

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 419 w/CS Engineering

**SPONSOR(S):** Allen

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1368

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Trades, Professions, &amp; Reg. Business (Sub)</u>	<u>8 Y, 0 N</u>	<u>Livingston</u>	<u>Liepshutz</u>
2) <u>Business Regulation</u>	<u>36 Y, 0 N w/CS</u>	<u>Livingston</u>	<u>Liepshutz</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

Engineers are licensed and regulated by the Board of Professional Engineers (BPE), under the Department of Business and Professional Regulation (DBPR), pursuant to chapter 471, F.S. Applicants for licensure must meet character and educational requirements, submit to a background check, and pass two examinations.

Various persons are statutorily exempted and are not required to be licensed as an engineer when engaged in their official duties, such as, certain government employees, certain public utility employees, certain services provided by a construction contractor, among others. In the 2002 legislative session changes were enacted to limit a person from using the title engineer unless properly licensed in an attempt to curb unlicensed activity. Subsequent to the 2002 changes concerns have been expressed regarding the impact of the expanded prohibition against the use of the title "engineer."

HB 23E was passed into law in 2003 to create an exemption from licensure requirements to include defense, space, and aerospace companies and employees conducting engineering services in Florida. The new provisions further specify that an exemption allows a person to use the title "engineer" within the scope of work conducted under the exemption.

The bill adds two members to the BPE to increase the total membership to 11. The new members include a structural engineer and an industrial engineer. The bill allows an alternative to passing the fundamentals part of the licensure examination. The examination is required to be waived by the DBPR for an applicant who has received a doctorate degree in engineering from an approved engineering program and has taught engineering for at least three years at an institution of higher learning.

HB 419 specifies that the current exemptions from licensure for specified company employees also allows these persons to use the title "engineer" within the scope of work conducted under the exemption. The person claiming the exemption is required to be a graduate of a four year engineering curriculum at a board approved educational institution.

Though indeterminate, the bill is designed to avoid a potential economic impact on state or local government.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0419b.br.doc

**DATE:** March 15, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

The mission of the DBPR is to protect the health, safety, and welfare of Florida’s consumers by ensuring that regulated businesses and professions meet prescribed standards. The DBPR enforces compliance with numerous filing and disclosure requirements and various other standards and regulations.

Chapter 455, F.S., provides general powers of the DBPR for the regulation of practitioners under their jurisdiction. Among these powers is the authority to enforce unlicensed activity provisions, including engineers, pursuant to ss. 455.228 and 455.2281, F.S.

Engineers are licensed and regulated by the BPE, under the DBPR, pursuant to chapter 471, F.S. These provisions provide for testing, licensure, and discipline of engineers. Applicants for licensure must meet character and educational requirements, submit to a background check, and pass two examinations.

“Engineer” is currently defined to include the terms “professional engineer” and “licensed engineer” and means a person who is licensed to engage in the practice of engineering under 471, F.S. “Engineering” includes the term “professional engineering” and is defined to mean:

any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, teaching of the principles and methods of engineering design, engineering surveys, and the inspection of construction for the purpose of determining in general if the work is proceeding in compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services. A person who practices any branch of engineering; who, by verbal claim, sign, advertisement, letterhead, or card, or in any other way, represents himself or herself to be an engineer or, through the use of some other title, implies that he or she is an engineer or that he or she is licensed under this chapter; or who holds himself or herself out as able to perform, or does perform, any engineering service or work or any other

service designated by the practitioner which is recognized as engineering shall be construed to practice or offer to practice engineering within the meaning and intent of this chapter.

In the 2002 legislative session, amendments to s. 471.031, F.S., relating to the prohibition against the use of the title engineer, were enacted pursuant to CS/CS/SB 990 which became chapter 2002-299, Laws of Florida. This section currently specifies that a person may not:

Use the name or title "professional engineer" or any other title, designation, words, letters, abbreviations, or device tending to indicate that such person holds an active license as an engineer when the person is not licensed under this chapter, including, but not limited to, the following titles: "agricultural engineer," "air-conditioning engineer," "architectural engineer," "building engineer," "chemical engineer," "civil engineer," "control systems engineer," "electrical engineer," "environmental engineer," "fire protection engineer," "industrial engineer," "manufacturing engineer," "mechanical engineer," "metallurgical engineer," "mining engineer," "minerals engineer," "marine engineer," "nuclear engineer," "petroleum engineer," "plumbing engineer," "structural engineer," "transportation engineer," "software engineer," "computer hardware engineer," or "systems engineer".

The penalty for a violation is a first degree misdemeanor. Additional penalties include a \$1,000 administrative fine.

HB 23E was enacted during special session in 2003. It created an exemption from licensure requirements to include defense, space, and aerospace companies and employees conducting engineering services in Florida. The provisions further specify that an exemption allows a person to use the title "engineer" within the scope of work conducted under the exemption.

Some confusion and concern has been expressed regarding the application of the prohibition against the use of the title of "engineer." One area of concern relates to companies and individuals exempted from licensure under s. 471.003, F.S., and whether the title limitation would be a factor when providing in-house engineering services.

Currently, s. 471.003(2), F.S., provides, in paragraphs (c) and (e), that the following persons are not required to be licensed as an engineer:

(c) Regular full-time employees of a corporation not engaged in the practice of engineering as such, whose practice of engineering for such corporation is limited to the design or fabrication of manufactured products and servicing of such products.

(e) Employees of a firm, corporation, or partnership who are the subordinates of a person in responsible charge, licensed under this chapter.

### Effect of Proposed Changes

HB 419 addresses provisions of chapter 471, F.S., relating to the regulation of professional engineers and the use of the term "engineer" or other related terms that imply licensure as an engineer.

The bill specifies that the current exemptions from licensure for specified company employees also allows a person to use the title "engineer" within the scope of work conducted under the exemption. The person claiming the exemption is required to be a graduate of a four year engineering curriculum at a board approved educational institution.

The bill also adds two members to the BPE to increase the total membership to 11. The new members must include a structural engineer and an industrial engineer. The bill allows an alternative to passing the fundamentals part of the licensure examination. The examination is required to be waived by the DBPR for an applicant who has received a

doctorate degree in engineering from an approved engineering program and has taught engineering for at least three years at an institution of higher learning.

C. SECTION DIRECTORY:

Section 1. Amends s. 471.007, F.S., to change the composition of the BPE.

Section 2. Amends s. 471.013, F.S., to create an exemption from certain examination requirements.

Section 3. Amends s.471.031, F.S., to allow the use of the term engineer under certain circumstances.

Section 4. Republishes paragraphs (c) and (e) of subsection (2) of s. 471.003, F.S.

Section 5. Effective date: upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None anticipated.

The fiscal and economic impact to the state could be a factor relative to the circumstances noted in D. below. Additionally, it could be argued that the state would not see a significant reduction in license fee revenue if private sector engineer employees, as specified in current law, leave Florida to conduct their professions in other states rather than meet licensure requirements in Florida. The number of engineers that have practiced without a license as authorized in the past prior to the 2002 statutory changes which effectively requires licensure is unknown. Additionally, it is currently unknown how many engineers have initiated or completed the licensure process, with appropriate license fees paid.

2. Expenditures:

See 1. above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

NA

2. Expenditures:

NA

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See A. 1. above.

D. FISCAL COMMENTS:

It could be argued that to require licensure of engineers employed under the exemptions cited in current law in Florida could subject the state to a competitive disadvantage to other states seeking to attract these professionals. The prohibition against the use of the title engineer could require licensure of these employees who are located and operating in this state. Licensure requirements may impact the availability of this workforce.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None noted.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

The CS differs from the original bill as follows:

Adds two members to the BPE to increase the total membership to 11. The new members must include a structural engineer and an industrial engineer.

Allows an alternative to passing the fundamentals part of the licensure examination. The examination is required to be waived by the DBPR for an applicant who has received a doctorate degree in engineering from an approved engineering program and has taught engineering for at least three years at an institution of higher learning.