

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 213 CS

Construction Contracting

SPONSOR(S): Evers

TIED BILLS:

IDEN./SIM. BILLS: SB 792

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Business Regulation Committee</u>	<u>17 Y, 0 N</u>	<u>Livingston</u>	<u>Liepshutz</u>
2) <u>Growth Management Committee</u>	<u>7 Y, 0 N, w/CS</u>	<u>Porter</u>	<u>Grayson</u>
3) <u>State Administration Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Commerce Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

HB 213 expands the scope of work for Class A and B air conditioning and heating contractors so they will be able to disconnect and reconnect propane and natural gas lines when installing replacements of air conditioning and heating systems in buildings. For mechanical contractors, the bill expands the scope of work to allow them to install LP (liquid propane) gas lines, in addition to the natural gas lines within buildings that they already can install under existing law. The bill also expands the scope of work for plumbers to include LP gas line installations. Currently, plumbers can install natural gas lines.

The bill creates a licensure exemption under s. 489.103, F.S., relating to construction contracting, to clarify that an individual who is licensed or permitted under ch. 633, F.S., by the State Fire Marshal's office to allow the individual to install a pre-engineered fire suppression system, does not also have to be licensed as a contractor under ch. 489, F.S., by the Department of Business and Professional Regulation.

The bill authorizes the Board of Architecture and Interior Design and the Board of Landscape Architecture to adopt rules to allow respective practitioners to electronically sign and seal plans and documents. The changes track current authorization language for engineers, surveyors, and mappers.

The bill does not appear to have a fiscal impact on state or local governments.

The effective date of this bill is July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Effect of Proposed Changes

Construction – scope of work

HB 213 addresses several of the “scope of work” descriptions of activities that define the various licensing classifications of chapter 489, F.S.

Class A and B air conditioning and heating contractors

The bill expands the scope of work for Class A and B air conditioning and heating contractors so that they will be able to disconnect and reconnect propane and natural gas lines when installing replacements of air conditioning and heating systems in buildings.

Mechanical contractors

For mechanical contractors, the bill expands the scope of work to allow them to install LP (liquid propane) gas lines, in addition to, the natural gas fuel lines within buildings (that they already can install under existing law).

Plumbers

The bill also expands the scope of work for plumbers to include LP gas line installations. Currently, plumbers can also install natural gas lines.

Licensure Exemption

The bill creates a licensure exemption under s. 489.103, F.S., relating to the scope of work for construction contracting. This change exempts an individual who is licensed or permitted under ch. 633, F.S., by the State Fire Marshal's office to install pre-engineered fire suppression systems from having to be licensed as a contractor under ch. 489, F.S., by the Department of Business and Professional Regulation (DBPR).

Architects, interior designers, and landscape architects - electronic seals

The bill amends ss. 481.221 and 481.321, F.S., pertaining to the seals which are affixed to official documents, to allow for the use of electronic seals in addition to the traditional physical metal seals. The bill authorizes the Board of Architecture and Interior Design and the Board of Landscape Architecture to adopt rules to allow respective practitioners to electronically sign and seal plans and documents. The bill also specifies that after a certificate of registration has expired, the practitioner cannot legally use electronic seals. Once a seal has expired or been revoked or suspended, the practitioner must surrender the seal to the executive director of the appropriate board and confirm to the executive director the cancellation of the electronic seal. The changes track current authorization language for engineers, surveyors, and mappers.

Background

Construction – scope of work

Construction contracting is regulated under part I of ch. 489, F.S. With certain statutory exemptions from licensure, construction contractors are regulated by the Construction Industry Licensing Board (CILB) within the DBPR. Contractors must either be certified (i.e., licensed by the state to contract statewide), or registered (i.e., licensed by a local jurisdiction and registered by the state to contract work within the geographic confines of the local jurisdiction only).

When a contractor only engages in a sub-set of activities that constitute a license category, then he is said to be engaging in specialty contracting. The state only certifies a small number of specialty contractors pursuant to statute and agency rules. It is an option for a contractor to become licensed in one of those specialty contracting categories at the state level. An example of one of the state level specialty contracting categories is “drywall” construction. The benefit of being licensed for a specialty at the state level is that the license is valid statewide and, therefore, avoids the need to be licensed in each local jurisdiction separately.

When a sub-set of activities (specialties) is not one of the few sub-sets licensed at the state level, and a permit is required at the local level for a project, then a local specialty license is usually adequate to “pull” a permit, as long as, the specialty license covers the activities necessary to do the project. A state certification or registration in a state level license category whose scope of activities encompasses the specialty sub-set of activities would also be sufficient to pull the permit.

The CILB is statutorily divided into two divisions, I and II. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors. Division II has jurisdiction over the remaining contractors under the CILB, including plumbing contractors, air conditioning contractors and mechanical contractors.

The “scope of work” for which licensure is required is specified in statute by definition. Each definition of the various professions is known as the “practice act” for that profession and establishes the guidelines for the individual practitioners.

Section 633.061, F.S., relates to fire suppression equipment and licensure by the State Fire Marshal to install or maintain the equipment. Subsection (1) states, “it is unlawful for any organization or individual to engage in the business of servicing, repairing, recharging, testing, marking, inspecting, installing, or hydrotesting any fire extinguisher or pre-engineered system in this state except in conformity with the provisions of this chapter.” Each organization or individual that engages in such activity must possess a valid and subsisting license issued by the State Fire Marshal. This subsection specifically requires a Class D license to service, repair, recharge, hydrotest, install, or inspect all types of pre-engineered fire extinguishing systems.

Subsection (2) requires a pre-engineered permit. “Pre-engineered permittee” is defined to mean a person who is limited to the servicing, recharging, repairing, installing, or inspecting of all types of pre-engineered fire extinguishing systems. Each individual actually performing the work or inspecting fire extinguishers or pre-engineered systems must possess a permit issued by the State Fire Marshal. The permit restricts the type of work that may be performed to the same activities authorized pursuant to the class of license held by the licensee under whom the permittee is working.

Architects, interior designers, and landscape architects - electronic seals

Currently, ch. 471, F.S. regulates the practice of engineering and ch. 472, F.S., regulates the practice of land surveying and mapping. The regulatory scheme for the two groups is similar. Both professions are regulated by statutorily created boards, and individuals must meet licensure requirements in order to legally practice their profession. For both professions, the statutes state that the boards shall

prescribe, by rule, a form of seal to be used by practitioners. The use of electronic seals is specifically authorized.

Part I of ch. 481, F.S., regulates architects and interior designers. Part II of ch. 481, F.S., regulates landscape architects. Seals for these professions are required to be "an impression type metal seal" thus prohibiting the use of electronic seals for authenticating work products.

C. SECTION DIRECTORY:

Section 1. Amends s.481.221, F.S., to authorize the Board of Architecture and Interior Design to adopt rules to allow respective practitioners to electronically sign and seal plans and documents.

Section 2. Amends s. 481.321, F.S., to authorize the Board of Landscape Architecture to adopt rules to allow landscape architects to electronically sign and seal plans and documents.

Section 3. Reenacts s. 481.225, F.S., to incorporate a reference thereto.

Section 4. Reenacts s. 481.325, F.S., to incorporate a reference thereto.

Section 5. Amends s. 489.103, F.S., to clarify that an individual licensed or permitted by the State Fire Marshal's office to install a pre-engineered fire suppression system does not also have to be licensed as a contractor by the DBPR.

Section 6. Amends s. 489.105, F.S., to expand the scope of work for Class A and B air conditioning and heating contractors so that they will be able to disconnect and reconnect propane and natural gas lines; to expand the scope of work to allow mechanical contractors to install LP gas lines; and to expand the scope of work for plumbers to include LP gas line installations.

Section 7. Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

No significant economic impact is anticipated.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Board of Architecture and Interior Design and the Board of Landscape Architecture to adopt rules to allow respective practitioners to electronically sign and seal plans and documents. The changes track current authorization language for engineers, surveyors, and mappers.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

The subject matter of the bill appears to be in conflict with the "relating to" clause in the title of the bill. The bill increases the scope of work of certain contractors and allows the development and use of an electronic seal for architects. The "relating to" clause states "An act relating to contracting". The development and use of the seal by architects does not appear to be within the scope of "contracting". It is recommended that the "relating to" clause be amended to correct this possible defect.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Rep. Benson offered an amendment to the "relating to" clause of the bill in committee on March 8, 2005. The amendment passed and corrected the above mentioned flaw.