

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 227 Electrical and Alarm System Contracting

**SPONSOR(S):** Killebrew and others

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

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
1) Careers & Competition Subcommittee	12 Y, 0 N, As CS	Wright	Anstead
2) Commerce Committee			

**SUMMARY ANALYSIS**

Electrical contractors and alarm system contractors must be certified or registered under the Electrical Contractors' Licensing Board in order to operate in Florida. Electrical contractors and alarm system contractors are permitted to perform contracting only within the scope of their practice.

The bill allows certified electrical and alarm system contractors to act as a prime contractor for contracts that contain work outside the scope of the contractor's license, provided the majority of the work is within the scope of the contractor's license, and they subcontract the remaining work to other licensed contractors. This provision mirrors current law that allows contractors to act as a prime contractor under similar circumstances.

The bill does not appear to have a fiscal impact on state or local governments.

The bill has an effective date of July 1, 2017.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

Chapter 489, F.S., outlines the law pertaining to contractors in the state of Florida. Part I of ch. 489, F.S., covers contracting regulated by the Construction Industry Licensing Board (CILB) and pt. II of ch. 489, F.S., covers contracting regulated by the Electrical Contractors' Licensing Board (ECLB). Both boards are housed in the Department of Business and Professional Regulation (DBPR).

Electrical contractors and alarm system contractors are certified or registered under ECLB. Certified contractors are those who can practice statewide and are licensed and regulated by ECLB. Registered contractors are those licensed and regulated by a local jurisdiction and who may practice within that locality.<sup>1</sup>

Generally, an "electrical contractor" is a person who has the ability to work on electrical wiring, fixtures, appliances, apparatus, raceways, and conduits which generate, transmit, transform, or utilize electrical energy in any form.<sup>2</sup> The scope of an electrical contractor's license includes alarm system work.<sup>3</sup>

Generally, an "alarm system contractor" is a person who is able to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems.<sup>4</sup> An "alarm system" is defined as "any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency."<sup>5</sup>

In order to become a certified electrical contractor or alarm system contractor, a person at least 18 years of age must submit an application to DBPR and meet the following criteria:

- Be of good moral character;
- Pass the certification examination, achieving a passing grade as established by ECLB rule; and
- Meet eligibility requirements according to one of the following criteria:
  - 3 years of management experience or education equivalent thereto, not more than half of which may be an educational equivalent, within the last 6 years;
  - 4 years of supervisory experience within the last 8 years;
  - 6 years of training, education, or supervisory experience within the last 12 years;
  - any combination of qualifications under the 3 previous options totaling 6 years within the last 12 years; or
  - 3 years as a professional electrical engineer within the last 12 years.<sup>6</sup>

Electrical contractors and alarm system contractors are only permitted to perform contracting within their scope of practice. Contracting includes the attempted sale of contracting services and the negotiation or bid for a contract on these services.<sup>7</sup>

Electrical contractors are specifically permitted to contract for certain work outside the scope of licensure, limited to excavation, paving, related incidental work, and the work of specialty electrical contractors, provided the electrical contractor properly subcontracts all work outside the scope of her or his licensure.<sup>8</sup> There are no similar statutory provisions for alarm system contractors.

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<sup>1</sup> See generally s. 489.505, F.S.

<sup>2</sup> Ss. 489.505(12), F.S.

<sup>3</sup> s. 489.537(7), F.S.

<sup>4</sup> Ss. 489.505(2), F.S.

<sup>5</sup> Ss. 489.505(1), F.S.

<sup>6</sup> s. 489.511(1)(a) and (b), F.S.

<sup>7</sup> See generally s. 489.505, F.S.

<sup>8</sup> s. 489.537(2)(a), F.S.

Part I of ch. 489, F.S., allows contractors who do not already have the ability to act as a prime contractor to do so when the majority of the work to be performed under a contract falls under the scope of a contractor's license and the contractor subcontracts the remaining work to other licensed contractors.<sup>9</sup>

Currently, ECLB and DBPR read Florida law regulating CILB contractors and ECLB contractors in conjunction with each other.<sup>10</sup> As such, authority granted to "contractors" to act as prime contractor has been interpreted to also apply to electrical contractors and alarm system contractors.<sup>11</sup> However, some local jurisdictions may interpret s. 489.113(9)(a), F.S., as only applying to contractors licensed under pt. I of ch. 489, F.S., therefore, preventing electrical contractors and alarm system contractors from acting as a prime contractor.

### **Effect of Proposed Changes**

The bill specifically states that certified electrical and alarm system contractors are not prevented from acting as a prime contractor where the majority of the work to be performed falls into the scope of the contractor's license or from subcontracting the remaining work to other licensed contractors. This change mirrors the language of s. 489.113(9)(a), F.S. This provision does not apply to registered electrical and alarm system contractors.

The bill has an effective date of July 1, 2017.

#### **B. SECTION DIRECTORY:**

Section 1 Amends s. 489.516, F.S, allowing certified electrical contractors and alarm system contractors to act as prime contractors.

Section 2 Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

N/A

2. Expenditures:

N/A

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

N/A

2. Expenditures:

N/A

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

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<sup>9</sup> s. 489.113(9)(a), F.S.

<sup>10</sup> "The doctrine of *in pari materia* is a principle of statutory construction that requires that statutes relating to the same subject or object be construed together to harmonize the statutes and to give effect to the Legislature's intent." *Fla. Dep't of State v. Martin*, 916 So. 2d 763, 768 (Fla. 2005) .

<sup>11</sup> Florida Department of Business and Professional Regulation, Agency Analysis of 2017 House Bill 227, p. 2 (Feb. 15, 2017).

The bill specifically allows electrical contractors and alarm system contractors to accept and bid on additional contracts, which may increase their work and income.

D. FISCAL COMMENTS:

None.

### 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 February 22, 2017, the Careers and Competition Subcommittee adopted an amendment and reported the bill favorably as a subcommittee substitute. The amendment clarifies that **certified** electrical and alarm system contractors are not prevented from acting as a prime contractor where the majority of the work to be performed under the contract is within the scope of licensure or from subcontracting the remaining work to other licensed contractors.

This analysis is drafted to the committee substitute as passed by the Careers and Competition Subcommittee.