

By the Committee on Regulated Industries; and Senator Pruitt

315-2214-04

1                                   A bill to be entitled  
2           An act relating to regulation of professions  
3           under the Department of Business and  
4           Professional Regulation; amending s. 455.32,  
5           F.S.; revising the Management Privatization  
6           Act; providing definitions; authorizing the  
7           department, pursuant to board, commission, or  
8           council request, to establish and contract with  
9           a nonprofit corporation to perform support  
10          services specified pursuant to contract for the  
11          applicable profession; requiring development of  
12          a business case subject to executive and  
13          legislative approval; providing corporation  
14          organization, powers, duties, and staff;  
15          authorizing per diem and reimbursement for  
16          travel expenses; requiring adherence to the  
17          code of ethics for public officers and  
18          employees; providing sovereign immunity;  
19          providing for corporation boards of directors  
20          and for contract managers; providing contract  
21          requirements; establishing financing,  
22          reporting, recordkeeping, and audit  
23          requirements; providing for quarterly  
24          assessment and annual certification of contract  
25          compliance; providing requirements in the event  
26          any provision of the section is held  
27          unconstitutional; amending s. 455.2177, F.S.;  
28          revising requirements for the monitoring of  
29          continuing education compliance; removing  
30          provisions relating to privatization and  
31          dispute resolution; revising penalties for

1 failure to comply with continuing education  
2 requirements; revising requirements for waiver  
3 of such monitoring; providing rulemaking  
4 authority; amending s. 455.2178, F.S.; revising  
5 reporting requirements for continuing education  
6 providers; removing provisions relating to  
7 private vendors; revising penalties for  
8 noncompliant continuing education providers;  
9 providing for conduct of investigations and  
10 prosecutions of noncompliant continuing  
11 education providers; providing rulemaking  
12 authority; amending s. 455.2179, F.S.; revising  
13 continuing education provider and course  
14 approval procedures; revising penalties for  
15 failing to teach approved course content;  
16 providing for conduct of investigations and  
17 prosecutions of noncompliant continuing  
18 education providers; providing rulemaking  
19 authority; amending s. 455.2281, F.S., relating  
20 to unlicensed activities; removing a  
21 cross-reference to conform; amending s.  
22 481.205, F.S., relating to the Board of  
23 Architecture and Interior Design; removing a  
24 cross-reference to conform; providing an  
25 effective date.

26  
27 Be It Enacted by the Legislature of the State of Florida:

28  
29 Section 1. Section 455.32, Florida Statutes, is  
30 amended to read:

31 (Substantial rewording of section. See

1           s. 455.32, F.S., for present text.)  
2           455.32 Management Privatization Act.--  
3           (1) This section shall be known by the popular name  
4 the "Management Privatization Act."  
5           (2) The purpose of this section is to create a model  
6 for contracting with nonprofit corporations to provide  
7 services for the regulation of Florida's professionals which  
8 will ensure a consistent, effective application of regulatory  
9 provisions and appropriate budgetary oversight to achieve the  
10 most efficient use of public funds. Nonprofit corporations may  
11 be established pursuant to this section to provide  
12 administrative, examination, licensing, investigative, and  
13 prosecutorial services to any board created within the  
14 department pursuant to chapter 20 in accordance with the  
15 provisions of this chapter and the applicable practice act. No  
16 additional entities may be created to provide these services.  
17           (3) As used in this section, the term:  
18           (a) "Board" means any board, commission, or council  
19 created within the department pursuant to chapter 20.  
20           (b) "Corporation" means any nonprofit corporation with  
21 which the department contracts pursuant to subsection (14).  
22           (c) "Department" means the Department of Business and  
23 Professional Regulation.  
24           (d) "Contract manager" means an employee of the  
25 department who serves as a liaison between the department, the  
26 board, and the corporation and is responsible for ensuring  
27 that the police powers of the state are not exercised by the  
28 corporation, while also serving as the contract monitor.  
29           (e) "Business case" means a needs assessment,  
30 financial feasibility study, and corporate financial model as  
31 specified in paragraph (4).

1           (f) "Performance standards and measurable outcomes"  
2 shall include, but not be limited to, timeliness and  
3 qualitative criteria for the activities specified in paragraph  
4 (6)(o).

5           (g) "Secretary" means the Secretary of Business and  
6 Professional Regulation.

7           (4) Based upon the request of any board, the  
8 department is authorized to establish and contract with a  
9 nonprofit corporation to provide administrative, examination,  
10 licensing, investigative, and prosecutorial services to that  
11 board, in accordance with the provisions of this chapter and  
12 the applicable practice act and as specified in a contract  
13 between the department and the corporation. The privatization  
14 request must contain a business case that includes a needs  
15 assessment and financial feasibility study performed by the  
16 board or an entity commissioned by a majority vote of the  
17 board. The needs assessment must contain specific performance  
18 standards and measurable outcomes and an evaluation of the  
19 department's current and projected performance in regard to  
20 those standards. The feasibility study must include the  
21 financial status of the board for the current fiscal year and  
22 the next 2 fiscal years. A financial model for the corporation  
23 must also be developed which includes projected costs and  
24 expenses for the first 2 years of operation and specific  
25 performance standards and measurable outcomes. The business  
26 case must be approved by the Executive Office of the Governor  
27 and the Legislative Budget Commission prior to the  
28 establishment of the nonprofit corporation.

29           (5) Any such corporation may hire staff as necessary  
30 to carry out its functions. Such staff are not public  
31 employees for the purposes of chapter 110 or chapter 112,

1 except that the board of directors and the employees of the  
2 corporation are subject to the provisions of s. 112.061 and  
3 part III of chapter 112. The provisions of s. 768.28 apply to  
4 each such corporation, which is deemed to be a corporation  
5 primarily acting as an instrumentality of the state but which  
6 is not an agency within the meaning of s. 20.03(11).

7 (6) Each corporation created to perform the functions  
8 provided in this section shall:

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

11 (b) Provide administrative, examination, licensing,  
12 investigative, and prosecutorial services to the board, which  
13 services may include unlicensed activity investigations and  
14 prosecutions, in accordance with the provisions of this  
15 chapter, the applicable practice act, and the contract  
16 required by this section.

17 (c) Receive, hold, and administer property and make  
18 only prudent expenditures directly related to the  
19 responsibilities of the applicable board and in accordance  
20 with the contract required by this section.

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

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

25 (f) Be funded through appropriations allocated to the  
26 regulation of the relevant profession from the Professional  
27 Regulation Trust Fund pursuant to s. 455.219.

28 (g) Have a five-member board of directors, three of  
29 whom are to be appointed by the applicable board and must be  
30 licensees regulated by that board and two of whom are to be  
31 appointed by the secretary and are laypersons not regulated by

1 that board. Initially, one member shall be appointed for 2  
2 years, two members shall be appointed for 3 years, and two  
3 members shall be appointed for 4 years. One layperson shall be  
4 appointed to a 3-year term and one layperson shall be  
5 appointed to a 4-year term. Thereafter, all appointments shall  
6 be for 4-year terms. No new member shall serve more than two  
7 consecutive terms. Failure to attend three consecutive  
8 meetings shall be deemed a resignation from the board of  
9 directors, and the vacancy shall be filled by a new  
10 appointment. No professional board member may also serve on  
11 the board of directors for the corporation.

12 (h) Select its officers in accordance with its bylaws.  
13 The members of the board of directors may be removed by the  
14 Governor, for the same reasons that a board member may be  
15 removed pursuant to s. 455.209.

16 (i) Select the president of the corporation, who shall  
17 manage the operations of the corporation, subject to the  
18 approval of the board.

19 (j) Use a portion of the interest derived from the  
20 corporation account to offset the costs associated with the  
21 use of credit cards for payment of fees by applicants or  
22 licensees.

23 (k) Operate under a written contract with the  
24 department.

25 (l) Provide for an annual financial audit of its  
26 financial accounts and records by an independent certified  
27 public accountant. The annual audit report shall include a  
28 management letter in accordance with s. 11.45 and a detailed  
29 supplemental schedule of expenditures for each expenditure  
30 category. The annual audit report must be submitted to the  
31 board, the department, and the Auditor General for review.

1       (m) Provide for all employees and nonemployees charged  
2 with the responsibility of receiving and depositing fee and  
3 fine revenues to have a faithful performance bond in such an  
4 amount and according to such terms as shall be determined in  
5 the contract.

6       (n) Keep financial and statistical information as  
7 necessary to completely disclose the financial condition and  
8 operation of the corporation and as requested by the Office of  
9 Program Policy Analysis and Government Accountability, the  
10 Auditor General, and the department.

11       (o) Submit to the secretary, the board, and the  
12 Legislature, on or before October 1 of each year, a report  
13 describing all of the activities of the corporation for the  
14 previous fiscal year which includes, but is not limited to,  
15 information concerning the programs and funds that have been  
16 transferred to the corporation. The report must include:

- 17           1. The number of license renewals.
- 18           2. The number of license applications received.
- 19           3. The number of license applications approved and  
20 denied and the number of licenses issued.
- 21           4. The average time required to issue a license.
- 22           5. The number of examinations administered and the  
23 number of applicants who passed or failed the examination.
- 24           6. The number of complaints received.
- 25           7. The number of complaints determined to be legally  
26 sufficient.
- 27           8. The number of complaints dismissed.
- 28           9. The number of complaints determined to have  
29 probable cause.
- 30           10. The number of administrative complaints issued and  
31 the status of the complaints.

1           11. The number and nature of disciplinary actions  
2 taken by the board.

3           12. All revenues received and all expenses incurred by  
4 the corporation during the preceding fiscal year in its  
5 performance of the duties under the contract.

6           13. Any audit performed under paragraph (1), including  
7 financial reports and performance audits.

8           14. The status of the compliance of the corporation  
9 with all performance-based program measures adopted by the  
10 board.

11           (p) Meet or exceed the requirements of the business  
12 case developed by the board and approved by the Executive  
13 Office of the Governor and the Legislative Budget Commission.

14           (7) The department shall annually certify that the  
15 corporation is complying with the terms of the contract in a  
16 manner consistent with the goals and purposes of the board and  
17 in the best interest of the state. If the department  
18 determines the corporation is not compliant with the terms of  
19 the contract, including performance standards and measurable  
20 outcomes, the contract may be terminated as provided in  
21 paragraph (14)(e).

22           (8) Nothing in this section shall limit the ability of  
23 the corporation to enter into contracts and perform all other  
24 acts incidental to those contracts which are necessary for the  
25 administration of its affairs and for the attainment of its  
26 purposes.

27           (9) The corporation may acquire by lease, and  
28 maintain, use, and operate, any real or personal property  
29 necessary to perform the duties provided by the contract and  
30 this section.

31



1           (10) The corporation may exercise the authority  
2 assigned to the department or board under this section or the  
3 practice act of the relevant profession, pursuant to the  
4 contract, including but not limited to initiating disciplinary  
5 investigations for unlicensed practice of the relevant  
6 profession. The corporation may make a determination of legal  
7 sufficiency to begin the investigative process as provided in  
8 s. 455.225. However, the department or the board may not  
9 delegate to the corporation, by contract or otherwise, the  
10 authority for determining probable cause to pursue  
11 disciplinary action against a licensee, taking final action on  
12 license actions or on disciplinary cases, or adopting  
13 administrative rules under chapter 120.

14           (11) The department shall retain the independent  
15 authority to open, investigate, or prosecute any cases or  
16 complaints, as necessary to protect the public health, safety,  
17 or welfare. In addition, the department shall retain sole  
18 authority to issue emergency suspension or restriction orders  
19 pursuant to s. 120.60 or may delegate concurrent authority for  
20 this purpose to the relevant professional board.

21           (12) The corporation is the sole source and depository  
22 for the records of the board, including all historical  
23 information and records. The corporation shall maintain those  
24 records in accordance with the guidelines of the Department of  
25 State and shall not destroy any records prior to the limits  
26 imposed by the Department of State.

27           (13) The board shall provide by rule for the  
28 procedures the corporation must follow to ensure that all  
29 licensure examinations are secure while under the  
30 responsibility of the corporation and that there is an  
31

1 appropriate level of monitoring during the licensure  
2 examinations.

3 (14) The contract between the department and the  
4 corporation must be in compliance with this section and other  
5 applicable laws. The department shall retain responsibility  
6 for any duties it currently exercises relating to its police  
7 powers and any other current duty that is not provided to the  
8 corporation by contract or this section. The contract shall  
9 provide, at a minimum, that:

10 (a) The corporation provide administrative,  
11 examination, licensing, investigative, and prosecutorial  
12 services in accordance with the provisions of this section and  
13 the practice act of the relevant profession. The prosecutorial  
14 functions of the corporation shall include the authority to  
15 pursue investigations leading to unlicensed practice  
16 complaints, with the approval of and at the direction of the  
17 relevant professional board. With approval of the department  
18 and the board, the corporation may subcontract for specialized  
19 services for the investigation and prosecution of unlicensed  
20 activity pursuant to this chapter. The corporation shall be  
21 required to report all criminal matters, including unlicensed  
22 activity that constitutes a crime, to the state attorney for  
23 criminal prosecution pursuant to s. 455.2277.

24 (b) The articles of incorporation and bylaws of the  
25 corporation be approved by the department.

26 (c) The corporation submit an annual budget for  
27 approval by the department. If the department's appropriations  
28 request differs from the budget submitted by the corporation,  
29 the relevant professional board shall be permitted to  
30 authorize the inclusion in the appropriations request a  
31

1 comment or statement of disagreement with the department's  
2 request.

3 (d) The corporation utilize the department's licensing  
4 and computerized database system.

5 (e) The corporation be annually certified by the  
6 department as complying with the terms of the contract in a  
7 manner consistent with the goals and purposes of the board and  
8 in the best interest of the state. As part of the annual  
9 certification, the department shall make quarterly assessments  
10 regarding contract compliance by the corporation. The contract  
11 must also provide for methods and mechanisms for resolving any  
12 situation in which the assessment and certification process  
13 determines noncompliance, to include termination.

14 (f) The department employ a contract manager to  
15 actively monitor the activities of the corporation to ensure  
16 compliance with the contract, the provisions of this chapter,  
17 and the applicable practice act.

18 (g) The corporation be funded through appropriations  
19 allocated to the regulation of the relevant profession from  
20 the Professional Regulation Trust Fund.

21 (h) If the corporation is no longer approved to  
22 operate for the board or the board ceases to exist, all  
23 moneys, records, data, and property held in trust by the  
24 corporation for the benefit of the board revert to the  
25 department, or the state if the department ceases to exist.  
26 All records and data in a computerized database must be  
27 returned to the department in a form that is compatible with  
28 the computerized database of the department.

29 (i) The corporation secure and maintain, during the  
30 term of the contract and for all acts performed during the  
31 term of the contract, all liability insurance coverages in an

1 amount to be approved by the department to defend, indemnify,  
2 and hold harmless the corporation and its officers and  
3 employees, the department and its employees, the board, and  
4 the state against all claims arising from state and federal  
5 laws. Such insurance coverage must be with insurers qualified  
6 and doing business in the state. The corporation must provide  
7 proof of insurance to the department. The department and its  
8 employees, the board, and the state are exempt from and are  
9 not liable for any sum of money which represents a deductible,  
10 which sums shall be the sole responsibility of the  
11 corporation. Violation of this paragraph shall be grounds for  
12 terminating the contract.

13 (j) The board, in lieu of the department, shall retain  
14 board counsel pursuant to the requirements of s. 455.221. The  
15 corporation, out of its allocated budget, shall pay all costs  
16 of representation by the board counsel, including salary and  
17 benefits, travel, and any other compensation traditionally  
18 paid by the department to other board counsels.

19 (k) The corporation, out of its allocated budget, pay  
20 to the department all costs incurred by the corporation or the  
21 board for the Division of Administrative Hearings of the  
22 Department of Management Services and any other cost for  
23 utilization of these state services.

24 (l) The corporation, out of its allocated budget, pay  
25 to the department all direct and indirect costs associated  
26 with the monitoring of the contract, including salary and  
27 benefits, travel, and other related costs traditionally paid  
28 to state employees.

29 (m) The corporation comply with the performance  
30 standards and measurable outcomes developed by the board and  
31

1 the department. The performance standards and measurable  
2 outcomes must be specified within the contract.

3 (15) Corporation records are public records subject to  
4 the provisions of s. 119.07(1) and s. 24(a), Art. I of the  
5 State Constitution; however, public records exemptions set  
6 forth in ss. 455.217, 455.225, and 455.229 for records held by  
7 the department shall apply to records held by the corporation.  
8 In addition, all meetings of the board of directors are open  
9 to the public in accordance with s. 286.011 and s. 24(b), Art.  
10 I of the State Constitution. The department and the board  
11 shall have access to all records of the corporation as  
12 necessary to exercise their authority to approve and supervise  
13 the contract. Both the Auditor General and the Office of  
14 Program Policy Analysis and Government Accountability shall  
15 have access to all records of the corporation as necessary to  
16 conduct financial and operational audits.

17 (16) If any provision of this section is held to be  
18 unconstitutional or is held to violate the state or federal  
19 antitrust laws, the following shall occur:

20 (a) The corporation shall cease and desist from  
21 exercising any powers and duties enumerated in this section.

22 (b) The department shall resume the performance of  
23 such activities. The department shall regain and receive,  
24 hold, invest, and administer property and make expenditures  
25 for the benefit of the board.

26 (c) The Executive Office of the Governor,  
27 notwithstanding chapter 216, may reestablish positions, budget  
28 authority, and salary rate necessary to carry out the  
29 department's responsibilities related to the board.

30 Section 2. Section 455.2177, Florida Statutes, is  
31 amended to read:

1           455.2177 Monitoring of compliance with continuing  
2 education requirements.--

3           (1) The department shall establish a system to monitor  
4 licensee compliance with applicable continuing education  
5 requirements and to determine each licensee's continuing  
6 education status. ~~The department is authorized to provide for~~  
7 ~~a phase-in of the compliance monitoring system, but the system~~  
8 ~~must provide for monitoring of compliance with applicable~~  
9 ~~continuing education requirements by all professions regulated~~  
10 ~~by the department no later than July 1, 2002. The compliance~~  
11 ~~monitoring system may use staff of the department or may be~~  
12 ~~privatized.~~As used in this section, the term "monitor" means  
13 the act of determining, for each licensee, whether the  
14 licensee was in full compliance with applicable continuing  
15 education requirements as of the time of the licensee's  
16 license renewal.

17           ~~(2) If the compliance monitoring system required under~~  
18 ~~this section is privatized, the following provisions apply:~~

19           ~~(a) The department may contract pursuant to s. 287.057~~  
20 ~~with a vendor or vendors for the monitoring of compliance with~~  
21 ~~applicable continuing education requirements by all licensees~~  
22 ~~within one or more professions regulated by the department.~~  
23 ~~The contract shall include, but need not be limited to, the~~  
24 ~~following terms and conditions:~~

25           ~~1.a. The vendor shall create a computer database, in~~  
26 ~~the form required by the department, that includes the~~  
27 ~~continuing education status of each licensee and shall provide~~  
28 ~~a report to the department within 90 days after the vendor~~  
29 ~~receives the list of licensees to be monitored as provided in~~  
30 ~~sub-subparagraph b. The report shall be in a format determined~~  
31 ~~by the department and shall include each licensee's continuing~~

1 ~~education status by license number, hours of continuing~~  
2 ~~education credit per cycle, and such other information the~~  
3 ~~department deems necessary.~~

4 ~~b. No later than 30 days after the end of each renewal~~  
5 ~~period, the department shall provide to the vendor a list that~~  
6 ~~includes all licensees of a particular profession whose~~  
7 ~~licenses were renewed during a particular renewal period. In~~  
8 ~~order to account for late renewals, the department shall~~  
9 ~~provide the vendor with such updates to the list as are~~  
10 ~~mutually determined to be necessary.~~

11 ~~2.a. Before the vendor informs the department of the~~  
12 ~~status of any licensee the vendor has determined is not in~~  
13 ~~compliance with continuing education requirements, the vendor,~~  
14 ~~acting on behalf of the department, shall provide the licensee~~  
15 ~~with a notice stating that the vendor has determined that the~~  
16 ~~licensee is not in compliance with applicable continuing~~  
17 ~~education requirements. The notice shall also include the~~  
18 ~~licensee's continuing education record for the renewal period,~~  
19 ~~as shown in the records of the vendor, and a description of~~  
20 ~~the process for correcting the vendor's record under~~  
21 ~~sub-subparagraph b.~~

22 ~~b. The vendor shall give the licensee 45 days to~~  
23 ~~correct the vendor's information. The vendor shall correct a~~  
24 ~~record only on the basis of evidence of compliance supplied to~~  
25 ~~the vendor by a continuing education provider.~~

26 ~~3.a. The vendor must provide the department, with the~~  
27 ~~report required under subparagraph 1., a list, in a form~~  
28 ~~determined by the department, identifying each licensee who~~  
29 ~~the vendor has determined is not in compliance with applicable~~  
30 ~~continuing education requirements.~~

31

1           ~~b. The vendor shall provide the department with access~~  
2 ~~to such information and services as the department deems~~  
3 ~~necessary to ensure that the actions of the vendor conform to~~  
4 ~~the contract and to the duties of the department and the~~  
5 ~~vendor under this subsection.~~

6           ~~4. The department shall ensure the vendor access to~~  
7 ~~such information from continuing education providers as is~~  
8 ~~necessary to determine the continuing education record of each~~  
9 ~~licensee. The vendor shall inform the department of any~~  
10 ~~provider that fails to provide such information to the vendor.~~

11           ~~5. If the vendor fails to comply with a provision of~~  
12 ~~the contract, the vendor is obligated to pay the department~~  
13 ~~liquidated damages in the amounts specified in the contract.~~

14           ~~6. The department's payments to the vendor must be~~  
15 ~~based on the number of licensees monitored. The department may~~  
16 ~~allocate from the unlicensed activity account of any~~  
17 ~~profession under s. 455.2281 up to \$2 per licensee for the~~  
18 ~~monitoring of that profession's licensees under this~~  
19 ~~subsection, which allocations are the exclusive source of~~  
20 ~~funding for contracts under this subsection.~~

21           ~~7. A continuing education provider is not eligible to~~  
22 ~~be a vendor under this subsection.~~

23           ~~(b) When it receives notice from a vendor that a~~  
24 ~~licensee is not in compliance with continuing education~~  
25 ~~requirements, the department shall send the licensee written~~  
26 ~~notice that disciplinary actions will be taken, together with~~  
27 ~~a description of the remedies available to the licensee under~~  
28 ~~the dispute resolution process created under paragraph (c). If~~  
29 ~~a licensee does not prevail in the dispute resolution process,~~  
30 ~~the department:~~

31



1           ~~1. May impose an administrative fine in the amount of~~  
2 ~~\$500 against the licensee; however, the department may reduce~~  
3 ~~the amount of the fine to \$250 if the licensee comes into~~  
4 ~~compliance with the applicable continuing education~~  
5 ~~requirements within 90 days after imposition of the original~~  
6 ~~fine. All proceeds of fines under this subparagraph shall be~~  
7 ~~deposited in the appropriate unlicensed activity account under~~  
8 ~~s. 455.2281.~~

9           ~~(2)2. May refuse any further renewal of a the~~  
10 ~~licensee's license until unless the licensee has paid the fine~~  
11 ~~and satisfied all the applicable continuing education~~  
12 ~~requirements. This subsection does not preclude the department~~  
13 ~~or boards from imposing additional penalties pursuant to the~~  
14 ~~applicable practice act or rules adopted pursuant thereto.~~

15           ~~(c) The department is authorized to adopt by rule a~~  
16 ~~process for the resolution of disputes between a vendor and a~~  
17 ~~continuing education provider, between a vendor and a~~  
18 ~~licensee, and between a licensee and a continuing education~~  
19 ~~provider. The process shall ensure all parties a fair~~  
20 ~~opportunity to correct any erroneous information. If the~~  
21 ~~parties are unable to reach an agreement, the department shall~~  
22 ~~determine the resolution of the dispute.~~

23           ~~(d) Upon the failure of a vendor to meet its~~  
24 ~~obligations under a contract as provided in paragraph (a), the~~  
25 ~~department may suspend the contract and enter into an~~  
26 ~~emergency contract under s. 287.057(5).~~

27           ~~(3) Notwithstanding any other provision of law to the~~  
28 ~~contrary and regardless of whether the compliance monitoring~~  
29 ~~system is privatized, neither the department nor a board may~~  
30 ~~impose any sanction other than the sanctions specified in~~  
31 ~~paragraph (2)(b) for the failure of a licensee to meet~~

1 ~~continuing education requirements. This subsection does not~~  
2 ~~apply to actions under chapter 473.~~

3 (3)~~(4)~~ The department may ~~shall~~ waive the continuing  
4 education monitoring requirements of this section for any  
5 profession that demonstrates to the department that the  
6 monitoring system places an undue burden on the profession it  
7 ~~has a program in place which measures compliance with~~  
8 ~~continuing education requirements through statistical sampling~~  
9 ~~techniques or other methods and can indicate that at least 95~~  
10 ~~percent of its licensees are in compliance.~~

11 (4)~~(5)~~ The department may ~~is authorized to~~ adopt rules  
12 under ss. 120.536(1) and 120.54 to implement this section.

13 Section 3. Section 455.2178, Florida Statutes, is  
14 amended to read:

15 455.2178 Continuing education providers.--~~if the~~  
16 ~~monitoring of compliance with continuing education~~  
17 ~~requirements is privatized pursuant to s. 455.2177:~~

18 ~~(1)(a) The department shall notify each approved~~  
19 ~~continuing education provider of the name and address of all~~  
20 ~~vendors that monitor compliance of licensees under s.~~  
21 ~~455.2177. If the department contracts with more than one~~  
22 ~~vendor under s. 455.2177, the notice shall specify the~~  
23 ~~professions to be monitored by each vendor.~~

24 (1)(b) Each continuing education provider shall  
25 provide to the department ~~appropriate vendor~~ such information  
26 regarding the continuing education status of licensees as the  
27 department determines is necessary ~~for the vendor~~ to carry out  
28 its duties under s. 455.2177, in an electronic format s.  
29 ~~455.2177(2), in a form~~ determined by the department. After a  
30 licensee's completion of a course, the information must be  
31 submitted to the department ~~vendor~~ electronically no later

1 than 30 calendar ~~5-business~~ days thereafter or prior to the  
2 licensee's renewal date, whichever occurs sooner ~~after a~~  
3 ~~licensee's completion of a course.~~ The foregoing applies only  
4 if the profession has not been granted a waiver from the  
5 monitoring requirements under s. 455.2177. Upon the request of  
6 a licensee, the provider must also furnish to the department ~~a~~  
7 ~~vendor~~ information regarding courses completed by the  
8 licensee.

9 (2) Each continuing education provider shall retain  
10 all records relating to a licensee's completion of continuing  
11 education courses for at least 4 years after completion of a  
12 course.

13 (3) A continuing education provider may not be  
14 approved, and the approval may not be renewed, unless the  
15 provider agrees in writing to provide such cooperation ~~with~~  
16 ~~vendors~~ under this section and s. 455.2177 as the department  
17 deems necessary or appropriate.

18 (4) The department may fine, suspend, or immediately  
19 revoke approval of any continuing education provider that  
20 fails to comply with its duties under this section. Such fine  
21 may not exceed \$500 per violation. Investigations and  
22 prosecutions of a provider's failure to comply with its duties  
23 under this section shall be conducted pursuant to s. 455.225.

24 (5) For the purpose of determining which persons or  
25 entities must meet the reporting, recordkeeping, and access  
26 provisions of this section, the board of any profession  
27 subject to this section, or the department if there is no  
28 board, shall, by rule, adopt a definition of the term  
29 "continuing education provider" applicable to the profession's  
30 continuing education requirements. The intent of the rule  
31 shall be to ensure that all records and information necessary

1 to carry out the requirements of this section and s. 455.2177  
2 are maintained and transmitted accordingly and to minimize  
3 disputes as to what person or entity is responsible for  
4 maintaining and reporting such records and information.

5 (6) The department may ~~has the authority to~~ adopt  
6 rules under ss. 120.536(1) and 120.54 to implement this  
7 section.

8 Section 4. Section 455.2179, Florida Statutes, is  
9 amended to read:

10 455.2179 Continuing education provider and course  
11 approval; cease and desist orders.--

12 (1) If a board, or the department if there is no  
13 board, requires completion of continuing education as a  
14 requirement for renewal of a license, the board, or the  
15 department if there is no board, shall approve providers of  
16 the continuing education. The approval of ~~a~~ continuing  
17 education providers and courses ~~provider~~ must be for a  
18 specified period of time, not to exceed 4 years. An approval  
19 that does not include such a time limitation may remain in  
20 effect pursuant to the applicable practice act or the rules  
21 adopted under the applicable practice act ~~only until July 1,~~  
22 ~~2001, unless earlier replaced by an approval that includes~~  
23 ~~such a time limitation.~~

24 (2) The board, or the department if there is no, ~~on~~  
25 ~~its own motion or at the request of a~~ board, shall issue an  
26 order requiring a person or entity to cease and desist from  
27 offering any continuing education programs for licensees, and  
28 fining, suspending, or revoking any approval of the provider  
29 previously granted by the board, or the department if there is  
30 no ~~or a~~ board, if the board, or the department if there is no  
31 ~~or a~~ board, determines that the person or entity failed to

1 provide appropriate continuing education services that conform  
2 to approved course material. Such fine may not exceed \$500 per  
3 violation. Investigations and prosecutions of a provider's  
4 failure to comply with its duties under this section shall be  
5 conducted under s. 455.225.

6 (3) Each board authorized to approve continuing  
7 education providers, or the department if there is no board,  
8 may establish, by rule, a fee not to exceed \$250 for anyone  
9 seeking approval to provide continuing education courses and  
10 may establish, by rule, a biennial fee not to exceed \$250 for  
11 the renewal of providership of such courses. The Florida Real  
12 Estate Commission, authorized under the provisions of chapter  
13 475 to approve prelicensure, precertification, and  
14 postlicensure education providers, may establish, by rule, an  
15 application fee not to exceed \$250 for anyone seeking approval  
16 to offer prelicensure, precertification, or postlicensure  
17 education courses and may establish, by rule, a biennial fee  
18 not to exceed \$250 for the renewal of such courses. Such  
19 post-licensure education courses are subject to the reporting,  
20 monitoring, and compliance provisions of this section and ss.  
21 455.2177 and 455.2178.

22 (4) The department and each affected board may adopt  
23 rules pursuant to ss. 120.536(1) and 120.54 to implement the  
24 provisions of this section.

25 Section 5. Section 455.2281, Florida Statutes, is  
26 amended to read:

27 455.2281 Unlicensed activities; fees; disposition.--In  
28 order to protect the public and to ensure a consumer-oriented  
29 department, it is the intent of the Legislature that vigorous  
30 enforcement of regulation for all professional activities is a  
31 state priority. All enforcement costs should be covered by

1 professions regulated by the department. Therefore, the  
2 department shall impose, upon initial licensure and each  
3 renewal thereof, a special fee of \$5 per licensee. Such fee  
4 shall be in addition to all other fees collected from each  
5 licensee and shall fund efforts to combat unlicensed activity.  
6 Any profession regulated by the department which offers  
7 services that are not subject to regulation when provided by  
8 an unlicensed person may use funds in its unlicensed activity  
9 account to inform the public of such situation. The board with  
10 concurrence of the department, or the department when there is  
11 no board, may earmark \$5 of the current licensure fee for this  
12 purpose, if such board, or profession regulated by the  
13 department, is not in a deficit and has a reasonable cash  
14 balance. A board or profession regulated by the department may  
15 authorize the transfer of funds from the operating fund  
16 account to the unlicensed activity account of that profession  
17 if the operating fund account is not in a deficit and has a  
18 reasonable cash balance. The department shall make direct  
19 charges to this fund by profession and shall not allocate  
20 indirect overhead. The department shall seek board advice  
21 regarding enforcement methods and strategies prior to  
22 expenditure of funds; however, the department may, without  
23 board advice, allocate funds to cover the costs of continuing  
24 education compliance monitoring under s. 455.2177. The  
25 department shall directly credit, by profession, revenues  
26 received from the department's efforts to enforce licensure  
27 provisions, ~~including revenues received from fines collected~~  
28 ~~under s. 455.2177~~. The department shall include all financial  
29 and statistical data resulting from unlicensed activity  
30 enforcement and from continuing education compliance  
31 monitoring as separate categories in the quarterly management

1 report provided for in s. 455.219. The department shall not  
2 charge the account of any profession for the costs incurred on  
3 behalf of any other profession. For an unlicensed activity  
4 account, a balance which remains at the end of a renewal cycle  
5 may, with concurrence of the applicable board and the  
6 department, be transferred to the operating fund account of  
7 that profession.

8 Section 6. Paragraph (b) of subsection (3) of section  
9 481.205, Florida Statutes, is amended to read:

10 481.205 Board of Architecture and Interior Design.--

11 (3)

12 (b) ~~Notwithstanding the provisions of s. 455.32(13),~~  
13 ~~The board, in lieu of the department,~~ shall contract with a  
14 corporation or other business entity pursuant to s. 287.057(3)  
15 to provide investigative, legal, prosecutorial, and other  
16 services necessary to perform its duties.

17 Section 7. This act shall take effect July 1, 2004.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 2026

4 The committee substitute:

- 5   o   Changes the term "executive director" to "contract  
6       manager."
- 7   o   Provides a definition for the term "business case."
- 8   o   Provides that no professional board member may also serve  
9       on the board of directors for the corporation.
- 10  o   Provides for the removal of the corporation's directors  
11       by the Governor instead of the department.
- 12  o   Requires a financial model and business case for the  
13       corporation with projected costs for the first two years.  
14       The business case must be approved by the Governor.
- 15  o   Authorizes the corporation to initiate disciplinary  
16       investigations, and authorizes the department to delegate  
17       to the corporation the authority to issue emergency  
18       suspension or restriction orders.
- 19  o   Requires the board to retain the board counsel, and the  
20       corporation must pay for all direct and indirect costs  
21       associated with monitoring the contract.