

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 156

INTRODUCER: Community Affairs Committee and Senator Detert

SUBJECT: Swimming Pools and Spas

DATE: March 7, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Fav/CS
2.			RI	
3.			AGG	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 156 would create a new mandatory licensing requirement for residential pool cleaning in Florida. The bill revises the definition for Contractor, adding “maintenance for water treatment” to the overall definition of contracting, and includes cleaning, maintenance, and water treatment of swimming pools and spas within the licensure scope for commercial pool/spa contractor, residential pool/spa contractor, and swimming pool/spa servicing contractor. The bill removes current licensure exemptions for individuals and businesses that provide only pool and spa cleaning, maintenance and water treatment services. The bill also removes the one year of experience requirement for swimming pool/spa service contractors and instead requires 20 hours of in-field, hands-on instruction. The bill provides an exemption from licensure requirements for an owner or operator maintaining a swimming pool or spa for the purpose of water treatment.

This bill substantially amends sections 489.103, 489.105 and 489.111, Florida Statutes.

II. Present Situation:

Pool Cleaning in Florida

Currently, the practice of pool contracting is regulated by the Florida Department of Business and Professional Regulation (DBPR) under the auspices of the Construction Industry Licensing Board (CILB). Pursuant to sections 489.105(3)(j), (k) and (l), F.S., mandatory licensure is required for commercial pool/spa contractors, residential pool/spa contractors, and swimming pool/spa servicing contractors respectively to construct or repair pools. Contractors must maintain one of these licenses to contract for the installation, repair, or servicing of commercial or residential pools, spas and hot tubs. However, each of these categories specifically exempts persons who offer only cleaning, maintenance and water treatment of pools, spas and hot tubs from mandatory licensing, so long as the work contracted does not affect the structural integrity of the pool, spa or hot tub or require installation, modification or replacement of its permanently attached equipment. This exemption was added by the legislature in 1996.¹

While DBPR does not currently require licensure for persons offering only pool cleaning services, the Florida Department of Health (DOH) has responsibility under s. 514.075, F.S., to certify public pool service technicians. Public pool service technicians must demonstrate knowledge of pool maintenance and water treatment by passing a 16-hour course approved by DOH. Persons holding a current commercial pool/spa contractor, residential pool/spa contractor, and/or swimming pool/spa servicing contractor license from DBPR are exempt from certification under s. 514.075, F.S. DOH reported that approximately 14,000 people had been certified by their largest approved trainer during a 5-year period.

Currently, applicants for commercial swimming pool/spa contractor and/or residential pool/spa contractor license are eligible to sit for the state certification examination if he or she has at least 4 years of experience in the required licensure category. Applicants may substitute up to three years of college credits in lieu of years of experience but must have at least one year of experience as a foreman in the license category sought. Pursuant to s. 489.111(2)(c)6.d., F.S., a person is qualified to sit for the swimming pool/spa servicing contractor's examination if they possess one year of experience in swimming pool service work and complete 60 hours of instruction in course work approved by the Construction Industry Licensing Board. All applicants must also establish that they are 18 years of age, of good moral character, and meet minimum financial stability requirements.

III. Effect of Proposed Changes:

Section 1 exempts owner or operator of public swimming pools and spas, or his or her direct employees, who undertakes to maintain the swimming pool or spa for the purpose of water treatment from the licensing requirement of the bill.

Section 2 amends s. 489.105(3)(j)-(l), F.S., to add the phrase "maintain for purposes of water treatment" to the definition of contracting, specifically including such work within the mandatory licensure requirements of commercial pool/spa contractors, residential pool/spa contractors, and swimming pool/spa servicing contractors. The bill removes the current

¹ Ch. 96-365 (Laws of Fla).

exemption for businesses and individuals who engage only in pool/spa cleaning, maintenance and water treatment services from s. 489.105(3)(j)-(l), F.S., requiring any businesses or individuals who provide such services to obtain either a commercial pool/spa contractor, residential pool/spa contractor, or swimming pool/spa servicing contractor license. In addition, any business licensed as a public pool owner operator by the Department of Health would no longer be permitted to use employees to provide water treatment services for public pools pursuant to s. 514.075, F.S., unless they or their employee obtained one of the above pool/spa contractor's license from the Department of Business and Professional Regulation.

Section 3 reduces the experience requirements for the swimming pool/spa service contractor's license under s. 489.111(2)(c)6.d., F.S., from one year of verifiable experience in swimming pool/spa service work to 20 hours of infield, hands-on instruction. However, all applicants for state certification would be required to pass the State of Florida certification examination prior to licensure. In addition, all applicants for licensure would be required to meet all other licensure requirements, including the requirements to be at least 18 years old, be of good moral character, and meet biennial renewal requirements.

Section 4 provides an effective date of October 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

According to the Department of Business and Professional Regulation analysis on SB 156 it is estimated that the proposed legislation could generate 18,000 new licensees. The associated initial license fee, application fee, and exam fee would be approximately \$236 per licensee.

B. Private Sector Impact:

According to the Department of Business and Professional Regulation analysis on SB 156, "The current licensure scope for commercial pool/spa contractor, residential pool/spa contractor, and swimming pool/spa servicing contractor includes many activities that exceed the normal work of a pool/spa cleaner. Some applicants may have difficulty

in passing the state examination due to the extensive nature of the subject matter. Applicants unable to meet the licensing requirements by July 1, 2014, will not be permitted to engage in the pool cleaning profession and will be placed out of business.”²

C. Government Sector Impact:

The bill expands mandatory state licensure requirements for individuals who were previously not required to obtain a Florida contractor’s license. The Department of Business and Professional Regulation will see an increase in examination requests and licensure applications resulting in additional fees for examination, initial licensure and biennial renewals. The number of new licensees is indeterminate, however, it is anticipated that the proposed legislation could generate 18,000 new licensees that would not be otherwise familiar with or meet our licensure requirements. This will generate additional incoming calls to and escalations from DBPR’s Customer Contact Center, place a burden on the Bureau of Central Intake and Licensure’s Research Unit, and require a total of 3.0 additional Full Time Employees (FTEs) in Division of Service Operations (DSO): 2.0 FTEs (Regulatory Specialist II) for the Bureau of Central Intake and Licensure and 1.0 FTE (Regulatory Specialist II) for the Customer Contact Center.

According to the Department of Business and Professional Regulation analysis on SB 156 the bill would bring in an estimated \$3,670,962 in net revenues for FY 2014-15. It would then cost the state \$ 139,286 in FY 2015-16. In FY 2016-17 it would bring in net revenue of \$2,245,521.³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 7, 2013:

Exempts owner or operator of public swimming pools and spas, or his or her direct employees, from the licensing requirement of the bill. Provides the Department of Business and Professional Regulation with the authority to adopt rules, rather than the Construction Industry Licensing Board. Changed the effective date.

² Department of Business and Professional Regulation, *Senate Bill 156 Fiscal Analysis* (January 28, 2013) (on file with the Senate Committee on Community Affairs).

³ *Id.*

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
