

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 Fiscal Policy

BILL: CS/CS/SB 338

INTRODUCER: Fiscal Policy Committee; Regulated Industries Committee; and Senator Altman

SUBJECT: Engineers

DATE: April 9, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	<u>Recommend: Favorable</u>
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 338 amends existing law regulating engineers to specifically address the practice of structural engineering. The bill modifies current law to include the licensure of structural engineers similar to professional engineers by the Board of Professional Engineers within the Department of Business and Professional Regulation. Beginning March 1, 2017, the bill prohibits anyone, other than a duly licensed structural engineer, from practicing structural engineering. The bill provides for “grandfathering” for applicants prior to September 1, 2016.

The bill has a minimal fiscal impact on state funds (see Section V.).

II. Present Situation:

The Legislature deems it necessary in the interest of public health and safety to regulate the practice of engineering in Florida.¹ Professional engineers are regulated by the Board of Professional Engineers (FBPE) within the Department of Business and Professional Regulation (department) which enforces and administers the provisions of ch. 471, F.S. The Florida Engineers Management Corporation (FEMC) provides administrative, investigative, and prosecutorial services to the FBPE pursuant to chs. 455 and 471, F.S.² The contract between the

¹ Section 471.001, F.S.

² Section 471.038, F.S.

department and the FEMC for July 1, 2013, through June 30, 2017, provides that the FEMC's services apply to all licensees under the jurisdiction of the FBPE.³

An applicant must have certain qualifications in order to become licensed as an engineer, including passing a fundamentals examination and a principles and practice examination; having good moral character; obtaining a degree from a 4-year engineering curriculum at a school, college, or university approved by the FBPE; having 4 years of engineering experience; or having 10 years engineering experience in lieu of the degree.⁴

Structural engineering is the analysis and design of threshold buildings and other structures of a certain height, size, or occupancy. According to the department, any person licensed as a professional engineer may use the title "structural engineer" as long as the title truthfully reflects the services provided by the professional engineer.⁵

In addition, the Florida Structural Engineers Association (Association) maintains that to ensure the safety, health, and welfare of the public there is a need to specifically license the practice of structural engineering as a separate component of engineering. The Association maintains that the additional licensure is due to the following:

- Increasing size and complexity of current building codes and standards;
- Decreasing redundancies and safety factors arising from well-intended efforts to reduce construction costs;
- Reduction in engineering curriculum requirements in a field that has become more specialized; and
- Significant potential for injuries and loss of human life should a structure fail.⁶

III. Effect of Proposed Changes:

Section 2 defines "structural engineering" as service or creative work that includes analysis and design of threshold structures.⁷ The term includes services and work defined as "engineering" that requires significant structural engineering education, training, experience, and examination, as determined by the FBPE.⁸

Section 1 amends s. 471.003, F.S., to provide that beginning March 1, 2017, no person other than a licensed structural engineer may practice structural engineering or use the title of structural engineer, variations prefaced by the terms "licensed," "professional," "registered," or any other term indicating that a person is actively licensed as a structural engineer.

³ See contract available at <http://www.fbpe.org/index.php/2014-12-08-17-12-31/corporate-contract/send/51-corporate-contracts/165-contract-2012-2013-dbpr-femc> (last visited April 4, 2015).

⁴ Sections 471.015 and 471.013, F.S.

⁵ Department of Business and Professional Regulation, 2015 Agency Legislative Bill Analysis: SB 338 (March 9, 2015).

⁶ See Florida Structural Engineers Association, SE Licensure Executive Summary, available at <http://www.flsea.com/Structural-Engineering-Licensure> (last visited April 4, 2015).

⁷ A threshold building is defined in s. 553.71(12), F.S., as one that is greater than three stories or 50 feet in height, or has occupancy measurements exceeding 5,000 square feet or 500 persons.

⁸ Section 471.005(7), F.S., defines "engineering."

Section 5 amends s. 471.015, F.S., to direct the Florida Engineers Management Corporation to issue a structural engineer license to an applicant certified by the FBPE, who must:

- Be licensed as an engineer or be qualified for licensure as an engineer in Florida;
- Submit an application with the required fee;
- Provide evidence of good moral character;
- Provides a record of four years of active structural engineering experience under the supervision of a licensed engineer; and
- Pass the structural examination offered by the National Council of Examiners for Engineering and Surveying.

The FBPE must adopt the application and define the fee and above requirements.⁹

To allow for licensure as a structural engineer, the bill provides a “grandfather” provision or an exception to the examination and supervision requirements to those applicants who, before September 1, 2016, meet the other requirements and:

- Submit a signed affidavit in the format prescribed by the FBPE. The affidavit must indicate that the applicant is a licensed engineer in the state and has been engaged in the practice of structural engineering with a record of at least 4 years of active structural engineering experience;
- Possess a current professional engineering license and have filed the necessary documentation as required by the board, or possess a current threshold inspector license; and
- Agree to meet with the FBPE or its representative, upon request, for the purpose of evaluating the applicant’s qualifications for licensure as a structural engineer.

The bill allows for simultaneous application for both an engineer license and a structural engineer license. An applicant who is qualified for licensure as an engineer under the chapter’s licensing and qualifications provisions may simultaneously apply for licensure as a structural engineer if all requirements of ss. 471.013 and 471.015(3), F.S., are met.

The bill also modifies the requirements for certification by endorsement for structural engineer applicants. The bill includes structural engineering in the provisions that provide for reciprocal licensure of applicants currently licensed as structural engineers in other states if licensure criteria in the other state is similar.

A structural engineer applicant can also qualify for licensure by endorsement if the applicant holds a valid license to practice structural engineering issued by another state and possesses evidence of successful completion of one of the following 16-hour examination combinations:

- The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering I examination and the 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination;
- The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination and the 8-hour National Council of Examiners for Engineering

⁹ Section 471.005(1), F.S., provides that a reference to “board” means the Board of Professional Engineers, as contrasted with the term “board of directors,” which is defined in s. 471.005(2), F.S., as the board of directors of the Florida Engineers Management Corporation.

and Surveying Civil: Structural examination or the 8-hour National Council of Examiners for Engineering and Surveying Architectural Engineering examination;

- The 16-hour Western States Structural Engineering examination; or
- The 8-hour National Council of Examiners for Engineering Structural Engineering II examination and the 8-hour California Structural Engineering Seismic III examination or the 8-hour Washington Structural Engineering III examination.

Section 8 amends s. 471.031(1), F.S., to prohibit the practice of structural engineering by any person beginning March 1, 2019, unless the person is licensed as a structural engineer, or exempt from licensure. The bill provides additional terms that may not be used by persons legally exempt from licensure as an engineer in Florida. In addition to terms already prohibited to be used the terms “licensed engineer,” “licensed professional engineer,” “licensed structural engineer,” “professional structural engineer,” “registered structural engineer,” and “structural engineer” may not be used. These terms may not be used by employees of any defense, space, or aerospace company; those persons exempted from licensure who work for a manufacturer on a full-time basis on the design or fabrication of products; or are employees working in a company under the supervision of a licensed person.¹⁰

Similar to licensed engineers, structural engineers are required to pay fees, be of good moral character, and meet requirements for continuing education and the use of seals (Sections 3, 4, 6, and 7, amending ss. 471.011, 471.013, 471.019, and 471.025, F.S.). Licensed structural engineers are also subject to the same disciplinary proceedings and consequences that exist for engineers in current law (Section 9, amending s. 471.033, F.S.). The bill includes the services of structural engineers with those services subject to local building codes, zoning codes, or ordinances, which are more restrictive than the provisions of ch. 471, F.S. (Section 10, amending s. 471.03, F.S.).

Section 11 provides that the bill takes effect on July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of a state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁰ Section 471.003(2)(c), (e), and (j) F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

According to the FEMC the bill will restrict the performance of structural engineering to those licensed professional engineers who obtain licenses to perform structural engineering. In addition, the bill provides for a “grandfather” period through September 1, 2016, to allow licensed engineers to qualify for licensure as a structural engineer, if desired.

As provided in s. 471.011, F.S., the bill authorizes the FBPE to establish fees relating to the licensure of structural engineers for applications, licensing and renewals, temporary registrations, late renewals, licensure by endorsement, reactivation fees, and replacement of certificate.

C. Government Sector Impact:

The new structural engineer license classification and fee require minimal information system program changes to the department’s information technology system. The department and the FEMC indicate the additional programming costs can be handled within existing resources.¹¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill directs the FBPE to adopt rules to implement the new license.¹²

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 471.003, 471.005, 471.011, 471.013, 471.015, 471.019, 471.025, 471.031, 471.033, and 471.037.

¹¹ Department of Business and Professional Regulation, 2015 Agency Legislative Bill Analysis: SB 338 (March 9, 2015).

¹² The rules of the FBPE are in ch. 61G15, F.A.C.

IX. Additional Information:

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

CS/CS by Fiscal Policy on April 9, 2015:

The committee substitute:

- Clarifies which prohibited acts constitute ground for disciplinary action of structural engineers;
- Prohibits the unlicensed practice of structural engineering beginning March 1, 2017, instead of March 1, 2019;
- Requires currently licensed engineers to apply by September 1, 2016, instead of February 28, 2019, to avoid exam requirements and requires those applicants to also submit documentation of possession of a current engineer license or possess a current threshold inspector license; and
- Creates a new method for licensure by endorsement for applicants who hold a valid license to practice structural engineering in another state by requiring applicants to pass 16-hours of exams.

CS by Regulated Industries on March 11, 2015:

CS/SB 338 mandates that beginning March 1, 2019, no person other than a licensed structural engineer shall practice structural engineering or use the title of structural engineer, or variations prefaced by the terms “licensed,” “professional,” “registered,” or any other term indicating that a person is actively licensed as a structural engineer.

The committee substitute references “threshold buildings,” which are greater than three stories or 50 feet in height, or have occupancy measurements exceeding 5,000 square feet or 500 persons, for which structural analysis and design must be performed by a licensed structural engineer beginning March 1, 2019.

The committee substitute provides that structural engineering education, training, experience and examination will be defined by the Board of Professional Engineers. It provides for fees, licensure by endorsement, use of seals, licensure beginning March 1, 2019, discipline, and applicability of local ordinances to licensed structural engineers. The committee substitute allows certain applicants for licensure as structural engineers prior to February 28, 2019 to be licensed based on their prior experience and evaluation by the Board of Professional Engineers or its designee.

- B. **Amendments:**

None.