

By Senator Clary

4-1116-03

See HB 931

1 A bill to be entitled
2 An act relating to dentistry; creating s.
3 466.005, F.S.; requiring the Board of Dentistry
4 to employ its executive director pursuant to
5 state personnel rules; providing for employment
6 of all board staff by the executive director;
7 declaring employees of the board public
8 employees; requiring the board to employ or
9 retain a dental compliance officer to ensure
10 proper and timely investigation of complaints;
11 providing for assignment to the board of
12 investigators employed or retained by the
13 Department of Health; authorizing negotiation
14 as a means of obtaining examination and legal
15 services, including private legal services;
16 providing for separate budget authority for the
17 board and the department and for separate
18 budget submission requirements; requiring the
19 department and the board to submit independent
20 annual reports for a specified period to the
21 Governor and Legislature on the effectiveness
22 and efficiency of these provisions; providing
23 an effective date.

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25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Section 466.005, Florida Statutes, is
28 created to read:
29 466.005 Board of Dentistry; executive director; staff;
30 dental compliance officer; support services; budget submission
31 and authority; annual reports.--

1 (1)(a) The Board of Dentistry shall employ its
2 executive director pursuant to the rules of the state
3 personnel system, including a background check by the
4 Department of Law Enforcement. The committee of the board
5 conducting the interview of applicants for executive director
6 of the board shall include the Secretary of Health, or his or
7 her designee, provided that such designee is not the executive
8 director of the board or other board staff. The executive
9 director shall be exclusively employed by the board and no
10 other board. The executive director shall report directly to
11 the board.

12 (b) The executive director shall be responsible for
13 employing all other staff members pursuant to state personnel
14 rules. Employees of the board are public employees for
15 purposes of chapters 110 and 112 and subject to the provisions
16 of s. 112.061.

17 (2)(a) A dental compliance officer shall be employed
18 or retained by the board to provide dental expertise and
19 advice to the executive director, lead investigators, intake
20 specialists, and the board regarding dental health regulation
21 issues to ensure that probable cause complaints are properly
22 investigated and brought before the probable cause panel in a
23 timely and efficacious manner.

24 (b) The dental compliance officer shall be responsible
25 for determining legal sufficiency of all dental complaints
26 received by the department. Pursuant to s. 456.073(2), such
27 determination shall be made by the dental compliance officer
28 within 5 working days after receipt of the complaint.

29 (3) Within each department district, an investigator
30 employed or retained by the department shall be assigned to
31 the board.

1 (4) Notwithstanding any other provision of law, the
2 board shall obtain services of legal counsel and prosecutors
3 in disciplinary cases by contracting with the department or
4 the Department of Legal Affairs or by retaining private
5 counsel pursuant to s. 287.057(3), provided that the board's
6 retention of private legal services, when applicable, shall be
7 preceded by a finding of the board that the types of services
8 required are of a highly specialized or unique nature not
9 available through the department or the Department of Legal
10 Affairs. Private counsel may be retained for prosecuting
11 multiple disciplinary cases to conclusion. In instances in
12 which the board retains private legal services, the chair of
13 the board shall act as agency head. No attorney shall
14 prosecute a disciplinary case and provide legal guidance to
15 the board with respect to the same disciplinary case.

16 (5) Notwithstanding any other provision of law, the
17 board shall, at its discretion, obtain examination services by
18 contracting with the department or by retaining private
19 services pursuant to s. 287.057(3).

20 (6)(a)1. In conjunction with each budgetary cycle, the
21 board shall submit a proposed budget to the department, the
22 Governor, the President of the Senate, and the Speaker of the
23 House of Representatives covering:

24 a. All anticipated revenue of all types, including,
25 but not limited to, examination, licensure, and permitting
26 fees as well as disciplinary fines and reimbursements for
27 court costs and prosecutorial services.

28 b. Direct operating expenses of the board, which shall
29 include personnel, legal counsel and other consulting
30 services, the processing and examination of licensure
31 applicants, the issuance of licenses and permits, the review,

1 investigation, and prosecution of disciplinary actions, and
2 all other support services retained by the board, as well as
3 office space, furnishings, equipment, supplies, postage,
4 printing, and other costs necessary to enable the board to
5 fulfill its responsibilities under this chapter.

6 2. In addition to reflecting direct anticipated
7 expenses, the board's proposed budget shall include an
8 operational contingency in an amount determined by the board
9 after reviewing historical utilization, special assessments,
10 and other cost variables.

11 (b) In conjunction with each budgetary cycle, the
12 department shall include as a separate line item in its
13 legislative budget request funding to cover all anticipated
14 expenses of the department in providing various support
15 services to the board, including, when applicable, expenses
16 associated with the collection of licensure and permitting
17 fees; the issuance of licenses and permits; accounting
18 services; complaint review and investigation; the collection
19 of disciplinary fines and expense reimbursement; and all other
20 indirect expenses of the board that are not incurred directly
21 by the board and are borne on behalf of the board by the
22 department. All expense detail as provided in this paragraph
23 shall reflect the methodology and calculations of the
24 department in allocating common expenses among all regulatory
25 boards, provided, however, that in no event shall the total
26 costs allocated for the provision of such support services by
27 the department exceed by more than 150 percent the ratio of
28 dental licensees to total licensees of all professions whose
29 boards receive the same type of support services from the
30 department. In the event the board disputes the allocation of
31 common expenses proposed by the department or any other

1 proposed expense of the department that is associated with the
2 department' s provision of support services to the board, the
3 board shall timely provide an exceptions report together with
4 appropriate recommendations to the Secretary of Health, the
5 Governor, the President of the Senate, and the Speaker of the
6 House of Representatives.

7 (c) The budget adopted by the state for the regulation
8 of dental professionals shall reflect the board's ability to
9 obtain support services from sources other than the department
10 and shall include separate line items to cover the revenue and
11 expenses of the board as specified in paragraph (a) and
12 separate line items to cover the revenue and expenses of the
13 department in connection with its rendering of support
14 services to the board as specified in paragraph (b).

15 (d) The board shall have budget authority over all
16 revenue and expenses authorized to be incurred by it, and the
17 department shall have budget authority over all revenue and
18 expenses authorized to be incurred by it on behalf of the
19 board. All revenues collected and all expenses incurred by the
20 department on behalf of the board shall be reported and duly
21 accounted to the board on a quarterly basis. Funds collected
22 on behalf of the board by the department shall not be
23 commingled with funds collected by the department from other
24 regulatory sources not affiliated with the regulation of
25 dental professionals, and the allocation of common expenses
26 borne by the department on behalf of all boards shall be
27 annually reported to the board in terms of cost and the total
28 number of outstanding licenses for all professions whose
29 boards receive support services from the department. The
30 department shall maintain separate revenue and expense
31 accounts for each regulatory board under its support

1 jurisdiction. Except as provided by law, no funds may be
2 expended from the account of a profession regulated by the
3 department to pay for the expenses incurred on behalf of
4 another profession regulated by the department.

5 (7) The department and the board shall each
6 independently submit a report to the Governor, the President
7 of the Senate, and the Speaker of the House of Representatives
8 prior to January 1 of each year through 2008 on the
9 effectiveness and efficiency of this section, including:

10 (a) The revenues, expenditures, and cash balances for
11 the prior fiscal year and a review of the adequacy of existing
12 revenues.

13 (b) The nature and extent of support services provided
14 to the board by the department and from vendors other than the
15 department.

16 (c) The number of licensure examinations taken and the
17 number of licenses issued, revoked, or suspended.

18 (d) The fees collected for licensure examination.

19 (e) The number and location of disciplinary complaints
20 by complaints received, verified, determined to be legally
21 sufficient, investigated, referred to the board's probable
22 cause panel, prosecuted, subject to final board action, and
23 appealed; the number and maximum and average durations of
24 licenses suspended; the number of licenses revoked; the number
25 of cases spanning more than 180 days, 270 days, or 365 days,
26 respectively, from receipt of a legally sufficient complaint
27 to submission to the board's probable cause panel; the
28 proportion of cases that were eligible for, and the number of
29 cases actually resolved by, citation; the proportion of cases
30 in which probable cause was found; the number of cases in
31 which probable cause was found that were not prosecuted or

1 that did not result in a stipulated agreement; the number of
2 cases involving a stipulated agreement; the number of cases
3 involving a stipulated agreement that was changed by the board
4 and the number of cases involving a stipulated agreement that
5 was rejected by the board; the number of cases taking in
6 excess of 1 year, 2 years, or 3 years, respectively, from the
7 date of receipt of a legally sufficient complaint to final
8 board action; the number of cases involving a formal hearing;
9 the status of all cases appealed; the number of cases in which
10 licensure suspension or revocation has been stayed pending
11 appeal; the number of emergency suspension orders issued; the
12 average and maximum ranges of costs of complaint
13 investigations and prosecutions; and the amount of fines and
14 expenses collected by types of cases prosecuted.

15 (f) The status of the development and implementation
16 of rules providing for disciplinary guidelines pursuant to s.
17 456.079.

18 (g) Such recommendations for administrative and
19 statutory changes as are necessary to facilitate efficient and
20 cost-effective operation of the board and the department.

21 Section 2. This act shall take effect October 1, 2003.
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