

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 513 Professional Geology  
**SPONSOR(S):** Representative Culp  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1878

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| REFERENCE  | ACTION | ANALYST           | STAFF DIRECTOR   |
|--|--------|-------------------|------------------|
| 1) <u>Business Regulation</u>                      | _____  | <u>Livingston</u> | <u>Liepshutz</u> |
| 2) <u>State Administration</u>                     | _____  | _____             | _____            |
| 3) <u>Commerce &amp; Local Affairs Apps. (Sub)</u> | _____  | _____             | _____            |
| 4) <u>Appropriations</u>                           | _____  | _____             | _____            |
| 5) _____   | _____  | _____             | _____            |

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### SUMMARY ANALYSIS

Currently, numerous provisions of law address business relationships between the private sector and the public sector when providing goods and services. Various statutory sections address requirements for those who qualify to provide these goods and services.

The Consultants' Competitive Negotiation Act requires agencies to acquire certain professional services through a competitive negotiation process under certain circumstances. The term "professional services" is defined to mean those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping or those services performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

The bill adds professional geology to the definition of "professional services" for purposes of allowing a professional geologist to offer services under the "Consultants' Competitive Negotiation Act." The bill also makes conforming changes to reflect the addition of this profession.

The Florida Water Resources Act of 1972 provides requirements for certification of water resource activities by a professional engineer.

The bill amends the Water Resources Act to provide requirements for certification of water resource activities by a professional geologist, in addition to, a professional engineer.

The bill is not anticipated to have a significant fiscal impact on state or local governments.

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

**STORAGE NAME:** h0513.br.doc  
**DATE:** March 3, 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:

In Florida, the "practice of professional geology" requires licensure as a professional geologist. Professional geologists are licensed by the Board of Professional Geologists, under the Department of Business and Professional Regulation (DBPR). Regulatory standards are specified in chapter 492, F.S.

Currently, an applicant for licensure as a professional geologist must have a college degree in geology or a related science, seven years of professional geological work (undergraduate study or graduate study may substitute for up to two years of work), and must pass an examination approved by the board.

Generally, geologists are involved in numerous responsibilities, such as, the identification and evaluation of sources of groundwater and detection of pollution sources within the aquifer; critical evaluations of sinkhole prone areas prior to the actual design and construction of foundations for most structures; and the study and evaluation of land use regulations, water management practices, and coastal erosion.

Geologists are also involved with the preparation or evaluation of reports or documentation associated with various types of permit applications, such as, the assessment and mitigation of geologic hazards concerning environmental protection or economic and safety issues; land use permit applications; Contaminant Assessment Reports (CAR's) and Remedial Action Plans (RAP's), related to hazardous waste disposal and clean-up; drinking water related concerns (the location and site planning of municipal water wells and private wells, aquifer and groundwater assessment and protection, etc.); and mining activities.

Chapter 287, F.S., establishes processes for the public procurement of personal property and services. This chapter requires the ethical procurement of commodities and contractual services and the adherence to uniform procedures in carrying out such procurement. The stated intent provides that "The Legislature recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance and opportunity for favoritism; and inspires public confidence that contracts are awarded equitably and economically."

In general, all purchasing must be done through the competitive bidding process. In ordinary competitive bidding, the lowest priced responsible vendor is selected. There are, however, exceptions to the competitive bidding process for special circumstances and certain specialized purchases. One of the exceptions is found at s. 287.055, F.S.

Section 287.055, F.S., the Consultants' Competitive Negotiation Act requires agencies to acquire certain professional services through a competitive negotiation process under certain circumstances.

An agency must make a public announcement when professional services are needed for a project, the basic construction cost of which is estimated to exceed the threshold amount provided for by statute, or for a planning or study activity when the fee for professional services exceeds the threshold amount provided in the law.

Section 287.055(2)(b), F.S., defines the term "agency" to mean the state, a state agency, a municipality, a political subdivision, a school district, or a school board. Section 287.055(2)(a), F.S., defines the term "professional services" to mean those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

State and local governments are not prohibited from employing a professional geologist just because professional geologists are not listed in s. 287.055, F.S. The omission of professional geologists from the list means that an agency must put professional geologist services out for competitive bid under the ordinary process. If professional geologists were listed in s. 287.055, F.S., that inclusion would not mandate that one be hired but would allow the services to be offered through the competitive negotiation process.

Chapter 373, F.S., is the Florida Water Resources Act of 1972. Section 373.117, F.S., provides requirements for certification of water resource activities by a professional engineer. An application for a permit or license to conduct an activity regulated under this chapter may require the services of a professional engineer. These services may be necessary if the Department of Environmental Protection or governing board of a water management district, requires that a professional engineer certify that the activity has been completed in substantial compliance with the plans and specifications approved by the department or board.

### Effect of Proposed Changes

The bill adds professional geology to the definition of "professional services" for purposes of allowing a professional geologist to offer services under the "Consultants' Competitive Negotiation Act." The bill also makes conforming changes to reflect the addition of this profession.

The bill amends s. 373.117, F.S., to provide requirements for certification of water resource activities by a professional geologist, in addition to, a professional engineer.

#### C. SECTION DIRECTORY:

Section 1. Amends s. 287.055, F.S., to allow professional geologists to offer services under the "Consultants' Competitive Negotiation Act."

Section 2. Amends s. 190.033, F.S., to conform to the reference to professional geologists in the "Consultants' Competitive Negotiation Act."

Section 3. Amends s. 373.117, F.S., to provide requirements for certification of water resource activities by a professional geologist.

Section 4. Effective date - upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
None anticipated.

2. Expenditures:  
None anticipated.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
NA

2. Expenditures:  
NA

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The economic impact to the private sector includes the opportunity for a professional geologist to participate in the contract services provisions of the "Consultants' Competitive Negotiation Act."

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:  
NA

2. Other:  
None noted.

B. RULE-MAKING AUTHORITY:

NA

C. DRAFTING ISSUES OR OTHER COMMENTS:

None noted.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**