

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 375
Excavation Work

Regulation of Hoisting Equipment Used in Construction, Demolition, or

SPONSOR(S): Evers

TIED BILLS:

IDEN./SIM. BILLS: SB 1174

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance, Business & Financial Affairs Policy Committee		Livingston	Cooper
2) Military & Local Affairs Policy Committee			
3) Policy Council			
4) General Government Policy Council			
5)			

SUMMARY ANALYSIS

Construction contracting is regulated under part I of chapter 489, F.S. With certain statutory exemptions from licensure, construction contractors are regulated by the Construction Industries Licensing Board (CILB) within the Department of Business and Professional Regulation (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). The CILB is statutorily divided into two divisions. 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, such as, roofing, plumbing, air-conditioning, etc.

The operation of tower cranes and crane operators on construction projects are not currently regulated or licensed by the state.

The bill requires licensed contractors applying for building permits that involve the use of tower or mobile cranes to provide a site plan and compliance documentation to the local building official. The site plan must identify the location of the crane, power-line clearances, building locations, and the structural foundation of the crane. The compliance documentation must demonstrate compliance with the requirements of all governmental authorities related to the operation of the crane at the work site.

The bill provides that when a tower or mobile crane is located on a jobsite, a hurricane or high-wind event preparedness plan for the crane must be available for inspection at the site. The bill also provides for the securing of equipment in preparation for a hurricane or high-wind event.

The bill provides for the discipline of any person licensed as a construction contractor for an intentional violation of the provisions of the bill.

The bill specifies that the requirements of this section preempt the regulation of hoisting equipment by a county, municipality, or other local political subdivision.

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

The effective date of the bill is upon becoming a law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present situation

Construction contracting is regulated under part I of chapter 489, F.S. With certain statutory exemptions from licensure, construction contractors are regulated by the Construction Industries Licensing Board (CILB) within the Department of Business and Professional Regulation (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).

The CILB is statutorily divided into two divisions. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors. Division II has jurisdiction over the remaining contractors, often referred to as subcontractors, under the CILB, including roofing, plumbing, mechanical, sheet metal, air-conditioning, pool and spa, solar, pollutant storage systems, and underground utility 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.

Currently, s. 455.227, F.S., specifies grounds for disciplinary action by a board or the DBPR. These provisions include, among others, violating any provision of this chapter, the applicable professional practice act, a rule of the DBPR or a board, etc. Section 489.129, F.S., further specifies disciplinary guidelines for construction licensees.

The operation of tower cranes and crane operators on construction projects are not currently regulated or licensed by the state.

Effect of proposed changes

The bill defines "hoisting equipment" to mean "power-operated cranes, derricks, hoists, elevators, and conveyors used in construction, demolition, or excavation work that are regulated by the Occupational Safety and Health Administration" (OSHA). The bill specifically exempts "elevators" that are regulated under chapter 399, F.S., the Florida Elevator Safety Act.

The bill defines "mobile crane" to mean a type of hoisting equipment incorporating a cable-suspended latticed boom or hydraulic telescoping boom designed to be moved between operating locations by transport over a roadway.

The bill also defines "tower crane" to mean a type of hoisting equipment using a vertical mast or tower to support a working boom in an elevated position, where the working boom can rotate to move loads laterally either by rotating at the top of the mast or tower or by the rotation of the mast or tower itself.

The bill creates s. 489.1138, F.S., and requires licensed contractors applying for building permits that involve the use of tower or mobile cranes to provide a site plan and compliance documentation to the local building official. The site plan must identify the location of the crane, power-line clearances, building locations, and the structural foundation of the crane. The compliance documentation must demonstrate compliance with the requirements of all governmental authorities related to the operation of the crane at the work site, including the lighting requirements of the Federal Aviation Administration.

The bill requires that two or more tower or mobile cranes operating within the same swing radius must maintain a clear, independent, and operable channel of radio communication open at all times between the operators.

The bill provides that when a tower or mobile crane is located on a jobsite, a hurricane or high-wind event preparedness plan for the crane must be available for inspection at the site. The bill also provides for the securing of equipment in preparation for a hurricane or high-wind event, including the securing of hoisting equipment, laying down of fixed booms, setting tower cranes in the weathervane position, removing rigging from hoist blocks, and disconnecting the power at the base of the crane.

The bill provides for discipline by the DBPR of any person licensed under part I of chapter 489, F.S.(construction contractor), for an intentional violation of the crane guidelines specified in the newly created s.489.1138, F.S.

The bill specifies that the requirements of this section preempt the regulation of hoisting equipment by a county, municipality, or other local political subdivision.

B. SECTION DIRECTORY:

Section 1. Creates s. 489.1138, F.S., to specify guidelines for the operation of hoisting equipment that preempts local regulation.

Section 2. Effective date – upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Not anticipated to be significant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Contractors will have to provide additional compliance documentation when applying for permits.¹

D. FISCAL COMMENTS:

The DBPR will incur costs associated with investigation and prosecution of licensed contractors who violate provisions of the bill. However, these tasks can be accomplished with existing staff.²

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

¹ DBPR Office of Legislative Affairs, 2009 Legislative Analysis Form, HB 923 (identical to HB 375, 2010), on file with the Insurance, Business, & Financial Affairs Committee.

² Id.