water, and space.

Requirements for licensure include good moral character, a degree in surveying and mapping, experience as a subordinate to a registered surveyor and mapper and successful passage of an examination. Certain exemptions from licensure are specified in s. 472.003, F.S., to include certain government surveyors and mappers and certain contractors in specified lines of work.

Section 472.015, F.S., provides for licensure by endorsement for persons licensed in a jurisdiction other than in this state. An applicant for licensure in Florida must be qualified to take the Florida examination and has to have taken an out-of-state examination that is substantially equivalent to the Florida test. Additionally, the endorsement provisions allow an applicant to be licensed in Florida if the applicant holds a valid license issued in another jurisdiction if the licensure requirements at the time of licensure were substantially the same as Florida requirements.

Statutory prohibitions relating to the practice of surveying and mapping include practicing without a proper registration with the board, improperly using a professional title relating to surveying and mapping, giving false information to the board, and using a suspended or revoked registration. Penalties for violations include criminal penalties of a misdemeanor of the first degree and administrative penalties including suspension, revocation, and fines not to exceed \$1,000 for each offense.

C. EFFECT OF PROPOSED CHANGES:

The bill expands the exemptions from licensure if a person works as a subordinate to a registered person in responsible charge of the subordinate. The new exemptions include "subordinate employees" of: 1) state or local government, 2) employee leasing companies, and 3) registered surveyors and mappers.

The bill defines the term “employee” as a person who receives compensation from an employer who pays appropriate federal taxes and provides workers compensation. The term “subordinate” is defined as an employee who works directly under the supervision of a person licensed under chapter 472, F.S. The term “monument” for surveying and mapping purposes is defined to be an object occupying a corner of real property or other reference point. The term “legal entity” is defined to be a business entity operating under a fictitious name and is certified by the board. “Retired professional surveyor and mapper” is defined as a person who is no longer licensed and is approved by the board as retired.

The bill requires an out of state applicant for licensure under the reciprocal licensing provisions of chapter 472, F.S., to have had eight years of subordinate work experience in their home state and to pass the portion of the Florida licensure examination relating to Florida law and rules.

The bill amends the current provisions that allow surveyors and mappers to enter upon private property to include subordinates. The authority to enter upon property is expanded to include seeking out monuments.

The bill allows subordinates to enter upon private property to locate monuments if regulations pertaining to security and other health and safety precautions are observed. The bill limits landowner liability for negligent actions on the part of another.

The bill restructures various provisions relating to violations, discipline, and penalties to create addition grounds for disciplinary actions by DBPR to include pleading nolo contendere to a crime and involvement in conflict of interest business activities. The bill creates penalties for a person to offer surveying and mapping services without being registered and for improper use of professional titles relating to surveying and mapping. The bill deletes certain dated statutory provisions relating to violations and discipline.

The bill is effective July 1, 2002.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 472.003, F.S., to expand licensure exemptions to include subordinate employees of government units, employee leasing companies, and surveyors and mappers.

Section 2. Amends s. 472.005, F.S., to define “employee,” “subordinate,” “monument,” “legal entity,” and “retired professional surveyor and mapper.”

Section 3. Amend s. 472.008, F.S., to authorize the board to adopt rules relating to the use of professional titles by retired surveyors and mappers.

Section 4. Amends s. 472.013, F.S., to delete dated language relating to certain requirements authorizing an applicant to take the licensure examination

Section 5. Amends s. 472.015, F.S., to disallow reciprocal licensing of practitioners from another state unless the applicant passes the portion of the Florida licensure examination relating to Florida law and rules.

Section 6. Amends s. 472.029, F.S., to allow subordinates of surveyors and mappers to enter upon private property.

Section 7. Amends s. 472.031, F.S., to create penalties for a person to offer surveying and mapping services without being registered and for improper use of professional titles relating to surveying and mapping.

Section 8. Amends 472.033, F.S., to create addition grounds for disciplinary actions by DBPR to include pleading nolo contendere to a crime and involvement in conflict of interest business activities; deletes certain statutory provisions relating to violations and discipline.

Section 9. Effective date - July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None anticipated.

2. Expenditures:

None anticipated.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Not anticipated to be significant.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None noted.

B. RULE-MAKING AUTHORITY:

The bill empowers the board to adopt rules governing the use of professional titles by retired surveyors and mappers.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee Substitute differs from the original bill by reorganizing and rewording the provisions relating to the application of the trespass provisions of the bill.

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION:

Prepared by:

Alan W. Livingston

Staff Director:

Paul Liepshutz

AS REVISED BY THE SMARTER GOVERNMENT COUNCIL:

Prepared by:

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Staff Director:

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