



CHAMBER ACTION

The Committee on Business Regulation recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to engineering; amending ss. 471.013 and 471.015, F.S.; revising provisions relating to the examinations required to practice in this state as an engineer; amending s. 471.023, F.S.; requiring certification of any business organization offering engineering services to the public; amending s. 471.033, F.S.; revising provisions relating to disciplinary penalties to increase the administrative fine and authorize the imposition of restitution; amending s. 471.038, F.S.; revising duties of the Board of Professional Engineers, the Florida Engineers Management Corporation, and the Department of Business and Professional Regulation with respect to regulation of the practice of engineering; providing that the president of the management corporation shall be selected by the management corporation and shall serve as executive director of the board, subject to approval of the board; eliminating the position of contract administrator;



29 | revising the submission date for the annual status report;
30 | restricting the requirement of posting a performance bond
31 | to certain persons not employed by the management
32 | corporation; revising duties and authority to investigate
33 | complaints, prosecute cases, and issue emergency
34 | suspension or restriction orders; providing an effective
35 | date.

36 |
37 | Be It Enacted by the Legislature of the State of Florida:

38 |
39 | Section 1. Subsection (1) of section 471.013, Florida
40 | Statutes, is amended to read:

41 | 471.013 Examinations; prerequisites.--

42 | (1)(a) A person shall be entitled to take an examination
43 | for the purpose of determining whether she or he is qualified to
44 | practice in this state as an engineer if the person is of good
45 | moral character and:

46 | 1. Is a graduate from an approved engineering curriculum
47 | of 4 years or more in a school, college, or university which has
48 | been approved by the board and has a record of 4 years of active
49 | engineering experience of a character indicating competence to
50 | be in responsible charge of engineering;

51 | 2. Is a graduate of an approved engineering technology
52 | curriculum of 4 years or more in a school, college, or
53 | university within the State University System, having been
54 | enrolled or having graduated prior to July 1, 1979, and has a
55 | record of 4 years of active engineering experience of a



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56 character indicating competence to be in responsible charge of
57 engineering; or

58 3. Has, in lieu of such education and experience
59 requirements, 10 years or more of active engineering work of a
60 character indicating that the applicant is competent to be
61 placed in responsible charge of engineering. However, this
62 subparagraph does not apply unless such person notifies the
63 department before July 1, 1984, that she or he was engaged in
64 such work on July 1, 1981.

65
66 The board shall adopt rules providing for the review and
67 approval of schools or colleges and the courses of study in
68 engineering in such schools and colleges. The rules shall be
69 based on the educational requirements for engineering as defined
70 in s. 471.005. The board may adopt rules providing for the
71 acceptance of the approval and accreditation of schools and
72 courses of study by a nationally accepted accreditation
73 organization.

74 (b) A person shall be entitled to take the fundamentals ~~an~~
75 examination for the purpose of determining whether she or he is
76 qualified to practice in this state as an engineer intern if she
77 or he is in the final year of, or is a graduate of, an approved
78 engineering curriculum in a school, college, or university
79 approved by the board.

80 (c) A person shall not be entitled to take the principles
81 and practice ~~part of the~~ examination until that person has
82 successfully completed the fundamentals examination.



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83 (d) On or after October 1, 1992, every applicant who is
84 qualified to take either the fundamentals examination or the
85 principles and practice ~~any part of the~~ examination shall be
86 allowed to take either examination ~~any one part~~ five times,
87 notwithstanding the number of times that either examination ~~part~~
88 has been previously failed. If an applicant fails either ~~any~~
89 ~~part of the~~ examination ~~taken after October 1, 1992,~~ five times,
90 the board shall require the applicant to complete additional
91 college-level education courses in the areas of deficiency, as
92 determined by the board, as a condition of future eligibility to
93 take that ~~the~~ examination.

94 Section 2. Subsections (1), (3), and (5) of section
95 471.015, Florida Statutes, are amended to read:

96 471.015 Licensure.--

97 (1) The management corporation shall issue a license to
98 any applicant who the board certifies is qualified to practice
99 engineering and who has passed the fundamentals examination and
100 the principles and practice ~~licensing~~ examination.

101 (3) The board shall certify as qualified for a license by
102 endorsement an applicant who:

103 (a) Qualifies to take the fundamentals examination and the
104 principles and practice examination as set forth in s. 471.013,
105 has passed a United States national, regional, state, or
106 territorial licensing examination that is substantially
107 equivalent to the fundamentals examination and the principles
108 and practice examination required by s. 471.013, and has
109 satisfied the experience requirements set forth in s. 471.013;
110 or



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111 (b) Holds a valid license to practice engineering issued
112 by another state or territory of the United States, if the
113 criteria for issuance of the license were substantially the same
114 as the licensure criteria that existed in this state at the time
115 the license was issued.

116 (5)(a) The board shall deem that an applicant who seeks
117 licensure by endorsement has passed an examination substantially
118 equivalent to ~~part I~~ of the fundamentals engineering examination
119 when such applicant:

120 1. Has held a valid professional engineer's license in
121 another state for 15 years and has had 20 years of continuous
122 professional-level engineering experience;

123 2. Has received a doctorate degree in engineering from an
124 institution that has an undergraduate engineering degree program
125 which is accredited by the Accreditation Board for Engineering
126 Technology; or

127 3. Has received a doctorate degree in engineering and has
128 taught engineering full time for at least 3 years, at the
129 baccalaureate level or higher, after receiving that degree.

130 (b) The board shall deem that an applicant who seeks
131 licensure by endorsement has passed an examination substantially
132 equivalent to the fundamentals examination and the principles
133 and practice ~~part I and part II of the engineering~~ examination
134 when such applicant has held a valid professional engineer's
135 license in another state for 25 years and has had 30 years of
136 continuous professional-level engineering experience.

137 Section 3. Section 471.023, Florida Statutes, is amended
138 to read:



139 471.023 Certification of business organizations
 140 ~~partnerships and corporations.~~--
 141 (1) The practice of, or the offer to practice, engineering
 142 by licensees through a business organization, including any
 143 partnership, corporation, business trust, or other legal entity,
 144 ~~corporation or partnership~~ offering engineering services to the
 145 public or by a business organization, including any partnership,
 146 corporation, business trust, or other legal entity, ~~corporation~~
 147 ~~or partnership~~ offering said services to the public through
 148 licensees under this chapter as agents, employees, officers, or
 149 partners is permitted only if the business organization ~~firm~~
 150 possesses a certification issued by the management corporation
 151 pursuant to qualification by the board, subject to the
 152 provisions of this chapter. One or more of the principal
 153 officers of the business organization ~~corporation~~ or one or more
 154 partners, if the business organization is a ~~of the~~ partnership,
 155 and all personnel of the business organization ~~corporation or~~
 156 ~~partnership~~ who act in its behalf as engineers in this state
 157 shall be licensed as provided by this chapter. All final
 158 drawings, specifications, plans, reports, or documents involving
 159 practices licensed under this chapter which are prepared or
 160 approved for the use of the business organization ~~corporation or~~
 161 ~~partnership~~ or for public record within the state shall be dated
 162 and shall bear the signature and seal of the licensee who
 163 prepared or approved them. Nothing in this section shall be
 164 construed to mean that a license to practice engineering shall
 165 be held by a business organization ~~corporation~~. Nothing herein
 166 prohibits business organizations ~~corporations and partnerships~~



167 from joining together to offer engineering services to the
 168 public, provided each business organization ~~corporation or~~
 169 ~~partnership~~ otherwise meets the requirements of this section. No
 170 business organization ~~corporation or partnership~~ shall be
 171 relieved of responsibility for the conduct or acts of its
 172 agents, employees, or officers by reason of its compliance with
 173 this section, nor shall any individual practicing engineering be
 174 relieved of responsibility for professional services performed
 175 by reason of his or her employment or relationship with a
 176 business organization ~~corporation or partnership~~.

177 (2) For the purposes of this section, a certificate of
 178 authorization shall be required for a business organization
 179 ~~corporation, partnership, association,~~ or person practicing
 180 under a fictitious name, offering engineering services to the
 181 public. However, when an individual is practicing engineering in
 182 his or her own given name, he or she shall not be required to be
 183 licensed under this section.

184 (3) The fact that a licensed engineer practices through a
 185 business organization ~~corporation or partnership~~ shall not
 186 relieve the licensee from personal liability for negligence,
 187 misconduct, or wrongful acts committed by him or her.
 188 Partnerships and all partners shall be jointly and severally
 189 liable for the negligence, misconduct, or wrongful acts
 190 committed by their agents, employees, or partners while acting
 191 in a professional capacity. Any officer, agent, or employee of a
 192 business organization other than a partnership ~~corporation~~ shall
 193 be personally liable and accountable only for negligent acts,
 194 wrongful acts, or misconduct committed by him or her or



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195 committed by any person under his or her direct supervision and
196 control, while rendering professional services on behalf of the
197 business organization ~~corporation~~. The personal liability of a
198 shareholder or owner of a business organization ~~corporation~~, in
199 his or her capacity as shareholder or owner, shall be no greater
200 than that of a shareholder-employee of a corporation
201 incorporated under chapter 607. The business organization
202 ~~corporation~~ shall be liable up to the full value of its property
203 for any negligent acts, wrongful acts, or misconduct committed
204 by any of its officers, agents, or employees while they are
205 engaged on behalf of the business organization ~~corporation~~ in
206 the rendering of professional services.

207 (4) Each certification of authorization shall be renewed
208 every 2 years. Each business organization ~~partnership and~~
209 ~~corporation~~ certified under this section shall notify the board
210 within 1 month of any change in the information contained in the
211 application upon which the certification is based.

212 (5) Disciplinary action against a business organization
213 ~~corporation or partnership~~ shall be administered in the same
214 manner and on the same grounds as disciplinary action against a
215 licensed engineer.

216 Section 4. Section 471.033, Florida Statutes, is amended
217 to read:

218 471.033 Disciplinary proceedings.--

219 (1) The following acts constitute grounds for which the
220 disciplinary actions in subsection (3) may be taken:



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221 (a) Violating any provision of s. 455.227(1), s. 471.025,
222 or s. 471.031, or any other provision of this chapter or rule of
223 the board or department.

224 (b) Attempting to procure a license to practice
225 engineering by bribery or fraudulent misrepresentations.

226 (c) Having a license to practice engineering revoked,
227 suspended, or otherwise acted against, including the denial of
228 licensure, by the licensing authority of another state,
229 territory, or country, for any act that would constitute a
230 violation of this chapter or chapter 455.

231 (d) Being convicted or found guilty of, or entering a plea
232 of nolo contendere to, regardless of adjudication, a crime in
233 any jurisdiction which directly relates to the practice of
234 engineering or the ability to practice engineering.

235 (e) Making or filing a report or record that the licensee
236 knows to be false, willfully failing to file a report or record
237 required by state or federal law, willfully impeding or
238 obstructing such filing, or inducing another person to impede or
239 obstruct such filing. Such reports or records include only those
240 that are signed in the capacity of a licensed engineer.

241 (f) Advertising goods or services in a manner that is
242 fraudulent, false, deceptive, or misleading in form or content.

243 (g) Engaging in fraud or deceit, negligence, incompetence,
244 or misconduct, in the practice of engineering.

245 (h) Violating chapter 455.

246 (i) Practicing on a revoked, suspended, inactive, or
247 delinquent license.



248 (j) Affixing or permitting to be affixed his or her seal,
 249 name, or digital signature to any final drawings,
 250 specifications, plans, reports, or documents that were not
 251 prepared by him or her or under his or her responsible
 252 supervision, direction, or control.

253 (k) Violating any order of the board or department
 254 previously entered in a disciplinary hearing.

255 (2) The board shall specify, by rule, what acts or
 256 omissions constitute a violation of subsection (1).

257 (3) When the board finds any person guilty of any of the
 258 grounds set forth in subsection (1), it may enter an order
 259 imposing one or more of the following penalties:

260 (a) Denial of an application for licensure.

261 (b) Revocation or suspension of a license.

262 (c) Imposition of an administrative fine not to exceed
 263 \$5,000 ~~\$1,000~~ for each count or separate offense.

264 (d) Issuance of a reprimand.

265 (e) Placement of the licensee on probation for a period of
 266 time and subject to such conditions as the board may specify.

267 (f) Restriction of the authorized scope of practice by the
 268 licensee.

269 (g) Restitution.

270 (4) The management corporation shall reissue the license
 271 of a disciplined engineer or business upon certification by the
 272 board that the disciplined person has complied with all of the
 273 terms and conditions set forth in the final order.

274 Section 5. Section 471.038, Florida Statutes, is amended
 275 to read:



276 471.038 Florida Engineers Management Corporation.--
 277 (1) This section may be cited as the "Florida Engineers
 278 Management Corporation Act."
 279 (2) The purpose of this section is to create a public-
 280 private partnership by providing that a single nonprofit
 281 corporation be established to provide administrative,
 282 investigative, and prosecutorial services to the board and that
 283 no additional nonprofit corporation be created for these
 284 purposes.
 285 (3) The Florida Engineers Management Corporation is
 286 created to provide administrative, investigative, and
 287 prosecutorial services to the board in accordance with the
 288 provisions of chapter 455 and this chapter. The management
 289 corporation may hire staff as necessary to carry out its
 290 functions. Such staff are not public employees for the purposes
 291 of chapter 110 or chapter 112, except that the board of
 292 directors and the staff are subject to the provisions of s.
 293 112.061. The provisions of s. 768.28 apply to the management
 294 corporation, which is deemed to be a corporation primarily
 295 acting as an instrumentality of the state, but which is not an
 296 agency within the meaning of s. 20.03(11). The management
 297 corporation shall:
 298 (a) Be a Florida corporation not for profit, incorporated
 299 under the provisions of chapter 617.
 300 (b) Provide administrative, investigative, and
 301 prosecutorial services to the board in accordance with the
 302 provisions of chapter 455, this chapter, and the contract
 303 required by this section.



304 (c) Receive, hold, and administer property and make only
 305 prudent expenditures directly related to the responsibilities of
 306 the board, and in accordance with the contract required by this
 307 section.

308 (d) Be approved by the board and the department to operate
 309 for the benefit of the board and in the best interest of the
 310 state.

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

313 (f) Have a seven-member board of directors, five of whom
 314 are to be appointed by the board and must be registrants
 315 regulated by the board and two of whom are to be appointed by
 316 the secretary and must be laypersons not regulated by the board.
 317 ~~All initial appointments shall expire on October 31, 2000.~~
 318 ~~Current members may be appointed to one additional term that~~
 319 ~~complies with the provisions of this paragraph. Two members~~
 320 ~~shall be appointed for 2 years, three members shall be appointed~~
 321 ~~for 3 years, and two members shall be appointed for 4 years. One~~
 322 ~~layperson shall be appointed to a 3-year term and one layperson~~
 323 ~~shall be appointed to a 4-year term. Thereafter, All~~
 324 appointments shall be for 4-year terms. No new member shall
 325 serve more than two consecutive terms. Failure to attend three
 326 consecutive meetings shall be deemed a resignation from the
 327 board, and the vacancy shall be filled by a new appointment.

328 (g) Select its officers in accordance with its bylaws. The
 329 members of the board of directors who were appointed by the
 330 board may be removed by the board, ~~with the concurrence of the~~



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331 ~~department, for the same reasons that a board member may be~~
332 ~~removed.~~

333 (h) Select the president of the management corporation,
334 who shall also serve as the executive director of the board,
335 subject to approval of the board.

336 (i)~~(h)~~ Use a portion of the interest derived from the
337 management corporation account to offset the costs associated
338 with the use of credit cards for payment of fees by applicants
339 or licensees.

340 (j)~~(i)~~ Operate under a ~~an annual~~ written contract with the
341 department which is approved by the board. The contract must
342 provide for, but is not limited to:

343 ~~1. Approval of the articles of incorporation and bylaws of~~
344 ~~the management corporation by the department and the board.~~

345 ~~1.2.~~ Submission by the management corporation of an annual
346 budget that complies with board rules for approval by the board
347 and the department.

348 ~~2.3.~~ Annual certification by the board and the department
349 that the management corporation is complying with the terms of
350 the contract in a manner consistent with the goals and purposes
351 of the board and in the best interest of the state. This
352 certification must be reported in the board's minutes. The
353 contract must also provide for methods and mechanisms to resolve
354 any situation in which the certification process determines
355 noncompliance.

356 ~~4. Employment by the department of a contract~~
357 ~~administrator to actively supervise the administrative,~~
358 ~~investigative, and prosecutorial activities of the management~~



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359 ~~corporation to ensure compliance with the contract and the~~
360 ~~provisions of chapter 455 and this chapter and to act as a~~
361 ~~liaison for the department, the board, and the management~~
362 ~~corporation to ensure the effective operation of the management~~
363 ~~corporation.~~

364 3.5. Funding of the management corporation through
365 appropriations allocated to the regulation of professional
366 engineers from the Professional Regulation Trust Fund.

367 4.6. The reversion to the board, or the state if the board
368 ceases to exist, of moneys, records, data, and property held in
369 trust by the management corporation for the benefit of the
370 board, if the management corporation is no longer approved to
371 operate for the board or the board ceases to exist. All records
372 and data in a computerized database shall be returned to the
373 department in a form that is compatible with the computerized
374 database of the department.

375 5.7. The securing and maintaining by the management
376 corporation, during the term of the contract and for all acts
377 performed during the term of the contract, of all liability
378 insurance coverages in an amount to be approved by the board
379 ~~department~~ to defend, indemnify, and hold harmless the
380 management corporation and its officers and employees, the
381 department and its employees, and the state against all claims
382 arising from state and federal laws. Such insurance coverage
383 must be with insurers qualified and doing business in the state.
384 The management corporation must provide proof of insurance to
385 the department. The department and its employees and the state
386 are exempt from and are not liable for any sum of money which



387 represents a deductible, which sums shall be the sole
388 responsibility of the management corporation. Violation of this
389 subparagraph shall be grounds for terminating the contract.

390 ~~6.8.~~ Payment by the management corporation, out of its
391 allocated budget, to the department of all costs of
392 representation by the board counsel, including salary and
393 benefits, travel, and any other compensation traditionally paid
394 by the department to other board counsels.

395 ~~7.9.~~ Payment by the management corporation, out of its
396 allocated budget, to the department of all costs incurred by the
397 management corporation or the board for the Division of
398 Administrative Hearings of the Department of Management Services
399 and any other cost for utilization of these state services.

400 ~~8.10.~~ Payment by the management corporation, out of its
401 allocated budget, to the department of reasonable ~~all~~ costs
402 associated with the contract monitor ~~administrator of the~~
403 ~~department, including salary and benefits, travel, and other~~
404 ~~related costs traditionally paid to state employees.~~

405 ~~(k)(j)~~ Provide for an annual financial audit of its
406 financial accounts and records by an independent certified
407 public accountant. The annual audit report shall include a
408 management letter in accordance with s. 11.45 and a detailed
409 supplemental schedule of expenditures for each expenditure
410 category. The annual audit report must be submitted to the
411 board, the department, and the Auditor General for review.

412 ~~(l)(k)~~ Provide for persons not employed by the management
413 corporation who are charged with the responsibility of receiving
414 and depositing fee and fine revenues to have a faithful



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415 performance bond in such an amount and according to such terms
416 as shall be determined in the contract.

417 (m)~~(l)~~ Submit to the secretary, the board, and the
418 Legislature, on or before October ~~January~~ 1 of each year, a
419 report on the status of the corporation which includes, but is
420 not limited to, information concerning the programs and funds
421 that have been transferred to the corporation. The report must
422 include: the number of license applications received; the number
423 approved and denied and the number of licenses issued; the
424 number of examinations administered and the number of applicants
425 who passed or failed the examination; the number of complaints
426 received; the number determined to be legally sufficient; the
427 number dismissed; the number determined to have probable cause;
428 the number of administrative complaints issued and the status of
429 the complaints; and the number and nature of disciplinary
430 actions taken by the board.

431 (n)~~(m)~~ Develop, and submit to ~~with~~ the department,
432 performance standards and measurable outcomes for the board to
433 adopt by rule in order to facilitate efficient and cost-
434 effective regulation.

435 (4) The management corporation may not exercise any
436 authority specifically assigned to the board under chapter 455
437 or this chapter, including determining probable cause to pursue
438 disciplinary action against a licensee, taking final action on
439 license applications or in disciplinary cases, or adopting
440 administrative rules under chapter 120.

441 (5) Notwithstanding the provisions of ss. 455.228,
442 455.2281, and 455.32, the duties and authority of the department



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443 to receive complaints and to investigate and deter the
444 unlicensed practice of engineering are delegated to the board.
445 The board may use funds in its unlicensed activity account
446 established under s. 455.2281 to perform its duties relating to
447 unlicensed activity.

448 (6) The board, with the concurrence of the board chair,
449 may issue emergency suspension or restriction orders pursuant to
450 s. 120.60.

451 (7)(5) The department shall retain the independent
452 authority to open or, investigate, ~~or prosecute~~ any cases or
453 complaints, as necessary to protect the public health, safety,
454 or welfare. In addition, the department may request prosecution
455 of these cases by the management corporation ~~shall retain sole~~
456 authority to issue emergency suspension or restriction orders
457 pursuant to s. 120.60 and to prosecute unlicensed activity cases
458 pursuant to ss. 455.228 and 455.2281.

459 (8)(6) Management corporation records are public records
460 subject to the provisions of s. 119.07(1) and s. 24(a), Art. I
461 of the State Constitution; however, public records exemptions
462 set forth in ss. 455.217 and 455.229 for records created or
463 maintained by the department shall apply to records created or
464 maintained by the management corporation. In addition, all
465 meetings of the board of directors are open to the public in
466 accordance with s. 286.011 and s. 24(b), Art. I of the State
467 Constitution. The exemptions set forth in s. 455.225, relating
468 to complaints and information obtained pursuant to an
469 investigation by the department, shall apply to such records
470 created or obtained by the management corporation only until an



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471 investigation ceases to be active. For the purposes of this
472 subsection, an investigation is considered active so long as the
473 management corporation or any law enforcement or administrative
474 agency is proceeding with reasonable dispatch and has a
475 reasonable, good faith belief that it may lead to the filing of
476 administrative, civil, or criminal proceedings. An investigation
477 ceases to be active when the case is dismissed prior to a
478 finding of probable cause and the board has not exercised its
479 option to pursue the case or 10 days after the board makes a
480 determination regarding probable cause. All information,
481 records, and transcriptions regarding a complaint that has been
482 determined to be legally sufficient to state a claim within the
483 jurisdiction of the board become available to the public when
484 the investigation ceases to be active, except information that
485 is otherwise confidential or exempt from s. 119.07(1). However,
486 in response to an inquiry about the licensure status of an
487 individual, the management corporation shall disclose the
488 existence of an active investigation if the nature of the
489 violation under investigation involves the potential for
490 substantial physical or financial harm to the public. The board
491 shall designate by rule those violations that involve the
492 potential for substantial physical or financial harm. The
493 department and the board shall have access to all records of the
494 management corporation, as necessary to exercise their authority
495 to approve and supervise the contract.

496 (9)~~(7)~~ The management corporation is the sole source and
497 depository for the records of the board, including all
498 historical information and records. The management corporation



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499 shall maintain those records in accordance with the guidelines
500 of the Department of State and shall not destroy any records
501 prior to the limits imposed by the Department of State.

502 (10)~~(8)~~ The board shall provide by rule for the procedures
503 the management corporation must follow to ensure that all
504 licensure examinations are secure while under the responsibility
505 of the management corporation and that there is an appropriate
506 level of monitoring during the licensure examinations.

507 Section 6. This act shall take effect October 1, 2003.