

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 147 Concrete Masonry Education

**SPONSOR(S):** Economic Affairs Committee; Higher Education & Workforce Subcommittee; Caldwell and others

**TIED BILLS:**           **IDEN./SIM. BILLS:** CS/SB 286

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee	11 Y, 0 N, As CS	Ammel	Sherry
2) Transportation & Economic Development Appropriations Subcommittee	13 Y, 0 N	Proctor	Davis
3) Economic Affairs Committee	16 Y, 0 N, As CS	Collins	Creamer

### SUMMARY ANALYSIS

The bill creates the "Concrete Masonry Education Act," and establishes the Florida Concrete Masonry Education Council, Inc., (council) as a nonprofit corporation operating as a direct-support organization of the Department of Economic Opportunity (DEO). The bill:

- Outlines administrative powers and duties of the council including the power to plan, implement, and conduct educational programs related to the field of concrete masonry, particularly for individuals seeking employment.
- Provides for the appointment of a 13-member governing board.
- Allows the council to accept grants, donations, contributions, gifts, and to collect self-imposed, voluntary assessments on concrete masonry units produced and sold by concrete masonry manufacturers in the state.
- Requires the council to adopt bylaws that must be approved by DEO.
- Prohibits the council from participating or intervening in any political campaign on behalf of or in opposition to any candidate for public office or any state or local ballot initiative.

There is no fiscal impact on state or local revenues or expenditures. There is an indeterminate fiscal impact on concrete masonry manufacturers. (See FISCAL COMMENTS for more details.)

The bill provides an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Demand for Skilled Labor

According to the foundation, it is estimated that 300-500 new masons per year are needed to support demand and address attrition.<sup>1</sup> There are only 300 apprentices enrolled in the fourteen apprenticeship programs currently available in the state.<sup>2</sup>

According to a recent survey by the trade group Associated General Contractors, twenty-seven percent of Florida construction firms claim to have trouble finding cement masons.<sup>3</sup> The Florida construction industry lost half of its employment during the recession, and with an increase in building projects the demand for skilled labor is not being met.<sup>4</sup> A growing shortage of labor and rising cost of building materials could affect the completion of some projects.<sup>5</sup>

##### Concrete Masonry Education Programs

Educational programs to train individuals in the field of concrete masonry are currently offered by school districts, colleges and apprenticeship programs throughout Florida. The Florida Department of Education develops Career and Technical Education programs in 'Concrete Masonry' as well as 'Brick and Block Masonry.' These programs are provided through a "network of service providers, which include District Technical Centers, Adult Education Providers and Florida colleges."<sup>6</sup> Career and Technical Education programs are reviewed on a three-year cycle by programmatic review committees,<sup>7</sup> with industry members comprising 50 percent of the review committees in the case of masonry programs.<sup>8</sup> The 2012 review of the Concrete Masonry program recommended deletion of the program due to low enrollment.<sup>9</sup> The program will be removed from inventory in the 2014-2015 school year.<sup>10</sup>

The Florida Masonry Apprentice and Educational Foundation, Inc. (foundation), created in 2002 as a non-profit educational foundation associated with the Masonry Association of Florida and the Florida Concrete & Products Association, coordinates and provides apprenticeship education of the masonry trade. The sole financial support for the foundation comes from voluntary contributions.<sup>11</sup>

##### Examples of State Industry Assessment Structures

##### *Florida Department of Citrus*

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<sup>1</sup> *Id.*

<sup>2</sup> *Id.*

<sup>3</sup> Marcia Heroux Pounds, *As projects ramp up, skilled construction workers in short supply*, Sun Sentinel, Nov. 24, 2013, available at <http://www.sun-sentinel.com/business/careers/fl-tradesmen-shortage-20131124,0,4371525.story> (Last visited April 8, 2014).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Florida Department of Education, Career and Adult Education, available at [http://www.fldoe.org/workforce/dwdframe/arch\\_cluster\\_frame13.asp](http://www.fldoe.org/workforce/dwdframe/arch_cluster_frame13.asp) (last visited April 8, 2014).

<sup>7</sup> Section 1004.92(2)(b)4, F.S.

<sup>8</sup> Department of Education, *Senate Bill 286 Agency Legislative Bill Analysis* (Oct. 23, 2013).

<sup>9</sup> In the 2012-2013 school year, the concrete masonry program was offered in three school districts with only 24 students statewide. Conversation with Florida Department of Education representative (Dec. 11, 2013).

<sup>10</sup> *Id.*

<sup>11</sup> Fourteen apprentice programs throughout the state have approximately 300 enrollees. Florida Masonry Apprentice & Educational Foundation, About Us, available at <http://www.masonryeducation.org/about-us.html> (last visited April 8, 2014).

The Florida Department of Citrus (department) has regulatory responsibility for all aspects of the citrus industry. The department is funded by the “box tax” and the equalizing excise tax. The box tax is an excise tax levied on each standard field box of fruit grown and placed into the primary channel of trade in Florida. The equalizing excise tax is assessed on processed citrus products imported into the state at a rate equal to the box tax. The majority of the proceeds of these taxes must be used by the department to advertise Florida citrus products.<sup>12</sup>

### *Florida Beef Council*

The Florida Beef Council is a wholly-owned corporation of the Florida Cattlemen’s Association. Created by the Beef Market Development Act, the Council functions as the promotional and educational arm of the beef industry in the state of Florida.<sup>13</sup>

The purpose of the Florida Beef Council is to promote the growth of the state cattle industry; assure the public an adequate and wholesome food supply; to provide for the general economic welfare of producers and consumers of beef and the state; and to provide the state cattle industry with the authority to establish a self-financed, self-governed program to help develop, maintain, and expand markets for the state’s beef and beef products.

The Council is authorized by state law to impose an assessment of up to \$1 per head of cattle sold in the state if the imposition of such an assessment is approved by referendum. The referendum is open to all cattle producers in the state and conducted by secret ballot at Institute of Food and Agricultural Sciences extension offices or United State Department of Agriculture offices.<sup>14</sup>

The Florida Beef Council’s activities are governed by a board of directors comprised of representatives from all segments of the beef industry.<sup>15</sup>

### *Florida Building Commission*

The Florida Building Commission is established in ch. 553, F.S., within the Department of Business and Professional Regulation (DBPR) and consists of 25 members that are appointed by the Governor and confirmed by the Senate.<sup>16</sup> The Commission is responsible for adopting and enforcing the Florida Building Code as a single, unified state building code used to provide effective and reasonable protection for the public safety, health and welfare.<sup>17</sup> The Florida Building Code is required to be updated every three years by the Florida Building Commission.<sup>18</sup> Pursuant to s. 553.73, F.S., the Commission is authorized to adopt internal administrative rules, impose fees for binding code interpretations, and use the rule adoption procedures listed under ch. 120, F.S., to approve amendments to the building code.<sup>19</sup>

### **Effect of Proposed Changes**

The bill creates the Concrete Masonry Education Act and establishes the Florida Concrete Masonry Education Council (council) as a nonprofit corporation acting as a direct-support organization of DEO. The council must operate under a written contract with DEO, and the contract requires, at a minimum, that the council’s articles of incorporation, bylaws, and budget be approved by DEO. The contract also provides for a reversion of funds to DEO should the council cease to exist.

The bill requires the council to:

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<sup>12</sup> Section 601.15, F.S.

<sup>13</sup> Section 570.9135(2), F.S.

<sup>14</sup> Section 570.9135(6), F.S.

<sup>15</sup> Section 570.9135(5), F.S.

<sup>16</sup> See s. 553.74(1)(a)-(w), F.S.

<sup>17</sup> Sections 553.73 and 553.74, F.S.

<sup>18</sup> Section 553.73(7)(a), F.S. See also Florida Department of Business & Professional Regulation, Florida Building Commission, available at [http://www.floridabuilding.org/fbc/information/building\\_commission.htm](http://www.floridabuilding.org/fbc/information/building_commission.htm) (last visited April 8, 2014).

<sup>19</sup> See ss. 553.76, 553.775, and 553.73(7), F.S., respectively.

- Plan, implement, and conduct programs of education to train individuals in the field of concrete masonry.
- Develop and improve access to education for individuals seeking employment in the field of concrete masonry.
- Develop and implement outreach programs to ensure diversity among individuals trained in the programs.
- Coordinate educational programs with national programs and programs of other states.
- Inform and educate the public about the sustainability and economic benefits of concrete masonry products in order to increase employment opportunities.
- Develop, implement, and monitor a system for the collection of self-imposed voluntary assessments.
- Keep a separate accounting of all money received through voluntary assessments and provide for an annual financial audit in accordance with s. 215.981, F.S.
- Adopt bylaws by September 30, 2014.
- Provide a report, by January 15 of each year, to the Governor, President of the Senate, and Speaker of the House of Representatives outlining the following: revenues received; use of funds received; annual goals and objectives and methods for achieving those; the number of individuals who received training or assistance from the programs; and information related to job placements and industry workforce needs.

The bill provides that the council may:

- Provide to governmental bodies, upon request, information relating to the concrete masonry industry.
- Sue and be sued as a council.
- Maintain a financial reserve for emergency use, not to exceed 10 percent of the council's anticipated income.
- Employ officers and employees of the council, prescribe their duties, and determine their compensation and terms of employment.
- Cooperate with other agencies or organizations in work or activities consistent with the council's objectives.
- Meet with masonry manufacturers to coordinate the collection of self-imposed voluntary assessments.
- Accept grants, donations, contributions, or gifts to be used for activities consistent with the council's objectives.
- Make payments to other organizations for work or services performed and if so, must secure a written agreement requiring recipients to submit, at least annually, a written report detailing the activities and use of such funds.

The bill prohibits the council from:

- Participating in a political campaign, or state or local ballot initiatives.
- Using receipts to benefit directors, officers, or other private persons, not including reasonable compensation for services.
- Participating in activities prohibited for non-profit corporations under federal tax law.

The bill provides that each manufacturer who agrees to pay the self-imposed voluntary assessment shall collect such moneys and submit them quarterly to the council and must commit to paying the assessment for at least one year. The assessment shall be paid for each masonry unit produced and sold by the manufacturer.

The bill also establishes a 13-member board of directors for the council. Members are appointed by the Governor as follows:

- Eight members representing concrete masonry manufacturers<sup>20</sup> of various sizes, at least five of whom must be representatives of manufacturers that are members of the Masonry Association of Florida.
- One who has expertise in apprenticeship or has workforce education training.
- One representing a major building industry association in the state.
- One who is a stakeholder in the masonry industry, but is not a masonry contractor or manufacturer or employee of such.
- Two who are masonry contractors and are also members of the Masonry Association of Florida.

The initial board members will be assigned to staggered terms. Thereafter, members shall be appointed to 3-year terms and may be reappointed to serve an additional consecutive term. All members serve without compensation but may be reimbursed for per diem and travel expenses.

**B. SECTION DIRECTORY:**

**Section 1.** Creates the Concrete Masonry Education Act in an unspecified section of Florida Statutes.

**Section 2.** Establishes the Concrete Masonry Education Council as a direct-support organization to DEO; outlines specific duties, responsibilities, and prohibitions for the council; establishes a 13-member governing board with specific membership requirements; and requires an annual report to the Governor, President of the Senate and Speaker of the House of Representatives.

**Section 3.** Provides an effective date of July 1, 2014.

**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:**

See FISCAL COMMENTS.

**D. FISCAL COMMENTS:**

Proposed payments by concrete masonry manufacturers to Florida Concrete Masonry Education Council, Inc., are self-imposed voluntary assessments on concrete masonry units produced and sold in the state. Additionally, the council may accept grants, donations, contributions, or gifts.

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<sup>20</sup> A manufacturer may not be represented by more than one board member. The Masonry Association of Florida will supply the Governor with recommendations.

The fiscal impact on the private sector cannot be determined because of the voluntary nature of the anticipated revenue.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

None.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On April 11, 2014 the House Economic Affairs Committee adopted an amendment that changed the process by which the council's board of directors is to be appointed.

The analysis has been updated to reflect the amendment.