

By the Committee on Health, Aging, and Long-Term Care; and  
Senator Clary

317-2258-03

1                                   A bill to be entitled  
2           An act creating the Board of Dentistry  
3           Empowerment Act; creating s. 466.055, F.S.;  
4           providing for the appointment of an executive  
5           director; providing for duties, and board  
6           oversight; requiring director to oversee staff;  
7           requiring the department to contract for a  
8           dental intake officer and providing  
9           qualifications; requiring certain  
10          responsibilities of the officer; requiring the  
11          board to establish certain performance  
12          parameters for departmental handling of  
13          disciplinary cases, and consequences; requiring  
14          testing services to report to the board if  
15          requested; requiring a board spending plan and  
16          its content; requiring board spending authority  
17          over discretionary budget items; requiring a  
18          department report of certain information;  
19          providing for a board response; providing an  
20          effective date.

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

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24           Section 1. Section 466.055, Florida Statutes, is  
25 created to read:

26           466.055 Board of Dentistry Empowerment Act.--  
27           (1) If requested by the Board of Dentistry, it shall  
28 direct the department whom to appoint as executive director  
29 pursuant to the rules of the state personnel system. The  
30 committee conducting interviews of candidates for executive  
31 director shall consist of the board chairman or his designee

1 and the secretary or his or her designee. A list of final  
2 candidates shall be submitted to the board, which shall  
3 approve the candidate to be hired. The approval process shall  
4 include the right of the board to interview the list of  
5 submitted candidates. The board may reject all the candidates  
6 on the submitted list and request that a new list be submitted  
7 by the interview committee. The executive director shall  
8 perform those duties and responsibilities specific to the  
9 Board of Dentistry and shall exclusively serve the Board of  
10 Dentistry. The board shall monitor the performance of the  
11 executive director, based on established performance standards  
12 and should the board determine, by a majority vote, that the  
13 performance of the executive director is consistently below  
14 the performance standards of the board and thus unacceptable,  
15 the board shall promptly notify the department of its  
16 findings, in writing, and the department shall take  
17 appropriate action to replace the executive director, pursuant  
18 to the state personnel rules.

19 (2) The executive director shall be responsible for  
20 overseeing the hiring of all other staff members who work  
21 directly for the executive director and who perform services  
22 for the board.

23 (3) The department shall contract for a dental intake  
24 officer when requested by the Board of Dentistry in accordance  
25 with the state personnel system and qualifications established  
26 for such position by the Board of Dentistry. The  
27 qualifications for the position shall include a requirement  
28 that the candidate be a licensed Florida dentist in good  
29 standing.

30 (4) The dental intake officer shall be responsible for  
31 determining the legal sufficiency of all dental complaints

1 received by the department within 5 working days after the  
2 complaint is filed; advising the board regarding dental health  
3 regulation issues; and advising field investigators on dental  
4 issues related to the complaints to assure that complaints are  
5 properly investigated in a timely and efficacious manner.

6 (5) The Board of Dentistry, in consultation with the  
7 department, shall establish reasonable and comprehensive  
8 performance parameters for the prosecution of disciplinary  
9 cases by the department. Such parameters shall reflect the  
10 quality and quantity of services to be provided to the board,  
11 including, but not limited to, the proportion of cases that  
12 are successfully prosecuted through final hearing and appeal  
13 if such cases involve irremediable harm or injury or the  
14 immediate threat of irremediable harm or injury to the  
15 patient. The board shall conduct an annual evaluation to  
16 determine if the department has met the established  
17 performance parameters. A finding by the board that the  
18 department has failed to meet established parameters shall  
19 enable the board, by a majority vote, to instruct the  
20 department to retain sufficient outside contractual  
21 prosecutorial services pursuant to s. 287.057(3), to fulfill  
22 the immediate and foreseeable prosecutorial needs of the board.  
23 Contract negotiations and vendor selection shall be conducted  
24 in consultation with the chairman of the board or his  
25 designee. Contracts for prosecutorial services may not be  
26 executed by the department until such contract is jointly  
27 approved by the board and the secretary. Each contract for  
28 prosecutorial services shall include, at a minimum, the  
29 performance parameters developed by the board for its  
30 assessment of the department.

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1           (6) If requested, a representative of testing services  
2 of the Department of Health shall appear before the board, or  
3 a committee of the board, following the completion of each  
4 examination cycle to discuss examination issues. If the board  
5 identifies issues to be addressed, testing services shall  
6 report to the board, as requested at the next board meeting,  
7 on its progress in addressing the issues identified by the  
8 board.

9           (7)(a) In conjunction with each fiscal year budgetary  
10 cycle, the department, in consultation with the board, shall  
11 develop a Board of Dentistry spending plan encompassing  
12 anticipated revenue of all types along with all anticipated  
13 operating expenses of the board and associated support  
14 services of the department, which shall include all direct and  
15 allocated expenses necessary to enable the board to fulfill  
16 its responsibilities. All expenditure detail as provided  
17 herein shall reflect the methodology and calculations of the  
18 department in allocating common expenses among all regulatory  
19 boards.

20           (b) The Board of Dentistry shall have spending  
21 authority over discretionary budgetary items, as determined by  
22 the department and the board jointly. Discretionary budgetary  
23 items shall include the selection of board meeting venue,  
24 hotel facilities, and accommodations; travel of board members  
25 and necessary staff to all meetings of the board; attendance  
26 by board members at meetings and conferences deemed to be  
27 important by the board in fulfilling its responsibilities,  
28 monitoring performance, and confirming the accuracy of  
29 information provided to the board or others which relates to  
30 the duties and responsibilities of the board; and an  
31 operational contingency. Operational contingency is that

1 portion of cash on hand that exceeds that required for the  
2 5-year spending plan as described in s. 456.005. The  
3 operational contingency may be used for a special project by  
4 the board in fulfilling its responsibilities if a deficit does  
5 not or would not exist for the profession. In exercising its  
6 spending authority over discretionary budget items, the board  
7 must adhere to all applicable state laws and directives;  
8 assure that all meeting locations are accessible to the public  
9 and licensees; assure that board meetings are conducted in an  
10 effective and efficient manner for the public and licensees;  
11 assure that the minimal number of board members or staff  
12 attend any meeting or conference; and assure the maximum use  
13 of technology. When requested by the board, the department  
14 shall provide timely procurement assistance to facilitate all  
15 discretionary expenditures of the board.

16 (8)(a) The department shall submit a report to the  
17 Governor, the President of the Senate, and the Speaker of the  
18 House of Representatives by November 1 of each year on the  
19 effectiveness and efficiency of this section, including:

20 1. The revenues, expenditures, and cash balances for  
21 the prior year, and a review of the adequacy of existing  
22 revenues;

23 2. The nature and extent of all services provided to  
24 the board by the department;

25 3. The total cost allocated by the department for each  
26 service provided by the department to the board and the amount  
27 and percent by which each cost is appropriate to dentistry's  
28 pro-rata share of the total cost of such services provided by  
29 the department to all affected boards, councils, and  
30 professions;

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1           4. The number of licensure examinations taken, the  
2 fees collected for licensure examination, and the time from  
3 which a candidate for licensure completed the required  
4 examination to the time in which the candidate received the  
5 results;

6           5. The number of licenses issued, revoked, or  
7 suspended;

8           6. The number of disciplinary complaints received,  
9 determined to be legally sufficient, investigated, referred to  
10 the board's probable cause panel, prosecuted, subject to final  
11 board action, and appealed; the number, maximum, and average  
12 duration of licenses suspended; the number of licenses  
13 revoked; the number of cases spanning more than 180,270, and  
14 365 days from receipt of complaints to submission to the  
15 board's probable cause panel; the proportion of cases which  
16 were eligible for and the number of cases actually resolved by  
17 citation; the proportion of cases where probable cause was  
18 found; the number of cases where probable cause was found that  
19 were not prosecuted or that did not result in stipulated  
20 agreements; the number of cases involving stipulated  
21 agreements; the number of cases involving stipulated  
22 agreements which were changed by the board and the number of  
23 cases involving stipulated agreements that were rejected  
24 without modification by the board; the number of cases taking  
25 in excess of 1 year from the date of receipt of a complaint to  
26 final board action; the number of cases involving formal  
27 hearings; the status of all cases appealed; the number of  
28 cases where licensure suspension or revocation was stayed  
29 pending appeal; the number of emergency suspension orders  
30 issued; the average and maximum range of costs of complaint

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1 investigations and prosecutions; and the amount of fines and  
2 expenses collected by type of cases prosecuted;

3 7. The status of the development and implementation of  
4 rules providing for disciplinary guidelines pursuant to s.  
5 456.079; and

6 8. Such recommendations for administrative and  
7 statutory changes necessary to facilitate efficient and  
8 cost-effective operation of the board and the department.

9 (b) The department shall include in the report any  
10 statement, comment, suggestion, recommendation, or objection  
11 made by the board in response to the report.

12 Section 2. This act shall take effect July 1, 2003.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 2144

The Committee Substitute makes the following changes:

- Revises the procedures for employment and retention of an executive director for the Board of Dentistry and board support staff;
- Requires the employment of a Florida-licensed dentist as a dental intake officer when requested by the board, with specified responsibilities;
- Requires the Board of Dentistry to establish, in consultation with the Department of Health, performance parameters for the prosecution of disciplinary cases by the department or any contract vendors for prosecutorial services;
- Establishes a mechanism for contractual prosecutorial services for the Board of Dentistry cases;
- Creates a formal procedure for the Board of Dentistry to address dental examination issues with the Department of Health;
- Establishes fiscal and budget procedures for spending involving the Board of Dentistry and the board is granted spending authority over discretionary budgetary items;
- Requires the Department of Health to create a report for submission to the Governor and Legislature along with a response from the Board of Dentistry; and
- The effective date is changed from October 1, 2003, to July 1, 2003.