

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1289
SPONSOR(S): Jordan
TIED BILLS:

Signing and Sealing by Professional Geologists

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Environmental Regulation Committee	7 Y, 0 N	Perkins	Kliner
2) State Resources Council	9 Y, 0 N	Perkins	Hamby
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill provides that if a permit or license, or the performance of an activity regulated under the Water Resources Act, requires the services of a professional geologist, the Department of Environmental Protection (DEP) or the governing board of a water management district may require that a licensed geologist sign and seal any documents and reports submitted in connection with the permit application or regulated activity. In doing so, the bill explicitly authorizes geologists to perform services within their professional purview and sign and seal documents governed by the Water Resources Act.

The bill does not appear to have any significant fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: This bill aids in improving the overall efficiency of water resource related activities associated with Chapter 373, F.S., by allowing appropriate licensed professionals to sign and seal their own work pursuant to their qualified field of expertise.

Safeguard Individual Liberty: This bill authorizes the professional geologist to sign and seal documents and reports submitted in connection with a permit application or regulated activity under Chapter 373, F.S., in addition to professional engineers who are currently authorized under statute.

Promote Personal Responsibility: This bill allows for the appropriate licensed professionals to sign and seal their own work pursuant to their qualified field of expertise.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 373, F.S., requires that professional engineers perform services and sign and seal water resource related documents as requested by DEP or a governing board of a water management district. Currently, professional geologists are not authorized to perform services and sign and seal water resource related documents because their profession was not specifically recognized at the time of passage of Chapter 373, F.S. Subsequent to the passage of Chapter 373, F.S., professional geologists became regulated under Chapter 492, F.S.; however, Chapter 373, F.S., has not been amended to authorize professional geologists to perform services or sign and seal water resource related documents.

DEP reports that section 403.0877, F.S., recognizes the professional geologist as an appropriate professional to conduct work under Chapter 373; F.S., however, this section of statute is subject to interpretation and as a result often excludes professional geologists from performing services under Chapter 373, F.S. The present situation also results in professional geologists not being able to submit proposals for projects that Chapter 492, F.S., recognizes they are licensed to perform.

This restriction on “who can perform this work under Chapter 373, F.S.,” causes financial hardship both on the affected geologists and those needing geology related work performed. This restriction appears to serve no practical benefit to the public and may result in environmental or natural resource damages due to the appropriate professionals being excluded from their qualified field of expertise related to the nature of work involved.

Effect of Proposed Change

The bill creates section 373.1175, F.S., relating to the signing and sealing of water resource related documents under Chapter 373, F.S. Specifically, if an application for a permit or license, or the performance of an activity regulated under Chapter 373, F.S., requires the services of a professional geologist, DEP or the governing board of a water management district may require that a professional geologist licensed under Chapter 492, F.S., sign and seal any documents and reports in connection with the permit application or regulated activity. The cost of such signing and sealing by a professional geologist will be borne by the applicant or permittee. In addition, nothing in the creation of section 373.1175, F.S., is to prevent or prohibit the continued practice by professional engineers.

This bill should aid in improving the overall efficiency of the sign off of water related activities associated with Chapter 373, F.S., by allowing licensed professionals to sign and seal their own work pursuant to their qualified field of expertise.

C. SECTION DIRECTORY:

Section 1. Creates s. 373.1175, F.S., relating to signing and sealing of documents by professional geologists.

Section 2. Provides the act will take effect July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: There may be a savings because professional geologists and professional engineers will now be able to compete for contracts that they are professionally qualified to perform. Moreover, with the appropriate professional able to perform the work, there may be less corrective action required, which may result in a cost savings.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: There may be a savings because professional geologists and professional engineers will now be able to compete for contracts that they are professionally qualified to perform. Moreover, with the appropriate professional able to perform the work, there may be less corrective action required, which may result in a cost savings.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill allows licensed professionals to sign and seal their own work as opposed to assuming liability for work outside of their qualified field of expertise, which could result in costly law suits. Further, professional geologists and professional engineers will now be able to compete for contracts that they are professionally qualified to perform.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DEP Comments: Chapter 492, F.S., stipulates that geology related documents submitted to the public record shall be signed and sealed by a licensed professional geologist. Chapter 373, F.S., did not include licensed professional geologists as being allowed or required to sign and seal specific geological documents that are submitted for the public record. HB 1289 legislation is designed to correct this inconsistency by requiring professional geologists to sign and seal the geological documents. The Board of Professional Geologists under the Department of Business and Professional Regulation, is in favor of this effort to update Chapter 373, F.S., in order to further the mandate of Chapter 492, F.S., to protect "the life, health, property and public well-being of its citizens...". This proposal was earlier submitted by DEP at the request of the Board of Professional Geologists, and DEP is in concurrence with the need.

The Florida Association of Professional Geologists worked closely with the Florida Engineering Society over a two-year period to come to a consensus on the proposed bill. Each profession recognizes the inequities in the existing statute and recognizes that licensed professionals should be able to sign off or certify their own work.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.