



CHAMBER ACTION

The Committee on Appropriations recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to professions; 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;



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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 and prosecute cases; amending s. 287.055, F.S.;
34 | exempting state agencies from the on-line procurement of
35 | professional services and from the payment of fees
36 | required pursuant thereto; providing an effective date.
37 |

38 | Be It Enacted by the Legislature of the State of Florida:
39 |

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

42 | 471.013 Examinations; prerequisites.--

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

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

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



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

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

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

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

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



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

95 Section 2. Subsections (1), (3), and (5) of section
96 471.015, Florida Statutes, are amended to read:

97 471.015 Licensure.--

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

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

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



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

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

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

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

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

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

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



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



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

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

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



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

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

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

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

219 471.033 Disciplinary proceedings.--

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



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

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

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

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

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

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

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

246 (h) Violating chapter 455.

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



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

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

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

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

261 (a) Denial of an application for licensure.

262 (b) Revocation or suspension of a license.

263 (c) Imposition of an administrative fine not to exceed
264 \$5,000 ~~\$1,000~~ for each count or separate offense.

265 (d) Issuance of a reprimand.

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

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

270 (g) Restitution.

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

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



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



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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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



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

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

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

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

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

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



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

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

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

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

442 (5) Notwithstanding the provisions of ss. 455.228,
443 455.2281, and 455.32, the duties and authority of the department



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

449 (6)(5) The department shall retain the independent
450 authority to open or, ~~investigate, or prosecute~~ any cases or
451 complaints, as necessary to protect the public health, safety,
452 or welfare. In addition, the department may request that the
453 management corporation prosecute such cases and shall retain
454 sole authority to issue emergency suspension or restriction
455 orders pursuant to s. 120.60 ~~and to prosecute unlicensed~~
456 ~~activity cases pursuant to ss. 455.228 and 455.2281.~~

457 (7)(6) Management corporation records are public records
458 subject to the provisions of s. 119.07(1) and s. 24(a), Art. I
459 of the State Constitution; however, public records exemptions
460 set forth in ss. 455.217 and 455.229 for records created or
461 maintained by the department shall apply to records created or
462 maintained by the management corporation. In addition, all
463 meetings of the board of directors are open to the public in
464 accordance with s. 286.011 and s. 24(b), Art. I of the State
465 Constitution. The exemptions set forth in s. 455.225, relating
466 to complaints and information obtained pursuant to an
467 investigation by the department, shall apply to such records
468 created or obtained by the management corporation only until an
469 investigation ceases to be active. For the purposes of this
470 subsection, an investigation is considered active so long as the
471 management corporation or any law enforcement or administrative



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

494 (8)~~(7)~~ The management corporation is the sole source and
495 depository for the records of the board, including all
496 historical information and records. The management corporation
497 shall maintain those records in accordance with the guidelines
498 of the Department of State and shall not destroy any records
499 prior to the limits imposed by the Department of State.



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500 ~~(9)(8)~~ The board shall provide by rule for the procedures
501 the management corporation must follow to ensure that all
502 licensure examinations are secure while under the responsibility
503 of the management corporation and that there is an appropriate
504 level of monitoring during the licensure examinations.

505 Section 6. Paragraph (f) is added to subsection (3) of
506 section 287.055, Florida Statutes, to read:

507 287.055 Acquisition of professional architectural,
508 engineering, landscape architectural, or surveying and mapping
509 services; definitions; procedures; contingent fees prohibited;
510 penalties.--

511 (3) PUBLIC ANNOUNCEMENT AND QUALIFICATION PROCEDURES.--

512 (f) The provisions of s. 287.057(23) are not applicable to
513 the procurement of professional services by an agency, and firms
514 providing professional services are exempt from the payment of
515 any fees required pursuant to that subsection.

516 Section 7. This act shall take effect October 1, 2003.