



1 A bill to be entitled

2 An act relating to professions; amending ss. 471.013 and
3 471.015, F.S.; revising provisions relating to the examinations
4 required to practice in this state as an engineer; amending s.
5 471.023, F.S.; requiring certification of any business
6 organization offering engineering services to the public;
7 amending s. 471.033, F.S.; revising provisions relating to
8 disciplinary penalties to increase the administrative fine and
9 authorize the imposition of restitution; amending s. 471.038,
10 F.S.; revising duties of the Board of Professional Engineers,
11 the Florida Engineers Management Corporation, and the Department
12 of Business and Professional Regulation with respect to
13 regulation of the practice of engineering; providing that the
14 president of the management corporation shall be selected by the
15 management corporation and shall serve as executive director of
16 the board, subject to approval of the board; eliminating the
17 position of contract administrator; revising the submission date
18 for the annual status report; restricting the requirement of
19 posting a performance bond to certain persons not employed by
20 the management corporation; revising duties and authority to
21 investigate complaints and prosecute cases; providing an
22 effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsection (1) of section 471.013, Florida
27 Statutes, is amended to read:

28 471.013 Examinations; prerequisites.--



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

33 1. Is a graduate from an approved engineering curriculum
34 of 4 years or more in a school, college, or university which has
35 been approved by the board and has a record of 4 years of active
36 engineering experience of a character indicating competence to
37 be in responsible charge of engineering;

38 2. Is a graduate of an approved engineering technology
39 curriculum of 4 years or more in a school, college, or
40 university within the State University System, having been
41 enrolled or having graduated prior to July 1, 1979, and has a
42 record of 4 years of active engineering experience of a
43 character indicating competence to be in responsible charge of
44 engineering; or

45 3. Has, in lieu of such education and experience
46 requirements, 10 years or more of active engineering work of a
47 character indicating that the applicant is competent to be
48 placed in responsible charge of engineering. However, this
49 subparagraph does not apply unless such person notifies the
50 department before July 1, 1984, that she or he was engaged in
51 such work on July 1, 1981.

52
53 The board shall adopt rules providing for the review and
54 approval of schools or colleges and the courses of study in
55 engineering in such schools and colleges. The rules shall be
56 based on the educational requirements for engineering as defined



57 in s. 471.005. The board may adopt rules providing for the
58 acceptance of the approval and accreditation of schools and
59 courses of study by a nationally accepted accreditation
60 organization.

61 (b) A person shall be entitled to take the fundamentals ~~an~~
62 examination for the purpose of determining whether she or he is
63 qualified to practice in this state as an engineer intern if she
64 or he is in the final year of, or is a graduate of, an approved
65 engineering curriculum in a school, college, or university
66 approved by the board.

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

70 (d) On or after October 1, 1992, every applicant who is
71 qualified to take either the fundamentals examination or the
72 principles and practice ~~any part of the~~ examination shall be
73 allowed to take either examination ~~any one part~~ five times,
74 notwithstanding the number of times that either examination ~~part~~
75 has been previously failed. If an applicant fails either ~~any~~
76 ~~part of the~~ examination ~~taken after October 1, 1992,~~ five times,
77 the board shall require the applicant to complete additional
78 college-level education courses in the areas of deficiency, as
79 determined by the board, as a condition of future eligibility to
80 take that ~~the~~ examination.

81 Section 2. Subsections (1), (3), and (5) of section
82 471.015, Florida Statutes, are amended to read:

83 471.015 Licensure.--



84 (1) The management corporation shall issue a license to
85 any applicant who the board certifies is qualified to practice
86 engineering and who has passed the fundamentals examination and
87 the principles and practice licensing examination.

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

90 (a) Qualifies to take the fundamentals examination and the
91 principles and practice examination as set forth in s. 471.013,
92 has passed a United States national, regional, state, or
93 territorial licensing examination that is substantially
94 equivalent to the fundamentals examination and the principles
95 and practice examination required by s. 471.013, and has
96 satisfied the experience requirements set forth in s. 471.013;
97 or

98 (b) Holds a valid license to practice engineering issued
99 by another state or territory of the United States, if the
100 criteria for issuance of the license were substantially the same
101 as the licensure criteria that existed in this state at the time
102 the license was issued.

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

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

110 2. Has received a doctorate degree in engineering from an
111 institution that has an undergraduate engineering degree program



112 which is accredited by the Accreditation Board for Engineering
113 Technology; or

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

117 (b) The board shall deem that an applicant who seeks
118 licensure by endorsement has passed an examination substantially
119 equivalent to the fundamentals examination and the principles
120 and practice ~~part I and part II of the engineering~~ examination
121 when such applicant has held a valid professional engineer's
122 license in another state for 25 years and has had 30 years of
123 continuous professional-level engineering experience.

124 Section 3. Section 471.023, Florida Statutes, is amended
125 to read:

126 471.023 Certification of business organizations
127 ~~partnerships and corporations.~~--

128 (1) The practice of, or the offer to practice, engineering
129 by licensees through a business organization, including any
130 partnership, corporation, business trust, or other legal entity,
131 ~~corporation or partnership~~ offering engineering services to the
132 public or by a business organization, including any partnership,
133 corporation, business trust, or other legal entity, ~~corporation~~
134 ~~or partnership~~ offering said services to the public through
135 licensees under this chapter as agents, employees, officers, or
136 partners is permitted only if the business organization ~~firm~~
137 possesses a certification issued by the management corporation
138 pursuant to qualification by the board, subject to the
139 provisions of this chapter. One or more of the principal



140 officers of the business organization ~~corporation~~ or one or more
141 partners, if the business organization is a ~~of the~~ partnership,
142 and all personnel of the business organization ~~corporation or~~
143 ~~partnership~~ who act in its behalf as engineers in this state
144 shall be licensed as provided by this chapter. All final
145 drawings, specifications, plans, reports, or documents involving
146 practices licensed under this chapter which are prepared or
147 approved for the use of the business organization ~~corporation or~~
148 ~~partnership~~ or for public record within the state shall be dated
149 and shall bear the signature and seal of the licensee who
150 prepared or approved them. Nothing in this section shall be
151 construed to mean that a license to practice engineering shall
152 be held by a business organization ~~corporation~~. Nothing herein
153 prohibits business organizations ~~corporations and partnerships~~
154 from joining together to offer engineering services to the
155 public, provided each business organization ~~corporation or~~
156 ~~partnership~~ otherwise meets the requirements of this section. No
157 business organization ~~corporation or partnership~~ shall be
158 relieved of responsibility for the conduct or acts of its
159 agents, employees, or officers by reason of its compliance with
160 this section, nor shall any individual practicing engineering be
161 relieved of responsibility for professional services performed
162 by reason of his or her employment or relationship with a
163 business organization ~~corporation or partnership~~.

164 (2) For the purposes of this section, a certificate of
165 authorization shall be required for a business organization
166 ~~corporation, partnership, association,~~ or person practicing
167 under a fictitious name, offering engineering services to the



168 public. However, when an individual is practicing engineering in
169 his or her own given name, he or she shall not be required to be
170 licensed under this section.

171 (3) The fact that a licensed engineer practices through a
172 business organization ~~corporation or partnership~~ shall not
173 relieve the licensee from personal liability for negligence,
174 misconduct, or wrongful acts committed by him or her.
175 Partnerships and all partners shall be jointly and severally
176 liable for the negligence, misconduct, or wrongful acts
177 committed by their agents, employees, or partners while acting
178 in a professional capacity. Any officer, agent, or employee of a
179 business organization other than a partnership ~~corporation~~ shall
180 be personally liable and accountable only for negligent acts,
181 wrongful acts, or misconduct committed by him or her or
182 committed by any person under his or her direct supervision and
183 control, while rendering professional services on behalf of the
184 business organization ~~corporation~~. The personal liability of a
185 shareholder or owner of a business organization ~~corporation~~, in
186 his or her capacity as shareholder or owner, shall be no greater
187 than that of a shareholder-employee of a corporation
188 incorporated under chapter 607. The business organization
189 ~~corporation~~ shall be liable up to the full value of its property
190 for any negligent acts, wrongful acts, or misconduct committed
191 by any of its officers, agents, or employees while they are
192 engaged on behalf of the business organization ~~corporation~~ in
193 the rendering of professional services.

194 (4) Each certification of authorization shall be renewed
195 every 2 years. Each business organization ~~partnership and~~



196 ~~corporation~~ certified under this section shall notify the board
197 within 1 month of any change in the information contained in the
198 application upon which the certification is based.

199 (5) Disciplinary action against a business organization
200 ~~corporation or partnership~~ shall be administered in the same
201 manner and on the same grounds as disciplinary action against a
202 licensed engineer.

203 Section 4. Section 471.033, Florida Statutes, is amended
204 to read:

205 471.033 Disciplinary proceedings.--

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

208 (a) Violating any provision of s. 455.227(1), s. 471.025,
209 or s. 471.031, or any other provision of this chapter or rule of
210 the board or department.

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

213 (c) Having a license to practice engineering revoked,
214 suspended, or otherwise acted against, including the denial of
215 licensure, by the licensing authority of another state,
216 territory, or country, for any act that would constitute a
217 violation of this chapter or chapter 455.

218 (d) Being convicted or found guilty of, or entering a plea
219 of nolo contendere to, regardless of adjudication, a crime in
220 any jurisdiction which directly relates to the practice of
221 engineering or the ability to practice engineering.

222 (e) Making or filing a report or record that the licensee
223 knows to be false, willfully failing to file a report or record



224 required by state or federal law, willfully impeding or
225 obstructing such filing, or inducing another person to impede or
226 obstruct such filing. Such reports or records include only those
227 that are signed in the capacity of a licensed engineer.

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

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

232 (h) Violating chapter 455.

233 (i) Practicing on a revoked, suspended, inactive, or
234 delinquent license.

235 (j) Affixing or permitting to be affixed his or her seal,
236 name, or digital signature to any final drawings,
237 specifications, plans, reports, or documents that were not
238 prepared by him or her or under his or her responsible
239 supervision, direction, or control.

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

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

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

247 (a) Denial of an application for licensure.

248 (b) Revocation or suspension of a license.

249 (c) Imposition of an administrative fine not to exceed
250 \$5,000 ~~\$1,000~~ for each count or separate offense.

251 (d) Issuance of a reprimand.



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

254 (f) Restriction of the authorized scope of practice by the
255 licensee.

256 (g) Restitution.

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

261 Section 5. Section 471.038, Florida Statutes, is amended
262 to read:

263 471.038 Florida Engineers Management Corporation.--

264 (1) This section may be cited as the "Florida Engineers
265 Management Corporation Act."

266 (2) The purpose of this section is to create a public-
267 private partnership by providing that a single nonprofit
268 corporation be established to provide administrative,
269 investigative, and prosecutorial services to the board and that
270 no additional nonprofit corporation be created for these
271 purposes.

272 (3) The Florida Engineers Management Corporation is
273 created to provide administrative, investigative, and
274 prosecutorial services to the board in accordance with the
275 provisions of chapter 455 and this chapter. The management
276 corporation may hire staff as necessary to carry out its
277 functions. Such staff are not public employees for the purposes
278 of chapter 110 or chapter 112, except that the board of
279 directors and the staff are subject to the provisions of s.



280 112.061. The provisions of s. 768.28 apply to the management
281 corporation, which is deemed to be a corporation primarily
282 acting as an instrumentality of the state, but which is not an
283 agency within the meaning of s. 20.03(11). The management
284 corporation shall:

285 (a) Be a Florida corporation not for profit, incorporated
286 under the provisions of chapter 617.

287 (b) Provide administrative, investigative, and
288 prosecutorial services to the board in accordance with the
289 provisions of chapter 455, this chapter, and the contract
290 required by this section.

291 (c) Receive, hold, and administer property and make only
292 prudent expenditures directly related to the responsibilities of
293 the board, and in accordance with the contract required by this
294 section.

295 (d) Be approved by the board and the department to operate
296 for the benefit of the board and in the best interest of the
297 state.

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

300 (f) Have a seven-member board of directors, five of whom
301 are to be appointed by the board and must be registrants
302 regulated by the board and two of whom are to be appointed by
303 the secretary and must be laypersons not regulated by the board.
304 ~~All initial appointments shall expire on October 31, 2000.~~
305 ~~Current members may be appointed to one additional term that~~
306 ~~complies with the provisions of this paragraph. Two members~~
307 ~~shall be appointed for 2 years, three members shall be appointed~~



308 ~~for 3 years, and two members shall be appointed for 4 years. One~~
309 ~~layperson shall be appointed to a 3-year term and one layperson~~
310 ~~shall be appointed to a 4-year term. Thereafter, All~~
311 appointments shall be for 4-year terms. No new member shall
312 serve more than two consecutive terms. Failure to attend three
313 consecutive meetings shall be deemed a resignation from the
314 board, and the vacancy shall be filled by a new appointment.

315 (g) Select its officers in accordance with its bylaws. The
316 members of the board of directors who were appointed by the
317 board may be removed by the board, ~~with the concurrence of the~~
318 ~~department, for the same reasons that a board member may be~~
319 ~~removed.~~

320 (h) Select the president of the management corporation,
321 who shall also serve as the executive director of the board,
322 subject to approval of the board.

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

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

330 ~~1. Approval of the articles of incorporation and bylaws of~~
331 ~~the management corporation by the department and the board.~~

332 ~~1.2.~~ Submission by the management corporation of an annual
333 budget that complies with board rules for approval by the board
334 and the department.



335 ~~2.3-~~ Annual certification by the board and the department
336 that the management corporation is complying with the terms of
337 the contract in a manner consistent with the goals and purposes
338 of the board and in the best interest of the state. This
339 certification must be reported in the board's minutes. The
340 contract must also provide for methods and mechanisms to resolve
341 any situation in which the certification process determines
342 noncompliance.

343 ~~4. Employment by the department of a contract~~
344 ~~administrator to actively supervise the administrative,~~
345 ~~investigative, and prosecutorial activities of the management~~
346 ~~corporation to ensure compliance with the contract and the~~
347 ~~provisions of chapter 455 and this chapter and to act as a~~
348 ~~liaison for the department, the board, and the management~~
349 ~~corporation to ensure the effective operation of the management~~
350 ~~corporation.~~

351 3.5- Funding of the management corporation through
352 appropriations allocated to the regulation of professional
353 engineers from the Professional Regulation Trust Fund.

354 ~~4.6-~~ The reversion to the board, or the state if the board
355 ceases to exist, of moneys, records, data, and property held in
356 trust by the management corporation for the benefit of the
357 board, if the management corporation is no longer approved to
358 operate for the board or the board ceases to exist. All records
359 and data in a computerized database shall be returned to the
360 department in a form that is compatible with the computerized
361 database of the department.



362 ~~5.7-~~ The securing and maintaining by the management
363 corporation, during the term of the contract and for all acts
364 performed during the term of the contract, of all liability
365 insurance coverages in an amount to be approved by the board
366 ~~department~~ to defend, indemnify, and hold harmless the
367 management corporation and its officers and employees, the
368 department and its employees, and the state against all claims
369 arising from state and federal laws. Such insurance coverage
370 must be with insurers qualified and doing business in the state.
371 The management corporation must provide proof of insurance to
372 the department. The department and its employees and the state
373 are exempt from and are not liable for any sum of money which
374 represents a deductible, which sums shall be the sole
375 responsibility of the management corporation. Violation of this
376 subparagraph shall be grounds for terminating the contract.

377 ~~6.8-~~ Payment by the management corporation, out of its
378 allocated budget, to the department of all costs of
379 representation by the board counsel, including salary and
380 benefits, travel, and any other compensation traditionally paid
381 by the department to other board counsels.

382 ~~7.9-~~ Payment by the management corporation, out of its
383 allocated budget, to the department of all costs incurred by the
384 management corporation or the board for the Division of
385 Administrative Hearings of the Department of Management Services
386 and any other cost for utilization of these state services.

387 ~~8.10-~~ Payment by the management corporation, out of its
388 allocated budget, to the department of reasonable ~~all~~ costs
389 associated with the contract monitor ~~administrator of the~~



390 ~~department, including salary and benefits, travel, and other~~
391 ~~related costs traditionally paid to state employees.~~

392 (k)~~(j)~~ Provide for an annual financial audit of its
393 financial accounts and records by an independent certified
394 public accountant. The annual audit report shall include a
395 management letter in accordance with s. 11.45 and a detailed
396 supplemental schedule of expenditures for each expenditure
397 category. The annual audit report must be submitted to the
398 board, the department, and the Auditor General for review.

399 (l)~~(k)~~ Provide for persons not employed by the management
400 corporation who are charged with the responsibility of receiving
401 and depositing fee and fine revenues to have a faithful
402 performance bond in such an amount and according to such terms
403 as shall be determined in the contract.

404 (m)~~(l)~~ Submit to the secretary, the board, and the
405 Legislature, on or before October ~~January~~ 1 of each year, a
406 report on the status of the corporation which includes, but is
407 not limited to, information concerning the programs and funds
408 that have been transferred to the corporation. The report must
409 include: the number of license applications received; the number
410 approved and denied and the number of licenses issued; the
411 number of examinations administered and the number of applicants
412 who passed or failed the examination; the number of complaints
413 received; the number determined to be legally sufficient; the
414 number dismissed; the number determined to have probable cause;
415 the number of administrative complaints issued and the status of
416 the complaints; and the number and nature of disciplinary
417 actions taken by the board.



418 ~~(n)(m)~~ Develop, and submit to ~~with~~ the department,
419 performance standards and measurable outcomes for the board to
420 adopt by rule in order to facilitate efficient and cost-
421 effective regulation.

422 (4) The management corporation may not exercise any
423 authority specifically assigned to the board under chapter 455
424 or this chapter, including determining probable cause to pursue
425 disciplinary action against a licensee, taking final action on
426 license applications or in disciplinary cases, or adopting
427 administrative rules under chapter 120.

428 (5) Notwithstanding the provisions of ss. 455.228,
429 455.2281, and 455.32, the duties and authority of the department
430 to receive complaints and to investigate and deter the
431 unlicensed practice of engineering are delegated to the board.
432 The board may use funds in its unlicensed activity account
433 established under s. 455.2281 to perform its duties relating to
434 unlicensed activity.

435 ~~(6)(5)~~ The department shall retain the independent
436 authority to open or, ~~investigate, or prosecute~~ any cases or
437 complaints, as necessary to protect the public health, safety,
438 or welfare. In addition, the department may request that the
439 management corporation prosecute such cases and shall retain
440 sole authority to issue emergency suspension or restriction
441 orders pursuant to s. 120.60 ~~and to prosecute unlicensed~~
442 ~~activity cases pursuant to ss. 455.228 and 455.2281.~~

443 ~~(7)(6)~~ Management corporation records are public records
444 subject to the provisions of s. 119.07(1) and s. 24(a), Art. I
445 of the State Constitution; however, public records exemptions



446 set forth in ss. 455.217 and 455.229 for records created or
447 maintained by the department shall apply to records created or
448 maintained by the management corporation. In addition, all
449 meetings of the board of directors are open to the public in
450 accordance with s. 286.011 and s. 24(b), Art. I of the State
451 Constitution. The exemptions set forth in s. 455.225, relating
452 to complaints and information obtained pursuant to an
453 investigation by the department, shall apply to such records
454 created or obtained by the management corporation only until an
455 investigation ceases to be active. For the purposes of this
456 subsection, an investigation is considered active so long as the
457 management corporation or any law enforcement or administrative
458 agency is proceeding with reasonable dispatch and has a
459 reasonable, good faith belief that it may lead to the filing of
460 administrative, civil, or criminal proceedings. An investigation
461 ceases to be active when the case is dismissed prior to a
462 finding of probable cause and the board has not exercised its
463 option to pursue the case or 10 days after the board makes a
464 determination regarding probable cause. All information,
465 records, and transcriptions regarding a complaint that has been
466 determined to be legally sufficient to state a claim within the
467 jurisdiction of the board become available to the public when
468 the investigation ceases to be active, except information that
469 is otherwise confidential or exempt from s. 119.07(1). However,
470 in response to an inquiry about the licensure status of an
471 individual, the management corporation shall disclose the
472 existence of an active investigation if the nature of the
473 violation under investigation involves the potential for



474 substantial physical or financial harm to the public. The board
475 shall designate by rule those violations that involve the
476 potential for substantial physical or financial harm. The
477 department and the board shall have access to all records of the
478 management corporation, as necessary to exercise their authority
479 to approve and supervise the contract.

480 (8)~~(7)~~ The management corporation is the sole source and
481 depository for the records of the board, including all
482 historical information and records. The management corporation
483 shall maintain those records in accordance with the guidelines
484 of the Department of State and shall not destroy any records
485 prior to the limits imposed by the Department of State.

486 (9)~~(8)~~ The board shall provide by rule for the procedures
487 the management corporation must follow to ensure that all
488 licensure examinations are secure while under the responsibility
489 of the management corporation and that there is an appropriate
490 level of monitoring during the licensure examinations.

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