

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1137 Pinellas County Construction Licensing Board, Pinellas County
SPONSOR(S): Peters
TIED BILLS: **IDEN./SIM. BILLS:** SB 402

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	8 Y, 0 N	Renner	Miller
2) Careers & Competition Subcommittee	15 Y, 0 N, As CS	Brackett	Anstead
3) Government Accountability Committee			

SUMMARY ANALYSIS

The Pinellas County Construction Licensing Board (Board) was created by ch. 75-489, Laws of Florida, as amended. The Board is an independent agency and is not funded or operated by Pinellas County government. The function of the Board is to regulate certain construction and home improvement contractors practicing in all Pinellas County jurisdictions. The Board also provides countywide certification and registration of contractors and countywide certification of journeymen.

Currently, the Board is comprised of 21 members who must be nominated by various associations and organizations. Members are appointed to two-year terms by the Chairman of the Pinellas County Board of Commissioners.

The bill makes numerous revisions to the Board. Specifically, the bill:

- Reduces the number of Board members from 21 to 15 and revises how Board members must be selected;
- Provides that members cannot serve more than two consecutive terms of four years and can be removed at will by the Pinellas County Board of Commissioners (PCBC);
- Provides that the Board is a dependent agency of the PCBC;
- Authorizes PCBC to adopt rules;
- Requires the Board to submit a complete report on finances and administrative activities of the Board at the end of each fiscal year to all local governments in Pinellas County and to the public;
- Provides that the Board will be subjected to periodic audits;
- Requires Board members to file a financial disclosure statement and an annual disclosure of financial interests; and
- Provides for dissolution of the Board if qualified electors of Pinellas County vote in a referendum.

The bill provides that the Board is eligible for state funding for three years after July 1, 2018, to support its operations and staff costs as it transitions to Pinellas County.

The Economic Impact Statement estimates the bill will have a \$987,500 fiscal impact on local expenditures and a \$862,500 fiscal impact on state expenditures for Fiscal Year 2018-2019 and a \$987,500 fiscal impact on local expenditures and a \$912,500 fiscal impact on state expenditures for Fiscal Year 2019-2020 for personnel and operating costs, as well as licensing and compliance software.

The bill has an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Pinellas County Construction Licensing Board (Board) was created by Chapter 75-489, Laws of Florida, as amended. The Board is an independent agency and is not funded or operated by Pinellas County government. The function of the Board is to regulate certain construction and home improvement contractors practicing in all Pinellas County jurisdictions.¹ The Board also provides countywide certification and registration of contractors and countywide certification of journeymen.² The Board is funded through the collection of money, such as fines and fees, from the registration, certification, and regulation of countywide contractors and journeyman.³

The Board consists of 21 members:⁴

- Two general contractors;
- Two building contractors;
- Two residential contractors;
- One Florida registered architect doing business in Pinellas County;
- One electrical contractor;
- One plumbing contractor;
- One mechanical contractor;
- One roofing or sheet metal contractor;
- One swimming pool, aluminum or veneer specialty contractor;
- Two fire marshals;
- Three building directors. One each from St. Petersburg, Clearwater and Pinellas County;
- One North county building director from one of the following municipalities: Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo;
- One South county building director from one of the following municipalities: South Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park;
- One Beach Community building director from one of the following: the Town of Belleair Beach, the Town of Belleair Shores, the City of Redington Beach, the City of North Redington Beach, the City of Madeira Beach, the City of Indian Rocks Beach, the Town of Indian Shores, the Town of Redington Shores, the City of Treasure Island, and the City of St. Pete Beach, and
- One consumer member who is a resident and citizen of Pinellas County and who is not and never has been a member or practitioner of any of the trades or professions regulated by the board or a member or practitioner of any closely related trade or profession.

Members of the Board are selected by the Chairman of the Pinellas County Board of Commissioners (Chairman), and must be selected as follows:⁵

- Three building directors of the City of Clearwater, City of St. Petersburg and the County of Pinellas;
- One north county building director from one of the following municipalities: Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo;
- One south county building director from one the following municipalities: South Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park;
- One Beach Community building director from a list of three nominees submitted by The Barrier Island Governmental Council;

¹ Pinellas County Construction Licensing Board website, available at http://www.pcclb.com/about_us.htm (last access Jan. 7, 2018).

² *Id.*

³ Ch. 75-489, Laws of Fla.

⁴ Ch. 75-489, Laws of Fla. as amended by Ch. 03-319, Laws of Fla.

⁵ Ch. 75-489, Laws of Fla. as amended by Ch. 03-319, Laws of Fla.

- A Florida Registered Architect from a list of three recommended architects submitted by the American Institute of Architects Florida Central Chapter, St. Petersburg and Clearwater Sections;
- Two who are primarily engaged in business as general contractors from a list of five submitted by the Associated General Contractors of Mid-Florida, Inc.;
- Two who are primarily engaged in business as building contractors from a list of five submitted by the Contractors and Builders Association of Pinellas County;
- Two who are primarily engaged in the business as residential building contractors from a list of five submitted by the Contractors and Builders Association of Pinellas County;
- One who is an electrical contractor from a list of five supplied by the Electrical Council of Florida, Pinellas County Chapter;
- One who is a plumbing contractor from a list of five supplied by the Pinellas Association of Plumbing-Heating-Cooling Contractors, Inc.;
- Two who are fire marshals, who are active members of the Tampa Bay Area Fire Marshals Association, from a list of five supplied by said association, one of whom shall serve an initial term of three years, the other to serve an initial term of two years, with successors to serve for a term of two years thereafter;
- One who is a mechanical or Class A air conditioning contractor from a list of five, supplied by the Refrigeration and Air Conditioning Contractors' Association ("RACCA");
- One roofing or sheet metal contractor and one swimming pool, aluminum or veneer specialty contractor;
- One consumer member.

The building director members from the City of Clearwater, the City of St. Petersburg, and Pinellas County, must be permanent members of the Board. All other members are appointed to two-year terms by the Chairman.⁶

The following members must commence their terms in even-numbered years:

- the Florida registered architect;
- One general contractor;
- One building contractor;
- One residential building contractor;
- The electrical contractor;
- One fire marshal;
- The north county building director;
- The south county building director; and
- The Beach Community building director.⁷

The following members must commence their terms in odd-numbered years:

- One general contractor;
- One building contractor;
- One residential building contractor;
- The mechanical or Class A air-conditioning contractor;
- The plumbing contractor;
- One fire marshal;
- The roofing or sheet metal contractor;
- The swimming pool, aluminum, or veneer specialty contractor; and
- The consumer member.⁸

Pinellas County Audit and Grand Jury Report

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

In 2017, an audit was performed and a grand jury convened to investigate past management, operations and practices of the PCCLB after numerous complaints were made.

On September, 20, 2017, the Pinellas County Division of Inspector General released an audit of the PCCLB⁹ that outlined 93 problems at the agency including governance, finance, information technology, investigative process, licensing of contractors and journeymen, and administrative deficiencies. The audit concluded “that there is weak oversight, poor management, and inadequate controls over PCCLB processes. The current governance structure does not support the organization.”¹⁰

On the same day, a grand jury released a report¹¹ and recommended the PCCLB remain an independent agency but with “significant changes.” Some of those changes include:

- Reducing the board from 21 members to 15;
- Subjecting the Board to a county audit;
- Issuing an annual report on its operations and finances to the public; and
- Requiring Board members to file financial disclosures.¹²

Effect of Proposed Changes

The bill reduces the number of Board members from 21 to 15 and makes the following changes for how a member must be selected:

- Eight members, who must be licensed in this state and actively engaged in the designated profession, that must include the following:
 - A licensed general contractor;
 - A registered architect;
 - A licensed residential building contractor;
 - A licensed electrical contractor or a licensed plumbing contractor;
 - A mechanical contractor or a Class A air conditioning contractor;
 - A licensed roofing contractor;
 - A licensed sheet metal contractor; and
 - A licensed swimming pool, aluminum, or veneer specialty contractor
- The Pinellas County building official;
- Two consumer representatives not affiliated with the construction industry;
- A fire official;
- Three building officials including:
 - A north county building official from one of the following municipalities: Clearwater, Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo;
 - A south county building official from one of the following municipalities: St. Petersburg, South Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park; and
 - A beach community building official from one of the following municipalities: the City of Belleair Beach, the Town of Belleair Shore, the Town of Redington Beach, the Town of North Redington Beach, the City of Madeira Beach, the City of Indian Rocks Beach, the Town of Indian Shores, the Town of Redington Shores, the City of Treasure Island, or the City of St. Pete Beach.

⁹ Pinellas County, Division of Inspector General, *Audit of the Pinellas County Construction Licensing Board*, September 20, 2017, available at http://www.pinellasclerk.org/aspInclude2/pdf/inspector_general/RPT2017-14.pdf (last accessed Jan. 8, 2018).

¹⁰ *Id.* at 2.

¹¹ Grand Jury Presentment to the Honorable Anthony Rondolino, Judge of the Sixth Judicial Circuit Court (Pinellas County, Sept. 20, 2017), available at https://www.pinellasclerk.org/aspInclude2/pdf/inspector_general/GrandJuryPresentmentPCCLB.pdf (last accessed Jan. 9, 2018).

¹² *Id.*

All members of the board are appointed by the Pinellas County Board of Commissioners (PCBC), and must be residents of Pinellas County. The PCBC shall appoint members to four-year terms. Board members cannot serve more than two consecutive terms, but may be reappointed after a two-year hiatus. However, the limitation does not apply to any of the governmental building official or fire official appointees. The Board must elect a chair and vice chair to serve two-year terms in those positions.

The bill revises which Board members' terms expire in even-numbered years and which expire in odd-numbered years. All terms of office expire on September 30th of the last year of the term. The following members' terms expire in even-numbered years:

- The licensed general contractor;
- The registered architect;
- The licensed residential building contractor;
- The licensed electrical or plumbing contractor;
- One of the consumer representatives;
- The North County building official; and
- The Beach Community building official.

The following members' terms expire in odd-numbered years:

- The mechanical or Class A air-conditioning contractor;
- The fire official;
- The licensed roofing contractor;
- The swimming pool, aluminum, or veneer specialty contractor;
- The sheet metal contractor;
- One of the consumer representatives; and
- The South County building official.

The bill provides that the Board is a dependent agency of the PCBC. The PCBC is authorized to adopt rules to implement this act, including, but not limited to rules relating to Board finances and contribution for costs associated with this act to be borne by the county, and to remove any Board member at will. The authority of the PCBC over selection of the members of the Board renders the Board a dependent district of the County.¹³ However, the bill does not reduce the Board's regulatory authority, which apparently will continue to control over any conflicting municipal ordinances.¹⁴

The bill provides that Board staff are employees of Pinellas County, which is responsible for all costs associated with the Board. The Board must submit a complete report on finances and administrative activities of the Board as of the end of each fiscal year to all local governments in Pinellas County and to the public. The Board will be subjected to periodic audits performed by a certified auditor chosen by the PCBC.

All Board members are required to file a financial disclosure statement¹⁵ and an annual disclosure of financial interests.¹⁶ The Board is eligible for state funding for three years after July 1, 2018, to support its operations and staff costs as it transitions to Pinellas County. Lastly, the bill provides for dissolution of the Board if qualified electors of Pinellas County vote in a referendum.

¹³ Section 189.012(2), F.S.

¹⁴ The Pinellas County Charter was created by special act in 1980 and approved by county referendum. *See* ch. 80-590, Laws of Fla. Under the Charter, if a county ordinance conflicts with a municipal ordinance, the county ordinance prevails when it concerns a power of local government lawfully enacted by special law as of the time the Charter was adopted, but the County subsequently could not amend such special law to increase or expand its power, jurisdiction, or services over the municipalities. Art. II, s. 2.01, Pinellas County Charter. As the power of the Board constitutes a power of local government existing as of the date the Charter was adopted, the continuation of its authority in a dependent district of the County by special act of the Legislature would appear to meet the Charter requirements.

¹⁵ *See* FLA. CONST. art. II, s. 8 or s. 112.3144, F.S.

¹⁶ *See* s. 112.3145, F.S.

The Economic Impact Statement drafted by Pinellas County, estimates the bill will have a \$987,500 fiscal impact on local expenditures and a \$862,500 fiscal impact on state expenditures for Fiscal Year 2018-2019 and a \$987,500 fiscal impact on local expenditures and a \$912,500 fiscal impact on state expenditures for Fiscal Year 2019-2020 for personnel and operating costs, as well as licensing and compliance software. These estimates include "\$300,000 per year for implementation of software solution as needed as documented in Pinellas County Inspector General Audit Report (2017-14)." The statement also indicates that the estimate "does not include costs associated with continuation of 6-month pilot program by Pinellas County Sheriff for enforcement as results of pilot are pending analysis and recommendations."

B. SECTION DIRECTORY:

Section 1 Amends ch. 75-489, Laws of Florida, relating to the Pinellas County Construction Licensing Board.

Section 2 Provides an effective date of July 1, 2018.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? December 1, 2017

WHERE? *Tampa Bay Times*

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☐

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 30, 2018, the Careers & Competition Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The committee substitute:

- Provides that eight of the fifteen members of the board must include the following:
 - A general contractor licensed to do business in Florida and actively engaged in the profession.
 - An architect registered in Florida and actively engaged in the profession.
 - A residential contractor licensed to do business in Florida and actively engaged in the profession.

- An electrical or plumbing contractor licensed to do business in Florida and actively engaged in the profession.
- A mechanical or Class A air-conditioning contractor licensed to do business in Florida and actively engaged in the profession.
- A roofing contractor licensed to do business in Florida and actively engaged in the profession.
- A sheet metal contractor licensed to do business in Florida and actively engaged in the profession.
- A pool contractor, aluminum specialty contractor, or veneer specialty contractor licensed to do business in Florida and actively engaged in the profession.
- Removes the provision that the Pinellas Board of County Commissioners may terminate a board member for cause, but continues to allow terminations at will.
- Replaces the term “fire marshal” with “fire official” to conform the language in the bill.
- Amends the date the board is eligible for state funding from “after April 1, 2018” to “after July 1, 2018.”
- Amends the effective date from April 1, 2018 to July 1, 2018.
- Makes other technical and conforming changes.

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