

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 973 Alarm Systems

SPONSOR(S): Local & Federal Affairs Committee, Business & Professional Regulation Subcommittee, Brodeur

TIED BILLS: **IDEN./SIM. BILLS:** SB 1442

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	12 Y, 0 N, As CS	Livingston	Luczynski
2) Local & Federal Affairs Committee	16 Y, 0 N, As CS	Baker	Rojas
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

Electrical and alarm system contractors are regulated and certified on a statewide basis under the Electrical Contractor's Licensing Board within the Department of Business and Professional Regulation (DBPR). The bill preempts local government regulation of alarm system contracting to the state.

The bill establishes a statewide uniform rate that would reduce the current fees imposed by certain local governments. Specifically, the bill establishes uniform regulation of alarm system contracting while allowing local governments to maintain their varying alarm permit fees as long as those fees are below \$55. There is a limited exemption for local governments who on January 1, 2013 charged an alarm permit fee above \$55. Local governments who charged more than \$55 for alarm permits on that date may charge up to \$175 until January 1, 2015. On January 1, 2015, all local governments must reduce their alarm system permit fee to \$55.

The bill creates a system whereby local building departments that require a permit for alarm system installation must provide qualified contractors a label in exchange for a \$55 fee. The label is required to be placed on completed alarm system projects. The bill also provides an exemption from alarm system regulatory requirements for certain in-state employees and security alarm sales representatives who do not access customer premises or alarm codes.

Besides paying the \$55 fee, to obtain a permit label, the contractor must submit identification and proof of licensure as a contractor. The bill allows for the purchase of labels in bulk which can be used for current or future installations of alarm systems. The bill allows a contractor to begin work on a particular project without notifying the local agency. The bill provides a further exemption from state licensure and local alarm system permitting for the subcontractors of telecommunications system services. The bill extends this same exemption to employees and contractors of cable and video services. Currently, there is no such exemption for cable, video, or telecommunications services.

The bill requires the contractor to submit a notice of installation within 14 days of completing the project and provides disciplinary authority to local enforcement agencies regarding a contractor's failure to timely notify the agency of completion. The bill also states an additional label is not required for subsequent inspection of an alarm system.

The bill provides for an effective date of October 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

One industry company report showed the results of their in-house analysis as follows:¹ In Florida, of the 304 local jurisdictions that address residential permit requirements for basic hardwire installation, 60 percent or 182 require permits while 40 percent or 122 do not require permits. Residential permit prices in the localities range from \$0 to \$300. Of the jurisdictions that charge a permit fee, that fee ranges from \$15 to \$300, and the average for that range was \$52.73 per permit. The data also shows that the average number of days to process a permit is four days.

Electrical contracting generally

Electrical and alarm system contracting is regulated under the Electrical Contractor's Licensing Board (ECLB) within DBPR.² Under limited circumstances, that same area of contracting is also subject to local building department jurisdiction.³

The licensing and regulation of electrical and alarm system contractors is governed by part II, ch. 489, F.S. That part provides for certified and registered contractors. An applicant for contracting licensure may apply to the DBPR to take a certification examination, pass, and thereby engage in contracting on a statewide basis.

However, if an applicant applies for a form of licensure known as registration, and shows DBPR some current evidence of competency as issued by a local government, then that applicant may receive registration.⁴ Registration merely permits a contractor to work in the particular locality specified.⁵ Some local jurisdictions require experience, insurance and passage of an examination while others require little or no experience or examination.

Further, a city or county may deny issuance of a local permit when the local official finds that a contractor has failed to obtain worker's compensation insurance or property damage or public liability insurance in the amount determined by rule of the ECLB.⁶ In addition, a local government can also require that a contractor comply with the Florida Fire Prevention Code.⁷

Alarm system contracting specifically

Currently, s. 489.505(1), F.S., defines alarm system to mean any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency. Subsection (10) of this section defines contractor to mean a person who is qualified to engage in the business of electrical or alarm system contracting pursuant to a certificate or registration issued by the DBPR.⁸

¹ ADT, Permitting data for the State of Florida, provided to committee staff by electronic mail on Mar. 22, 2013.

² Section 20.165(4)(a)7., F.S. Other purposes for the Code include affordability and promoting a competitive environment.

³ Section 489.516(3), F.S. (with limited exceptions for fraud or code violations, a local official may only require an electrical or alarm system contracting certificate-holder to show that the contractor holds a current certificate and to pay the fee for the necessary permit).

⁴ Section 489.513(3), F.S.

⁵ Section 489.513(5), F.S.

⁶ Section 489.516(4), F.S.

⁷ Section 489.516(5), F.S.

⁸ For example, employees of a telephone company who performed routine maintenance of a fire alarm system and did not hold themselves out to the public for hire as alarm system contractors were not in the business of contracting so as to fall within the definition of an alarm system contractor. *Verizon Florida, Inc. v. Florida Dep't of Business Regulation*, 850 So. 2d 629 (1st DCA 2003).

The Florida Building Code (Building Code) is the statewide building code pertaining to all construction.⁹ The intent of the Building Code is to create a single source of uniform standards for all aspects of construction.¹⁰ The Florida Building Commission (Commission) is responsible for general administration of the Building Code.¹¹ With certain exceptions, state and local agencies enforce the Building Code when permitted by legislation.¹²

The Building Code defines “local enforcement agency” as an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.¹³

Exemptions

Currently, s. 489.503, F.S., provides exemptions from electrical and alarm system contracting standards. Those exemptions include salespersons or installers of merchandise which does not become a permanent fixed part of a structure; an employee of a licensed contractor; an employee of the United States, this state, or any political subdivision of this state except school boards; court-appointed officers; public utilities; a personal emergency response system; and an employee of a health care facility.

There is also a licensure exemption for employees of a telecommunications system servicer.¹⁴ This exemption is not for subcontractors.¹⁵ Under the same statutory exemption, a company certified under ch. 364, F.S., is not required to obtain a local permit for its employees who perform low voltage electrical work.¹⁶ Ch. 364, F.S., addresses telecommunications companies.

Fire Code

The Building Code cross-references the Florida Fire Prevention Code (Fire Code).¹⁷ In particular, if an alteration is intended for a building, a local agency may only issue a permit until a firesafety inspector has found the plans comply with the Fire Code.¹⁸ The State Fire Marshall is required to adopt a new edition of the Fire Code every three years via rulemaking.¹⁹ Unlawful contractor work regarding fire alarms may amount to a crime.²⁰

Administration

The local building code administrator or official is responsible for administering the permitting and inspection of construction, alteration or demolition of structures and the installation of building systems within the boundaries of that official’s jurisdiction when permitting is required.²¹ Part of this responsibility includes the review of construction plans before any building, system installation, or other construction permit is issued.²²

⁹ See ch. 553, Part IV, F.S.

¹⁰ See s. 553.72(1), F.S.

¹¹ See s. 553.74, F.S. The Commission also resolves disputes regarding Code interpretation, and reviews decisions of local building enforcement officials. Section 553.775, F.S.

¹² See s. 553.80, F.S.

¹³ Section 553.71(5), F.S.

¹⁴ Section 489.503(14)(b), F.S.

¹⁵ Section 489.503(14)(b), F.S.

¹⁶ Section 489.503(14)(b), F.S.

¹⁷ Section 553.79, F.S.

¹⁸ Section 553.79(2), F.S.

¹⁹ See s. 633.0215(1), F.S.

²⁰ See s. 633.702, F.S.

²¹ Section 468.604(1), F.S.

²² Section 468.604(1)(a), F.S.

Currently, s. 468.604(4), F.S., states that if the building code administrator provides for electronic filing, then construction documents prepared or issued by a licensee may be dated and electronically signed and sealed by the licensee and may be transmitted electronically to the building code administrator or building official for approval.

Effect of Proposed Changes

Preemption

The bill preempts any local government measures inconsistent with the labeling framework in the bill. The bill specifically states a local government entity “may not adopt or maintain in effect an ordinance or rule regarding a low-voltage alarm system project that is inconsistent with this section.”

Labeling scheme does not apply to fire alarms

If a plan review is necessary for a fire alarm, then the labeling scheme provided by this bill does not apply to work on those fire alarms. Accordingly, the bill does not likely preempt the current law on fire alarms.

Local permit label requirement

This new alarm permitting scheme would be contained in the Building Code.

The bill requires local enforcement agencies to create a uniform scheme for alarm system permitting. The bill specifies that if a building department requires a permit to be obtained by an alarm system contractor for a low-voltage alarm system project in the jurisdiction, the contractor must obtain a permit label. The bill requires the local authority to provide permit labels to the contractor for a fee that may not exceed \$55. Those labels are valid for one year from the date of purchase and may only be used in the jurisdiction that issued that label.

The bill creates a definition for “a low-voltage alarm system project” to mean a project related to the installation, maintenance, inspection, replacement, or service of new or existing alarm systems, as defined in s. 489.505, F.S., operating at low voltage, as defined in the National Electrical Code Standard 70, Current Edition and ancillary components or equipment, such as, home-automation devices.

The bill defines “contractor,” which is effectively the same definition of contractor in s. 489.505(10), F.S., to mean a person who is qualified to engage in the business of electrical or alarm system contracting pursuant to a certificate or registration issued under part II, ch. 489, F.S.

Exemptions from local permit requirement

The bill amends s. 489.503, F.S., to create an exemption from alarm system regulatory requirements for certain in-state employees and sales representatives of security alarm companies who do not access customer premises or alarm codes; and out-of-state personnel who do not install or repair alarm system at a customer’s premises, and are either in good standing under their state alarm laws or have successfully completed a background check.

The bill also extends a licensure exemption to subcontractors of video and telecommunications system servicers including companies operating under a certificate issued pursuant to chs. 364 or 610, F.S. Further, the bill exempts a company that holds a certificate under ch. 610, F.S. from the requirement of obtaining a local permit for its employees or subcontractors. Ch. 610, F.S., addresses cable and video services. The bill removes certain qualifications on eligibility for the exemption, such as the nature of the work request. Under the bill, an employee or subcontractor can be exempt even if the alarm project is subject to a competitive bid.

The bill clarifies that its changes to these exemptions do not reduce the obligations of a person to comply with a background check under ss. 489.518 and 489.5185, F.S.²³

Specifics of the labeling scheme

The bill refers to the label as a “uniform basic permit label” (permit label). To obtain a permit label, the contractor must submit identification, proof of licensure as a contractor, and pay a fee of \$55 for each permit label that is obtained. However, local enforcement agencies that charged more than a \$55 fee to issue an alarm permit on January 1, 2013 may charge a maximum of \$175 for each alarm permit label until January 1, 2015.

The bill allows for the purchase of labels in bulk which can be used for current projects or for future unspecified projects. The bill also allows permit documents to be submitted electronically. Each label expires in one year after being purchased. A label may only be used in the jurisdiction that issued that label.

Perpetual validity of label after use

Once work on an alarm system is permitted, purchasing another label is not necessary for “subsequent maintenance, inspection or service” of that specific alarm system.

Commencing and completing installation

The contractor is required to post the label in a conspicuous location at the job site. The bill allows a contractor to begin work on a particular project without notifying the local building department of the commencement of the project. Upon completion of the project, the bill requires the contractor to submit a notice of completion of the project within 14 days of completion.

Clarifying statement

The bill provides that the labeling scheme does not impose additional licensure requirements on electrical and alarm contractors.

Discipline provided

The bill provides that if a particular project does not pass the inspection of local authorities, the contractor must take corrective action as necessary to pass inspection. However, the local authorities are not required to inspect a finished alarm system project, or coordinate with the occupant before conducting an inspection.

The bill allows local enforcement authorities to take disciplinary action against a contractor who fails to timely submit a notice of installation. The bill outlines the contents of the notice which the contractor must provide, such as occupant’s name and address, and contractor’s license number and signature. No tax folio number is required in this notice.

²³ Section 489.518, F.S., addresses employees of an alarm contractor or electrical contractor who shall perform work on the site of a project. Section 489.5185, F.S., addresses unlimited electrical contractors and fire alarm contractors in fire alarm projects.

B. SECTION DIRECTORY:

Section 1: Amends s. 489.503, F.S., to expand an exemption for employees and subcontractors of telecommunications and video system services, relating to state licensure and local permitting; creates an exemption from alarm system regulations for certain employees and sales representatives.

Section 2: Creates s. 553.793, F.S., to establish a uniform procedure for the issuance of permit labels for work on low-voltage alarm system projects; preempting inconsistent local government measures on alarm system permitting; exempting certain local enforcement agencies to a certain degree for a limited time; clarifying that bill does not increase licensure requirements in ch. 489, F.S.

Section 3: Provides an effective date of October 1, 2013.

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:

The bill would reduce the ability of certain local jurisdictions to raise revenue, specifically reducing the ability of certain jurisdictions to charge more than \$55 per permit for alarm system projects. Moreover, the bill would reduce the ability of other jurisdictions to charge more than \$175 per permit for alarm system projects until January 1, 2015.

There has been no Revenue Estimating Conference on this bill. See Fiscal Comments, D., below.

2. Expenditures:

The bill's requirement that local governments make permit labels available for purchase may require local expenditures to make those labels available.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments, D., below.

D. FISCAL COMMENTS:

The bill requires local enforcement agencies to issue each permit label to a contractor for a fee of up to \$55 with a limited exemption. It is anticipated the bill would lower fees currently imposed by certain local jurisdictions and may encourage other local jurisdictions to raise fees resulting in an indeterminate fiscal impact.

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. The bill would reduce the authority that certain counties or municipalities have to raise revenue in the aggregate. However, it is also uncertain whether this reduction will produce a significant fiscal impact. The bill 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/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2013, the Business & Professional Regulation Subcommittee adopted a strike-all amendment. That amendment made the following changes to the filed version of the bill:

- Exempting certain employees and sales representatives of security alarm companies from alarm system regulatory requirements.
- Excluding a fire alarm system from the bill's permitting scheme when the system is being installed or replaced and a plan review is required by the fire code.
- Allowing permit documents to be submitted electronically.
- Specifying that a permit label is not required for the subsequent maintenance, inspection or service of an alarm system that was permitted in accordance with the provisions of the bill.
- Changing the effective date from "upon becoming a law" to October 1, 2013.

On April 9, 2013, the Local & Federal Affairs Committee adopted a strike-all amendment. That amendment made the following changes to the filed version of the bill:

- Expanded the exemption found in s. 489.503, F.S., to subcontractors and companies operating under a certificate issued pursuant to ch. 610, F.S.
- Clarified that the exemption expansion did not reduce the obligations for background checks of those who perform alarm work on the project site.
- Created a limited exemption for local governments that currently charged an alarm permit fee above \$55 on January 1, 2013.
- Clarified that the bill does not increase licensure requirements on electrical and alarm contractors.
- Reduced the number of days from 21 to 14 that a contractor is provided in which to notify the relevant local government of completing an alarm system project.
- Removed conflicting language regarding subsequent posting of labels due to failed inspections.

This analysis has been updated to reflect that amendment.