

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1071 Cosmetology
SPONSOR(S): Holder and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1854

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Business Regulation	(ref. removed)		
2) Jobs & Entrepreneurship Council		Livingston	Thorn
3) Policy & Budget Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Board of Cosmetology (board) within the Department of Business and Professional Regulation (DBPR) is the agency responsible for the regulation of cosmetology under chapter 477, F.S.

The bill defines "contracted provider" to mean a nonprofit entity that has been awarded a competitive bid by the DBPR to provide services to persons licensed under this chapter and applicants for licensure. The bill allows an applicant for licensure to be eligible to take the cosmetology examination if the individual had been licensed in another state but the license from that state is inactive and the licensee does not qualify for endorsement .

The bill allows a graduate to practice cosmetology for up to a period of 60 days starting from the time the graduate first applies to take the qualifying examination. The applicant graduate is required to practice under the supervision of any practitioner licensed under chapter 477, F.S., not just a licensed cosmetologist.

The bill allows licensure by endorsement for out-of-state practitioners who have held an active license in the other state for at least one year if the applicant completes an application and pays an application fee; demonstrates that he or she is currently licensed to practice cosmetology under the laws of another state; demonstrates that he or she has completed a board-approved HIV/AIDS course; attends the DBPR contracted providers examination review class; and demonstrates that he or she has completed a board-approved continuing education course on statutory and rule requirements relating to cosmetology.

The bill requires the DBPR to contract with a private provider to administer the examination and allows the contracted provider to offer a pre-examination review class. The review class may be approved by the board as 4 hours of the required 16 hours of continuing education. The DBPR is required to issue a request for proposals that includes a statement of the examination-related services sought and terms applicable to the potential contract. The contract must be for a 4-year term, with renewable options.

The bill defines "booth rental" to mean a space in a licensed salon leased by a person licensed under this chapter. The owner of a licensed salon must register with the DBPR the names of all licensees who have executed leases for booth rentals within the owner's salon and each licensee who executes a lease for a booth rental must be registered as a booth renter with the DBPR or a contracted provider for the DBPR.

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

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According to the Department of Business and Professional Regulation, the proposed legislation will bring in revenues of approximately \$700,000 every two years and will cost \$365,254 in Fiscal Year 2007-08 and \$294,391 in future years. The projected expenditures include 6 full-time equivalent (FTE) positions.

See III. D. of this analysis: STATEMENT OF THE SPONSOR

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government; ensure lower taxes; safeguard individual liberty; promote personal responsibility; empower families; maintain public security:

The bill defines two new terms. "booth rental" means a space in a licensed salon leased by a person licensed under this chapter and "contracted provider" means a nonprofit entity based in Florida that has been awarded a competitive bid by the DBPR to provide services to persons licensed under this chapter and applicants for licensure. The bill makes it easier for an out-of-state cosmetologist to qualify for licensure by endorsement; requires the DBPR to contract with a contracted provider, as defined in the bill, to administer all licensure examination and to conduct an elective examination review class; and specifies that the DBPR may contract with a contracted provider to administer the registration process for booth rentals.

B. EFFECT OF PROPOSED CHANGES:

Section 1.

The board within the DBPR is the entity responsible for the regulation of cosmetology under chapter 477, F.S. No person other than a duly licensed cosmetologist can practice cosmetology or use the name or title of a cosmetologist unless exempted under law.

Section 477.013(4), F.S., defines cosmetology to mean the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent waving, and hair relaxing for compensation. This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.

The bill defines two additional terms. "Booth rental" means a space in a licensed salon leased by a person licensed under this chapter.

"Contracted provider" means a nonprofit entity based in Florida that has been awarded a competitive bid by the DBPR to provide services to persons licensed under this chapter and applicants for licensure.

Section 2.

In order to be licensed as a cosmetologist, a person must be at least 16 years of age or have received a high school diploma; must pay the required application fee; must satisfy an experience requirement by being authorized to practice cosmetology in another state or country for at least a year or an education requirement of 1,200 hours of training from a cosmetology program licensed pursuant to

chapter 1005, F.S., a cosmetology program within the public school system, Cosmetology Division of the Florida School for the Deaf and the Blind, or a government-operated cosmetology program in the state. Finally, the person must pass the licensure examination.

The bill allows an applicant for licensure to be eligible to take the cosmetology examination if the individual had been licensed in another state but the license from that state is inactive and the licensee does not qualify for endorsement [current law requires active licensure in another state to be eligible to apply].

Currently, graduates of certified cosmetology schools or cosmetology programs are eligible to practice cosmetology, provided such graduates practice under the supervision of a licensed cosmetologist, following the completion of the first licensing examination and pending the results of that examination. A graduate who fails the first examination may continue to practice under the supervision of a licensed cosmetologist if the graduate applies for the next available examination and until the graduate receives the results of that examination. A graduate may not practice under this subsection if the graduate fails the examination twice.

The bill allows a graduate to practice cosmetology for up to a period of 60 days starting from the time the graduate first applies to take the qualifying examination. The applicant graduate is required to practice under the supervision of any practitioner licensed under chapter 477, F.S., [not just a licensed cosmetologist]

Currently, the board is required to adopt rules specifying procedures for the licensure by endorsement of practitioners desiring to be licensed in this state who hold a current active license in another state and who have met qualifications substantially similar to qualifications required of applicants from this state.

The bill allows licensure by endorsement for out-of-state practitioners who have held an active license in the other state for at least one year if the applicant:

- completes an application and pays an application fee;
- demonstrates that he or she is currently licensed to practice cosmetology under the laws of another state;
- demonstrates that he or she has completed a board-approved HIV/AIDS course;
- attends the department's contracted providers examination review class and produces a certificate of completion with the application; and
- demonstrates that he or she has completed a board-approved continuing education course on statutory and departmental requirements relating to cosmetology.

Section 3.

Currently, the board is required to specify by rule the general areas of competency to be covered by examinations for licensing of cosmetologists. The board must ensure that examinations adequately measure an applicant's competency and knowledge of related statutory requirements. Professional testing services may be utilized to formulate the examinations.

The board is currently required to prescribe by rule continuing education requirements to ensure protection of the public through updated training of licensees and registered specialists, not to exceed 16 hours biennially, as a condition for renewal.

The bill requires the DBPR to contract with a private contracted provider, as defined in the bill, to administer the licensure examination. It also allows the contracted provider to offer an elective

examination review class to prepare for taking the examination. The examination review class may be approved by the board as 4 hours of the required 16 hours of continuing education.

The bill specifies the procedures for approving a contracted provider. The DBPR is required to issue a request for competitive sealed proposals that includes a statement of the examination-related services sought and terms and conditions applicable to the potential contract. The contract must be for a 4-year term, with renewable options at the DBPR's discretion.

The DBPR is required to award the contract to an entity that is not for profit whose proposal is determined to be most advantageous to the state, taking into consideration the price and the other criteria set forth in the request for proposals. In making the selection, the DBPR must consider factors such as whether the contracted provider represents the diverse interests of the cosmetology industry and the contracted provider's ability to provide a statewide program with diverse cosmetology industry interests and statewide participation.

Section 4.

Currently, cosmetology salons and specialty salons are required to be licensed and cosmetology services can only be performed in a licensed salon unless specifically exempted. "Booth renting is when a licensed cosmetologist or specialist rents a portion of a salon as a place of business which is normally worked through a contract with the salon owner. Currently, there is no booth rental license.

The bill specifies that booth rentals [as defined in the bill] are subject to the following requirements:

1. The owner of a licensed salon must provide the DBPR with verification of compliance with all sanitation guidelines set forth by the DBPR for all booth rentals in the salon prior to allowing services to be provided.
2. The owner of a licensed salon must register with the DBPR the names of all licensees who have executed leases for booth rentals within the owner's salon.
3. Each licensee who executes a lease for a booth rental must be registered as a booth renter with the DBPR or a contracted provider for the DBPR.

The bill specifies that the DBPR may contract with a contracted provider to administer the registration process for booth rentals. Registration requirements must be adopted by the DBPR by rule and include requirements for booth renters to comply with the Internal Revenue Service and Department of Revenue rules and regulations.

Section 5.

The bill specifies a fee schedule for booth rentals to include fees of \$25 to \$50.

Section 6. Effective date - July 1, 2007.

C. SECTION DIRECTORY:

Section 1. Amends s. 477.013, F.S., to define "contracted provider" and "booth rental."

Section 2. Amends s. 477.019, F.S., to revise eligibility criteria to take the examination and revising criteria for licensure by endorsement.

Section 3. Amends s. 477.022, F.S., to require a contract with a nonprofit entity to administer licensure examinations; providing for a licensure examination review class; providing requirements for the DBPR to contract with service providers.

Section 4. Amends s. 477.025, F.S., to provide for registration of booth rentals and booth renters.

Section 5. Amends s. 477.026, F.S., to establish fee schedules for booth rental registrations.

Section 6. Effective date - July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The department anticipates the following revenues:

REVENUE			
	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
License Fees: booth rental est. at \$25 each	545,375		545,375
Taxes:			
Other (identify): endorsement application and examination - \$50 each (s. 477.026(1)(b))	163,600		163,600
TOTAL:	708,975	None	708,975

2. Expenditures:

The department anticipates the following expenditures:

EXPENDITURES – FUNDING SOURCE (TRUST FUND)			
Non-Recurring Effects	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
Operating Capital Outlay	7,800	0	0
Acquisition of Motor Vehicles	42,000	0	0
Expenses	20,063	0	0
Subtotal	69,863	None	None

EXPENDITURES – FUNDING SOURCE (TRUST FUND)			
Recurring Effects	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
Salaries/Benefits – 6 FTE positions	236,730	236,730	236,730
Expenses	46,255	46,255	46,255
HR Assessment	2,406	2,406	2,406
Operation of Motor Vehicles	9,000	9,000	9,000
Subtotal	294,391	294,391	294,391

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to the Department of Business and Professional Regulation, the proposed legislation will bring in revenues of approximately \$700,000 every two years and will cost \$365,254 in Fiscal Year 2007-08 and \$294,391 in future years. These costs include 6 FTE positions.

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.

B. RULE-MAKING AUTHORITY:

The DBPR is required to award the contract to an entity that is not for profit whose proposal is determined to be most advantageous to the state, taking into consideration the price and the other criteria set forth in the request for proposals and DBPR rules. Registration requirements booth rentals must be adopted by the DBPR by rule and include requirements for booth renters to comply with the Internal Revenue Service and Department of Revenue rules and regulations. By rule specify eligibility criteria to take the examination and criteria for licensure by endorsement.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

The strike all to HB 1071 states that the board may establish by rule procedures whereby a student may be pre-qualified to obtain approval for an examination date prior to graduation.

The cosmetology industry has been facing many issues over the years. The Department of Business and Professionals Regulation (DBPR) has reached out to the Florida Association of Beauty Professionals (FAB Professionals) to learn how it can serve its constituents better. One of the immediate issues was the application processing for examination and licensing of incoming licensees.

Currently students of cosmetology can only apply for their state licensing examination at the completion of the required school hours (Florida Statute 477.019). This process has proven to hold up incoming licensees from getting to work due to the delay in getting the paperwork completed and the state examination scheduled. Based on the DBPR's request for input, the original bill has been modified to address the single issue- allowing students to apply for examination and have their paperwork pre-processed while they are completing their required hours of school.

This would allow the students to schedule exam dates close to graduation time and allow better preparation for the examination. The language was created in response to the meeting referenced above with the Department. All other issues (as stated in the originally filed bill) will be worked on with the Board of Cosmetology in the rule-making process.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES