

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 Regulated Industries

BILL: CS/SB 526

INTRODUCER: Regulated Industries Committee and Senator Brandes

SUBJECT: Deregulation of Professions and Occupations

DATE: January 24, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>McSwain</u>	<u>RI</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 526 addresses licensing, registration, and regulatory requirements for various professions and occupations. The bill:

- Eliminates the current licensing required for business entities engaged in certain regulated professions (architecture and interior design, landscape architecture, and asbestos abatement consulting or contracting), while retaining the license required for individuals engaged in those professions.
- Provides that licensed individuals must apply for licensure and act as qualifying agents for business organizations to be licensed to engage in architecture and interior design, landscape architecture, or asbestos abatement consulting or contracting.
- Allows certain boxing match services to be practiced without a license (announcers and knockdown timekeepers).
- Revises the current license requirements for restricted barbers to specify:
 - The services that may and may not be provided by restricted barbers; and
 - A minimum of 325 training hours.
- Specifies license requirements for specialists in practices defined as “nail specialty,” “facial specialty,” and “full specialty.”
- Eliminates license and registration requirements for those who engage solely in:
 - Hair braiding, hair wrapping, or body wrapping; or
 - The polishing of nails or applying makeup.

- Eliminates registration requirements for labor organizations and licensing of labor organization business agents, while maintaining civil causes of action and criminal penalties.
- Eliminates license requirement for yacht and ship brokers' branch offices.

The bill has a negative fiscal impact to the Department of Business and Professional Regulation and to the revenue from the General Revenue service charge. See Section V, Fiscal Impact Statement.

CS/SB 526 provides an effective date of July 1, 2018.

II. Present Situation:

For ease of reference, the Present Situation for each section of CS/SB 526 is addressed in the Effect of Proposed Changes portion of this bill analysis. Background information about the Department of Business and Professional Regulation (the DBPR) is provided below.

Organization of the Department of Business and Professional Regulation

Section 20.165, F.S., establishes the organizational structure of the DBPR, which has 12 divisions:

- Administration;
- Alcoholic Beverages and Tobacco;
- Certified Public Accounting;
- Drugs, Devices, and Cosmetics;
- Florida Condominiums, Timeshares, and Mobile Homes;
- Hotels and Restaurants;
- Pari-mutuel Wagering;
- Professions;
- Real Estate;
- Regulation;
- Service Operations; and
- Technology.

Fifteen boards and programs exist within the Division of Professions,¹ two boards are within the Division of Real Estate,² and one board exists in the Division of Certified Public Accounting.³

¹ Section 20.165(4)(a), F.S., establishes the following boards and programs which are noted with the implementing statutes: Board of Architecture and Interior Design, part I of ch. 481; Florida Board of Auctioneers, part VI of ch. 468; Barbers' Board, ch. 476; Florida Building Code Administrators and Inspectors Board, part XII of ch. 468; Construction Industry Licensing Board, part I of ch. 489; Board of Cosmetology, ch. 477; Electrical Contractors' Licensing Board, part II of ch. 489; Board of Employee Leasing Companies, part XI of ch. 468; Board of Landscape Architecture, part II of ch. 481; Board of Pilot Commissioners, ch. 310; Board of Professional Engineers, ch. 471; Board of Professional Geologists, ch. 492; Board of Veterinary Medicine, ch. 474; Home Inspection Services Licensing Program, part XV of ch. 468; and Mold-related Services Licensing Program, part XVI of ch. 468, F.S.

² See s. 20.165(4)(b), F.S. Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

³ See s. 20.165(4)(c), F.S., which establishes the Board of Accountancy, created under ch. 473, F.S.

The Florida State Boxing Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.⁴ The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.⁵

Powers and Duties of the Department

Chapter 455, F.S., applies to the regulation of professions constituting “any activity, occupation, profession, or vocation regulated by the [DBPR] in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation,”⁶ as well as the procedural and administrative framework for those divisions and all of the professional boards within the DBPR.⁷

The DBPR’s regulation of professions is to be undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state,”⁸ and regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.⁹

However, “neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.¹⁰

Permitting, Registration, Licensing, and Certification

Sections 455.203 and 455.213, F.S., establish general licensing authority for the DBPR, including the authority to charge license fees and license renewal fees. Each board within the DBPR must determine by rule the amount of license fees for each profession, based on estimates of the required revenue to implement the regulatory laws affecting the profession.¹¹

When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a “license,” which may be referred to as either a permit, registration, certificate, or license.¹² Those who are granted licenses are referred to as licensees.¹³

In Fiscal Year 2016-2017, the Division of Accountancy had 37,580 active licensees, the Division of Real Estate had 272,578 active licensees, and the Board of Professional Engineers had 59,923

⁴ Section 548.003(1), F.S.

⁵ See Parts I and III of ch. 450, F.S.

⁶ See s. 455.01(6), F.S.

⁷ See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by providing DBPR staff counsel. See s. 455.221(1), F.S.

⁸ Section 455.201(2), F.S.

⁹ *Id.*

¹⁰ Section 455.201(4)(b), F.S.

¹¹ Section 455.219(1), F.S.

¹² Section 455.01(4), F.S.

¹³ Section 455.01(5), F.S.

licensees.¹⁴ In Fiscal Year 2016-2017, there were 412,872 active licensees in the Division of Professions,¹⁵ including:

- Architects and interior designers;
- Asbestos consultants and contractors;
- Athlete agents;
- Auctioneers;
- Barbers;
- Building code administrators and inspectors;
- Community association managers;
- Construction industry contractors;
- Cosmetologists;
- Electrical contractors;
- Employee leasing companies;
- Geologists;
- Home inspectors;
- Harbor pilots;
- Landscape architects;
- Mold-related services;
- Talent agencies; and
- Veterinarians.¹⁶

The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH) within the DBPR provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure.¹⁷ The FCTMH has limited regulatory authority over the following business entities and individuals:

- Condominium associations;
- Cooperative associations;
- Florida mobile home parks and related associations;
- Vacation units and timeshares;
- Yacht and ship brokers and related business entities; and
- Homeowner's associations (jurisdiction is limited to arbitration of election and recall disputes).¹⁸

¹⁴ See Department of Business and Professional Regulation, *Annual Report, Divisions of Professions, Certified Public Accounting, Real Estate, and Regulation, Fiscal Year 2016-2017*, at <http://www.myfloridalicense.com/dbpr/os/documents/DivisionAnnualReport.pdf>, at pages 21-22 (last visited Dec. 13, 2017).

¹⁵ Of the total 434,574 licensees in the Division of Professions, 21,702 are inactive. *Id.*

¹⁶ *Id.*

¹⁷ See Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes*, at <http://www.myfloridalicense.com/dbpr/lsc/index.html> (last visited Dec. 13, 2017).

¹⁸ *Id.*

III. Effect of Proposed Changes:

For ease of reference to each of the topics addressed in CS/SB 526, the Present Situation for each topic will be described, followed immediately by an associated section detailing the Effect of Proposed Changes.

Yacht and Ship Broker Branch Office Licenses

Present Situation:

Chapter 326, F.S., governs the licensing and regulation of yacht and ship brokers, salespersons, and related business organizations in the state. The Yacht and Ship Broker's Section, a unit of the Division of Florida Condominiums, Timeshares and Mobile Homes of the Department of Business and Professional Regulation (the DBPR), processes license applications and responds to consumer complaints and inquiries by monitoring activities and compliance within the yacht brokerage industry.¹⁹

A person may not act as a yacht or ship broker or salesperson unless licensed under ch. 326, F.S.²⁰ Each yacht or shipbroker must maintain a principal place of business in Florida and may establish branch offices in Florida. A separate license must be maintained for each branch office.²¹ Applicants for a branch office license pay a \$100 fee, and the license must be renewed every two years.²²

Effect of Proposed Changes:

Section 1 of the bill amends s. 326.004, F.S., to remove the requirement that separate branch office licenses be maintained by yacht and ship brokers. The current law provisions related to licensing for yacht brokers and salespeople are retained.

Labor Organizations

Present Situation:

Chapter 447, F.S., governs the licensing and regulation of labor organizations, and related business agents in the state. The Division of Regulation within the DBPR oversees the licensing and regulation of labor organizations. The Division of Regulation processes license applications and regulate the activities of labor unions and their officers, agents, organizers, and representatives.²³

A labor organization is defined as “[a]ny organization of employees or local or subdivision thereof, having within its membership residents of the state, whether incorporated or not,

¹⁹ See Department of Business and Professional Regulation, *Yacht and Ship Brokers; Licensing and Enforcement*, <http://www.myfloridalicense.com/dbpr/lsc/YachtandShip.html> (last visited Dec. 13, 2017).

²⁰ Section 326.004(1), F.S.

²¹ Section 326.004(13), F.S.

²² See Fla. Admin. Code R. 61B-60.002 (2017) at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61B-60> (last visited Dec. 13, 2017).

²³ Section 447.01, F.S., and see <http://www.myfloridalicense.com/dbpr/reg/LaborOrganizationsandBusinessAgents.html> (last visited Dec. 13, 2017).

organized for the purpose of dealing with employers concerning hours of employment, rate of pay, working conditions, or grievances of any kind relating to employment and recognized as a unit of bargaining by one or more employers doing business in this state.”²⁴

In Florida, all labor organizations are required to register with the DBPR and all business agents of labor organizations must obtain a license.²⁵ Business agents are defined as “[a]ny person, without regard to title, who shall, for a pecuniary or financial consideration, act or attempt to act for any labor organization in:

- The issuance of membership or authorization cards, work permits, or any other evidence of rights granted or claimed in, or by, a labor organization; and
- Soliciting or receiving from any employer any right or privilege for employees.”²⁶

Applicants for a business agent license must pay a \$25 license fee and must meet a number of licensure requirements.²⁷ Labor organization applicants must pay an annual fee of \$1.²⁸

Effect of Proposed Changes:

Sections 2 through 10 of the bill amend Part I of ch. 447, F.S., to eliminate the registration and regulation of labor organizations and their business agents by the DBPR and the requirement that the Public Employees Relations Commission notify the DBPR of registrations and renewals of such organizations. Provisions relating to the right to work and strike, recordkeeping, rights of franchise for labor organizations, civil causes of action, criminal penalties, and recognition of federal regulations are not affected by the bill.

Asbestos Abatement Business Organizations

Present Situation:

Chapter 469, F.S., governs the licensing and regulation of asbestos abatement. The Asbestos Licensing Unit is a program located under the Division of Professions. The program processes license applications and responds to consumer complaints and inquiries by monitoring activities and compliance within the asbestos abatement industry.²⁹

A person must be a licensed asbestos contractor in order to conduct asbestos abatement work,³⁰ unless exempted.³¹ A person must be a licensed asbestos consultant to:

- Conduct an asbestos survey;
- Develop an operation and maintenance plan;
- Monitor and evaluate asbestos abatement; or

²⁴ Section 447.02(1), F.S.

²⁵ Sections 447.04(2) and 447.06, F.S.

²⁶ Section 447.02(2), F.S.

²⁷ Section 447.04(2), F.S.

²⁸ Section 447.06(2), F.S.

²⁹ See <http://www.myfloridalicense.com/dbpr/pro/index.html> and <https://www.myfloridalicense.com/intentions2.asp?chBoard=true&boardid=59&SID> (last visited Dec. 13, 2017).

³⁰ Section 469.003(3), F.S.

³¹ Section 469.002, F.S., provides that in limited circumstances, certain governmental employees with required training may engage in asbestos abatement work solely for maintenance purposes.

- Prepare asbestos abatement specifications.³²

An asbestos consultant's license may be issued only to an applicant who holds a current, valid, and active license as an architect, professional engineer, professional geologist, is a diplomat of the American Board of Industrial Hygiene, or has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.³³

If an applicant for licensure as an asbestos consultant or contractor intends to engage in consulting or contracting as a business organization, such as a corporation, or in any name other than the applicant's legal name, the individual applicant must apply for licensure under the fictitious name, or the business organization must apply through a qualifying agent.³⁴

Each licensed business organization must have a qualifying agent who is licensed under ch. 469, F.S., is qualified to supervise the enterprise, and is financially responsible.³⁵ If the qualifying agent terminates his or her affiliation with the business organization and is the only qualifying agent for the business organization, the business organization must be qualified by another qualifying agent within 60 days after the termination.³⁶ If the DBPR has granted a temporary license to the business organization's financially responsible officer (or other specified parties), the business organization is limited during the temporary licensure to completing work under its current contracts, and may not proceed with new contracts.³⁷

Applicants for an asbestos abatement business license pay an application fee of \$300, an unlicensed activity fee of \$5, an initial licensure fee of \$250, and a biennial renewal fee of \$250.³⁸

Effect of Proposed Changes:

Sections 11 and 12 of the bill amend ch. 469, F.S., to require an applicant seeking to engage in asbestos abatement as a business organization, or in any name other than the applicant's legal name, to apply for licensure under the name of the business organization. However, the issued license must be in the name of the qualifying agent, and the name of the qualified business organization must be noted on the license. In addition, the bill makes conforming changes associated with qualification of business organizations by licensed qualifying agents.

Barbering

Present Situation:

The term "barbering" in ss. 476.014 through 476.254, F.S, the Barbers' Act, includes any of the following practices when done for payment by the public: shaving, cutting, trimming, coloring,

³² Section 469.003, F.S.

³³ Section 469.004(1), F.S.

³⁴ Section 469.006(2), F.S.

³⁵ *Id.*

³⁶ Section 469.006(3), F.S.

³⁷ *Id.*

³⁸ See Fla. Admin. Code R. 61E1-3.001 (2017) at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61E1-3> (last visited Dec. 13, 2017).

shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances.³⁹

An applicant for licensure as a barber must pass an examination. To be eligible to take the examination, the applicant must:

- Be at least 16 years of age;
- Pay the application fee; and
- Have held an active valid license in another state for at least one year,⁴⁰ or have a minimum of 1,200 hours of specified training.⁴¹

The Barbers' Board is authorized to establish by rule a procedure for a barber school or program to certify a person to take the licensure examination following completion of a minimum of 1,000 hours of training and for the licensure of such person who passes the examination. Upon passage of the examination by the person seeking licensure, the training requirement of 1,200 hours is deemed satisfied; failing the examination requires completion of the full training requirement.⁴²

Alternatively, a person may apply for and receive a "restricted license" to practice barbering, which authorizes the licensee to practice only in areas in which he or she has demonstrated competency pursuant to rules of the Barbers' Board.⁴³

Effect of Proposed Changes:

Section 13 of the bill amends s. 476.034, F.S., to define the terms "restricted barber" and "restricted barbering." Restricted barbers are licensed to perform, for payment by the public, hair cutting and styling, full facial shaves, trimming of mustaches and beards, and shampooing, conditioning and blow drying hair; restricted barbers may apply only hair tonics and hair spray and may not apply other chemical preparations or solutions to hair. The bill provides similar requirements for an applicant seeking licensure to practice as a restricted barber.

Section 14 of the bill amends s. 476.114, F.S. to reduce the minimum hours of training (1,200 hours under current law) to 325 hours for restricted barbers. The bill specifies the content of the training must be in "sanitation, safety, and laws and rules."

The bill provides an applicant for a restricted barber license must also be at least 16 years of age, pay the application fee, and pass an examination. To be eligible to take the examination, an

³⁹ See s. 476.034(2), F.S. The term does not include those services when done for the treatment of disease or physical or mental ailments.

⁴⁰ Licensure by endorsement may also allow a practitioner holding an active license in another state or country to qualify for licensure in Florida. See s. 476.144(5), F.S.

⁴¹ See s. 476.114(2), F.S.; the training must include, but is not limited to the completion of services directly related to the practice of barbering at a licensed school of barbering, a public school barbering program, or a government-operated barbering program in Florida.

⁴² See s. 476.114(2), F.S.

⁴³ See s. 476.144(6), F.S.

applicant for restricted barbering must have held an active valid license in another state for at least one year,⁴⁴ or have a minimum of 325 hours of training.⁴⁵

Section 15 of the bill repeals current law limiting the practice of a restricted license to areas in which the licensee has demonstrated competency.

Nail and Facial Specialists, Hair Braiders; Hair Wrappers, and Body Wrappers

Present Situation:

Chapter 477, F.S., governs the licensing and regulation of cosmetologists, hair braiders, hair wrappers, nail specialists, facial specialists, full specialists, body wrappers and related salons in the state. The Board of Cosmetology, within the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.⁴⁶

Individuals are prohibited from providing manicures, pedicures or facials in Florida without first being licensed as a cosmetologist or registered as a nail specialist, facial specialist, or full specialist.⁴⁷

A "specialist" is defined as "any person holding a specialty registration in one or more of the specialties registered under [ch. 477, F.S.]."⁴⁸ The term "specialty" is defined as "the practice of one or more of the following:

- Manicuring, or the cutting, polishing, tinting, coloring, cleansing, adding, or extending of the nails, and massaging of the hands. This term includes any procedure or process for the affixing of artificial nails, except those nails which may be applied solely by use of a simple adhesive.
- Pedicuring, or the shaping, polishing, tinting, or cleansing of the nails of the feet, and massaging or beautifying of the feet.
- Facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, and skin care services."⁴⁹

The term "cosmetologist" is defined as "a person who is licensed to engage in the practice of cosmetology"⁵⁰ "Cosmetology" is defined as "the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent waving, and hair relaxing for

⁴⁴ Licensure by endorsement may also allow a practitioner holding an active license in another state or country to qualify for licensure in Florida. See s. 476.144(5), F.S.

⁴⁵ The training must include, but is not limited to the completion of services directly related to the practice of restricted barbering at a licensed school of barbering, a public school barbering program, or a government-operated barbering program in Florida.

⁴⁶ See <http://www.myfloridalicense.com/dbpr/pro/cosmo/index.html> (last visited Dec. 13, 2017).

⁴⁷ See http://www.myfloridalicense.com/dbpr/pro/cosmo/documents/cosmo_faq.pdf (last visited Dec. 13, 2017).

⁴⁸ See s. 477.013(5), F.S.

⁴⁹ See s. 477.013(6), F.S.

⁵⁰ See s. 477.013(3), F.S.

compensation. This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.”⁵¹

A nail specialist may complete manicures and pedicures, and a full specialist may complete manicures, pedicures, and facials.⁵² Manicures and pedicures, as a part of cosmetology services, are required to be provided in a licensed specialty salon or cosmetology salon.⁵³ All cosmetology and specialty salons are subject to inspection by the DBPR.⁵⁴

To qualify for a specialist license, the applicant must be at least 16 years of age, obtain a certificate of completion from an approved specialty education program, and submit an application for registration to the DBPR with the registration fee.⁵⁵

To qualify for a license as a cosmetologist, the applicant must be at least 16 years of age, have received a high school diploma, have submitted an application with the applicable fee and examination fee, and have either a license in another state or country for at least one year, or have received 1,200 hours training including completing an education at an approved cosmetology school or program. The applicants must also pass all parts of the licensure examination.⁵⁶

The act of applying polish to fingernails and toenails falls under the scope of manicuring, even if the individual is not cutting, cleansing, adding, or extending the nails.⁵⁷ Therefore, individuals seeking to apply polish to fingernails and toenails for compensation are required to obtain a registration as a specialist or a license as a cosmetologist, as the DBPR does not issue a separate license for polishing nails.

The application of cosmetic products (makeup) by certain persons is exempted from ch. 477, F.S., under limited conditions, including application of such products in photography studio salons, in connection with certain retail sales, or during the production of qualified films.⁵⁸ In addition, persons providing makeup in a theme park or entertainment complex to actors and others or the general public are exempt from licensing requirements.⁵⁹

Effect of Proposed Changes:

Section 16 of the bill amends s. 477.013, F.S., to specify the activities that constitute the practice of a “nail specialty,” a “facial specialty,” and a “full specialty.” A nail specialty, includes:

⁵¹ See s. 477.013(4), F.S. A licensed cosmetologist is not required to register separately as a hair braider, hair wrapper, body wrapper, or specialist. See http://www.myfloridalicense.com/dbpr/pro/cosmo/documents/cosmo_faq.pdf (last visited Dec. 13, 2017).

⁵² See s. 477.013(6), F.S.

⁵³ See s. 477.0263, F.S. Under s. 477.0135(3), F.S., licensing is not required for a person whose occupation is confined solely to cutting, trimming, polishing, or cleansing fingernails of customers in an active, licensed barbershop, and who did so before October 1, 1985.

⁵⁴ See s. 477.025(9), F.S.

⁵⁵ See s. 477.0201, F.S.

⁵⁶ See ss. 477.019(2) and (4), F.S.

⁵⁷ See s. 477.013(6)(a) and (b), F.S.

⁵⁸ See ss. 477.013(11), 477.0135(1)(f), and 477.0135(5), F.S.

⁵⁹ See s. 477.0135(6), F.S.

- Manicuring, or the cutting, polishing, tinting, coloring, cleansing, adding, or extending of the nails, and massaging of the hands, including any procedure for the affixing of artificial nails, except those that are affixed solely by a simple adhesive; and
- Pedicuring, or the shaping, polishing, tinting, or cleansing of the nails of the feet, and massaging or beautifying of the feet.

A facial specialty includes facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, and skin care services. A full specialty includes all manicuring, pedicuring, and facial services.

The bill expands the definition of “hair braiding” to include the weaving of natural human hair with commercial hair, and the use of hair extensions or wefts.⁶⁰ Under current law, the use of hair extensions or wefts is excluded from “hair braiding.”

Section 17 of the bill repeals s. 477.0132, F.S., eliminating registration requirements for hair braiding, hair wrapping, and body wrapping, and requirements that those registrants take specified courses approved by the Board of Cosmetology.

The bill repeals the requirements that persons whose practice is confined solely to:

- Hair braiding take an approved two-day, 16-hour course consisting of five hours of HIV/AIDS and other communicable diseases, five hours of sanitation and sterilization, four hours of disorders and diseases of the scalp, and two hours of studies regarding laws affecting hair braiding.
- Hair wrapping take an approved one-day, 6-hour course consisting of education in HIV/AIDS and other communicable diseases, sanitation and sterilization, disorders and diseases of the scalp, and studies regarding laws affecting hair wrapping.
- Body wrapping (unless otherwise licensed or exempt from licensing) take an approved two-day, 12-hour course consisting of education in HIV/AIDS and other communicable diseases, sanitation and sterilization, disorders and diseases of the skin, and studies regarding laws affecting body wrapping.

Additionally, the bill repeals s. 477.0132(2), F.S., which provides that:

- Hair braiding, hair wrapping, and body wrapping are not required to be practiced in a cosmetology salon or specialty salon; and
- Disposable implements must be used, or all implements must be sanitized in a disinfectant approved for hospital use or approved by the federal Environmental Protection Agency, when hair braiding, hair wrapping, or body wrapping is practiced outside a cosmetology salon, or specialty salon.

• **Section 18** of the bill amends s. 477.0135, F.S., to eliminate licensure or registration requirements for a person whose occupation or practice is confined solely to hair braiding, to hair wrapping, to body wrapping, to applying polish to fingernails and toenails, or to makeup application, and to eliminate a current law exemption for certain continuing education requirements.

⁶⁰ A ‘weft’ of hair is a long curtain of hair that has a seam at the top and is found on wigs and hair extensions. See <https://www.voguewigs.com/what-is-a-weft.html> (last visited Dec. 13, 2017).

Section 19 of the bill deletes s. 477.019(7), F.S., relating to an exemption from continuing education requirements for hair braiders, hair wrappers, and body wrappers.

Section 20 of the bill amends s. 477.0201, F.S., on specialty registration, to include registrations for nail, facial, and full specialty practices, and minimum training requirements. As in current law, applicants for any specialist registration must be at least 16 years of age or have received a high school diploma. Training requirements, with a primary focus on sanitation and safety, and completion of services directly related to the particular specialty registration being sought, include a minimum of:

- 150 hours, for a nail specialty practice (current requirement is 240 hours);
- 165 hours, for a facial specialty practice (current requirement is 260 hours); and
- 300 hours for a full specialty practice (current requirement is 500 hours).⁶¹

Similar to the current law requirement for registration in a specialty within the practice of cosmetology,⁶² completion of services directly related to each specialty must be received from specified types of schools or specialty programs.

Section 21 of the bill deletes s. 477.026(1)(f), F.S., relating to registration fees for hair braiders, hair wrappers, and body wrappers.

Section 22 of the bill amends s. 477.0265, F.S., to delete a reference to body wrapping in a prohibition respecting the advertising of services.

Section 23 of the bill amends s. 477.029, F.S., eliminating a criminal penalty for hair braiders, hair wrappers, and body wrappers offering or providing services without being licensed or registered.

Architecture or Interior Design Business Organizations

Present Situation:

Chapter 481, Part I, F.S., governs the licensing and regulation of architects, interior designers, and related business organizations. The Board of Architecture and Interior Design, under the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.⁶³

The practice or offering of architectural or interior design services to the public through certain business organizations is authorized for:

- Licensees acting through a corporation, limited liability company, or partnership; or

⁶¹ See http://www.myfloridalicense.com/dbpr/pro/cosmo/documents/cosmo_faq.pdf at page 3 (Question 8) (last visited Dec. 13, 2017) and *2018 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation)* for SB 526, dated Nov. 3, 2017 (on file with Senate Committee on Regulated Industries) at page 3.

⁶² See s. 477.0201(1)(b), F.S.

⁶³ See <http://www.myfloridalicense.com/dbpr/pro/arch/index.html> (last visited Dec. 13, 2017).

- A corporation, limited liability company, or partnership acting through licensees as agents, employees, officers, or partners.⁶⁴

An architecture or interior design business corporation, limited liability company, partnership, or a person practicing under a fictitious name, which is offering architecture or interior design service to the public, must obtain a certificate of authorization prior to practicing.⁶⁵

Applicants for an architecture business certificate of authorization or interior design business certificate of authorization must pay an application fee of \$100, an unlicensed activity fee of \$5, and a biennial renewal fee of \$125.⁶⁶ A business entity has no regulatory obligations other than to obtain licensure.

According to the DBPR, during the past four fiscal years through Fiscal Year 2016-2017, the Board of Architecture and Interior Design disciplined licensed architecture businesses only six times in cases that did not also involve discipline against the supervising architect. In most cases, the licensed business was cited for operating without a supervising architect or for failure to include license numbers in advertisements.⁶⁷

The Board of Architecture and Interior Design disciplined licensed interior design businesses only five times during the past four fiscal years through Fiscal Year 2016-2017, in cases that did not also involve discipline against the qualifying interior designer.⁶⁸

Effect of Proposed Changes:

Sections 24 through 27 of the bill amend ch. 481, F.S., to remove the requirement that architects and interior designers obtain a separate business license (certificate of authorization) in addition to an individual license. The bill provides that architects and interior designers must qualify their business organizations (and disclose operations under a fictitious name) through their individual licenses.

Architects and interior designers who act as qualifying agents must inform the DBPR of any change in their relationship with the qualified business, and if that qualifying agent is the business' only qualifying agent, the business has 60 days to obtain a replacement qualifying architect or interior designer. If a business does not have a qualifying agent, it may not engage in the practice of architecture or interior design, unless the executive director or chair of the Board of Architecture and Interior Design authorizes another registered architect or interior designer employed by the business organization to temporarily serve as its qualifying agent for no more than 60 days.

The bill amends s. 481.219(2)(b), F.S., to provide that the Board of Architecture and Interior Design may deny an application to qualify a business organization if the applicant (or others

⁶⁴ Section 481.219(1), F.S.; such practice must comply with all the requirements in s. 481.219, F.S.

⁶⁵ Section 481.219(2)-(3), F.S.

⁶⁶ See Fla. Admin. Code R. 61G1-17.001 and R. 61G1-17.002 (2017) at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61G1-17> (last visited Dec. 13, 2017).

⁶⁷ Email from J. Morris, Legislative Affairs Director, DBPR, to Senate Committee on Regulated Industries staff (Jan. 19, 2018) (on file with Senate Committee on Regulated Industries).

⁶⁸ *Id.*

identified in the application as partners, officers, directors, or stockholders who are also officers or directors) “has been involved in past disciplinary actions or on any grounds for which an individual registration may be denied.”

Landscape Architecture Business Organization

Present Situation:

Chapter 481, Part II, F.S., governs the licensing and regulation of landscape architects and related business organizations in Florida. The Board of Landscape Architecture, under the DBPR’s Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.⁶⁹

A person may not knowingly practice landscape architecture⁷⁰ unless the person holds a valid license issued pursuant to ch. 481, Part II, F.S.⁷¹ A corporation or partnership is permitted to offer landscape architectural services to the public, subject to the provisions of ch. 481, Part I, F.S., if:

- One or more of the principals of the corporation, or partners in the partnership, is a licensed landscape architect;
- One or more of the officers, directors, or owners of the corporation, or one of more of the partners of the partnership is a licensed landscape architect; and
- The corporation or partnership has been issued a certificate of authorization by the board.⁷²

Applicants for a landscape architecture business certificate of authorization must pay an application fee and initial licensure fee of \$450, an unlicensed activity fee of \$5, and a biennial renewal fee of \$337.50.⁷³ A business entity has no regulatory obligations other than to obtain licensure and notify the DBPR within one month of any change in the information contained in its license application.⁷⁴

Effect of Proposed Changes:

Sections 28 through 33 of the bill amend Part II of ch. 481, F.S., to remove the requirement that landscape architects obtain a separate business license (certificate of authorization) in addition to an individual license. The bill provides that landscape architects must qualify their business organizations (and disclose operations under a fictitious name) through their individual licenses.

The bill repeals the DBPR’s authority to issue a certificate of authorization to an applicant wishing to practice as a corporation or partnership offering landscape architectural services. Further, the bill repeals the Board of Landscape Architecture’s ability to grant a temporary

⁶⁹ See <http://www.myfloridalicense.com/dbpr/pro/larch/> (last visited Dec. 13, 2017).

⁷⁰ The term “landscape architecture” includes but is not limited to the determination of building siting, drainage, and contouring of land and water forms, and other activities including design in connection with land development for the preservation, conservation, enhancement, or determination of proper land uses, natural features, or naturalistic and aesthetic values. See s. 481.303(6)(a)-(d), F.S., relating to the professional services included in landscape architecture.

⁷¹ Section 481.323(1)(a), F.S.

⁷² Section 481.319(1), F.S.

⁷³ See Fla. Admin. Code R. 61G10-12.002 (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=61G10-12.002> (last visited Dec. 13, 2017).

⁷⁴ See 481.319(4), F.S.

certificate of authorization for a business organization that is seeking to work on one project in Florida for a period not to exceed one year to an out-of-state corporation, partnership, or firm.

The bill provides that a corporation or partnership is permitted to offer landscape architectural services to the public, subject to the provisions of ch. 481, Part I, F.S., if:

- One or more of the principals of the corporation, or partners in the partnership, and all of the personnel of the business organization who act in its behalf as landscape architects are registered landscape architects; and
- One or more of the officers, directors, or owners of the corporation, or one or more of the partners of the partnership is a registered landscape architect has applied to be the qualifying agent for the business organization.

Under the bill, landscape architects who qualify a business organization must inform the DBPR within one month after any change in the information in the license application for the qualified business. All landscape architects must notify the DBPR of termination of employment with a licensed business organization within one month after the termination.

The bill eliminates a duplicate requirement in s. 481.319(5), F.S., for disciplinary action against a corporation or partnership to be administered similar to disciplinary action against a registered landscape architect. Under current law, practicing landscape architecture through a corporation or partnership does not relieve a landscape architect from personal liability for professional acts, unless otherwise agreed by contract.⁷⁵ According to the DBPR, the Board of Landscape Architecture has issued no disciplinary orders against landscape architecture businesses during the past four fiscal years through Fiscal Year 2016-2017.⁷⁶

State Boxing Commission

Present Situation:

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing,⁷⁷ and mixed martial arts⁷⁸ by the Florida State Boxing Commission (commission), which is assigned to the DBPR for administrative and fiscal purposes.⁷⁹

The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held in Florida⁸⁰ which involves a professional.⁸¹ Professional matches held in Florida must meet the requirements set forth in ch. 548, F.S., and the rules adopted by the commission.⁸²

⁷⁵ See s. 481.319(6), F.S., and s. 558.0035, F.S.

⁷⁶ Email from J. Morris, Legislative Affairs Director, DBPR, to Senate Committee on Regulated Industries staff (Jan. 19, 2018) (on file with Senate Committee on Regulated Industries).

⁷⁷ The term “kickboxing” means the unarmed combat sport of fighting by striking with the fists, hands, feet, legs, or any combination, but does not include ground fighting techniques. See s. 548.002(12), F.S.

⁷⁸ The term “mixed martial arts” means the unarmed combat sport involving the use of a combination of techniques, including, but not limited to, grappling, kicking, striking, and using techniques from martial arts disciplines, including, but not limited to, boxing, kickboxing, Muay Thai, jujitsu, and wrestling. See s. 548.002(16), F.S.

⁷⁹ See s. 548.003(1), F.S.

⁸⁰ See s. 548.006(1), F.S.

⁸¹ The term “professional” means a person who has “received or competed for a purse or other article of a value greater than \$50, either for the expenses of training or for participating in a match. See s. 548.002(19), F.S.

⁸² See s. 548.006(4), F.S.

Chapter 548, F.S. does not apply to certain professional or amateur “martial arts,” such as karate, aikido, judo, and kung fu; the term “martial arts” is distinct from and does not include “mixed martial arts.”⁸³

However, as to amateur matches, the commission’s jurisdiction is limited to the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for amateur boxing, kickboxing, and mixed martial arts matches held in Florida.⁸⁴ Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.⁸⁵ During Fiscal Year 2016-2017, of the 164 amateur events in Florida, the Division of Regulation in the DBPR conducted 26 checks for compliance with health and safety standards and proper supervision of the events.⁸⁶

Under current law, certain persons providing certain services for a match involving a professional competing in a boxing, kickboxing, or mixed martial arts match must be licensed by the commission before directly or indirectly performing those services. Licensing is mandated for a participant, manager, trainer, second, timekeeper, referee, judge, announcer, physician, matchmaker, or promoter.⁸⁷

Effect of Proposed Changes:

Sections 35 and 36 of the bill amend s. 548.017, F.S., to eliminate the licensure requirement for persons serving as timekeepers and announcers for a match involving a participant and amend s. 548.003(2)(i), F.S., to conform to the elimination of licensing timekeepers by deleting a reference to a “knockdown timekeeper.” In Fiscal Year 2016-2017, the Division issued licenses to 13 announcers and 6 timekeepers.⁸⁸

Conforming Revisions

Section 34 of the bill amends s. 287.055, F.S., the Consultants’ Competitive Negotiation Act, to conform cross references in the definition of “design-build firm.” The bill substitutes the term “qualified” for “certified,” in references to entities practicing architecture or landscape architecture. *See also Sections 25 and 31* of the bill.

Effective Date

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

⁸³ See s. 548.007(6), F.S., and *see supra* note 78 for the definition of “mixed martial arts.”

⁸⁴ See s. 548.006(3), F.S.

⁸⁵ Section 548.002(2), F.S.

⁸⁶ See Department of Business and Professional Regulation, *Florida State Boxing Commission Annual Report, Fiscal Year 2016-2017* at <http://www.myfloridalicense.com/dbpr/os/documents/FY2016-2017BoxingCommissionAnnualReport.pdf> (Message from Secretary) (last visited Dec. 13, 2017).

⁸⁷ The term “participant” means a professional competing in a boxing, kickboxing, or mixed martial arts match. See s. 548.002, F.S., for the definitions of “participant,” “manager,” “second,” “judge,” “physician,” “matchmaker,” and “promoter.” The terms “trainer,” “timekeeper,” “referee,” and “announcer” are not defined in ch. 548, F.S.

⁸⁸ See Boxing Commission Annual Report, *supra* note 86 at page 7.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

According to the Department of Business and Professional Regulation (DBPR), SB 526 will result in a reduction of license fees, license renewal fees, and unlicensed activity fees paid by the private sector of approximately \$812,130 in Fiscal Year 2018-2019, \$419,505 in Fiscal Year 2019-2020, and \$925,205 in Fiscal Year 2020-2021.⁸⁹

The Division of Condominiums, Timeshares, and Mobile Homes (Yacht and Ship Brokers) of the DBPR estimates that the bill will result in a reduction of license and license renewal fees paid by the private sector of approximately \$4,300 in Fiscal Year 2018-2019, \$4,300 in Fiscal Year 2019-2020, and \$4,300 in Fiscal Year 2020-2021.⁹⁰

The DBPR estimates that SB 526 will result in a reduction of license and license renewal fees paid by the private sector to the Florida State Boxing Commission of approximately \$1,000 in Fiscal Year 2018-2019, \$1,000 in Fiscal Year 2019-2020, and \$1,000 in Fiscal Year 2020-2021.⁹¹

B. Private Sector Impact:

CS/SB 526 repeals licensing requirements for certain professions. According to the DBPR, the bill will result in a reduction in license fees, license renewal fees, and unlicensed activity fees paid by the private sector of approximately \$812,130 in Fiscal Year 2018-2019, \$419,505 in Fiscal Year 2019-2020, and \$925,205 in Fiscal Year 2020-2021.⁹²

⁸⁹ See 2018 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 526, dated Nov. 3, 2017 (on file with Senate Committee on Regulated Industries) at page 7.

⁹⁰ *Id.* at page 6.

⁹¹ *Id.* at page 7.

⁹² See 2018 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 526, dated Nov. 3, 2017 (on file with Senate Committee on Regulated Industries) at page 6.

The Division of Condominiums, Timeshares, and Mobile Homes (Yacht and Ship Brokers) of the DBPR estimates that the bill will result in a reduction of license and license renewal fees paid by the private sector of approximately \$4,300 in Fiscal Year 2018-2019, \$4,300 in Fiscal Year 2019-2020, and \$4,300 in Fiscal Year 2020-2021.⁹³

The DBPR estimates that SB 526 will result in a reduction of license and license renewal fees paid by the private sector to the Florida State Boxing Commission of approximately \$1,000 in Fiscal Year 2018-2019, \$1,000 in Fiscal Year 2019-2020, and \$1,000 in Fiscal Year 2020-2021.⁹⁴

C. Government Sector Impact:

According to the DBPR, the total revenue reduction to state government by the elimination in SB 526 of professional licensing requirements is anticipated to be \$817,430 in Fiscal Year 2018-2019, \$424,805 in Fiscal Year 2019-2020, and \$930,505 in Fiscal Year 2020-2021. As a result, revenue from the General Revenue service charge⁹⁵ is anticipated to be reduced by \$65,394 in Fiscal Year 2018-2019, \$33,984 in Fiscal Year 2019-2020, and \$74,440 in Fiscal Year 2020-2021.⁹⁶

The Bureau of Education and Testing in the DBPR also indicates SB 526 will have minimal impact on its workload, although some examination content may require updating; such updating is a part of the Bureau's standard procedure to address statutory changes.⁹⁷

A reduction in the license fees collected by the DBPR paid to the State Boxing Commission could increase the amounts required to be transferred from the General Revenue Fund to the Professional Regulation Trust Fund to support operation of the State Boxing Commission. For Fiscal Year 2016-2017, recurring revenue of \$326,527 and non-recurring revenue of \$178,000, (a total transfer of \$505,027) from the General Revenue Fund was used to support the State Boxing Commission's operations.⁹⁸ Annual transfers of \$326,527 in recurring revenue are projected for each fiscal year from Fiscal Year 2017-2018 through Fiscal Year 2021-2022.⁹⁹

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ A service charge of eight percent is appropriated from revenue income deposited in specified trust funds, representing the estimated pro rata share of the cost of general government. *See s. 215.20(1), F.S.*, relating to the service charge. Section 455.116, F.S., lists the seven trust funds in the DBPR, including the Professional Regulation Trust Fund and the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund, which receive revenues from fees paid by licensees in the professions and occupations affected by CS/SB 526.

⁹⁶ *Id.*

⁹⁷ *Id.* at page 8.

⁹⁸ *See* Department of Business and Professional Regulation, *Annual Report, Divisions of Professions, Certified Public Accounting, Real Estate, and Regulation, Fiscal Year 2016-2017*, at <http://www.myfloridalicense.com/dbpr/os/documents/DivisionAnnualReport.pdf>, at page 68 (last visited Dec. 13, 2017).

⁹⁹ *Id.*

All license and registration fees paid by labor organizations and labor organization business agents to the DBPR are credited to the General Revenue Fund.¹⁰⁰ According to the DBPR, licensure records for Fiscal Year 2016-2017 reflect:

- 329 licensed labor organizations (a \$1 annual fee);
- 502 licensed labor organization business agents (a \$25 one-time fingerprinting fee) paid fees of \$44,207 annually; and
- 62,116 labor organization business agents (a \$25 fee) paid fees of \$1,552,900 annually.¹⁰¹

A reduction in the license fees collected by the DBPR could increase the amounts required to be transferred from the General Revenue Fund to the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund to support the regulation of yacht and ship brokers. According to the DBPR, for Fiscal Year 2016-2017, license fees of \$865,099.45 were collected from yacht and ship brokers, and \$310,200 was transferred to the General Revenue Fund.¹⁰²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 326.004, 447.02, 447.09, 447.305, 469.006, 469.009, 476.034, 476.114, 476.144, 477.013, 477.0135, 477.019, 477.0201, 477.026, 477.0265, 477.029, 481.203, 481.219, 481.221, 481.229, 481.303, 481.311, 481.317, 481.319, 481.321, 481.329, 287.055, 548.003, and 548.017.

This bill repeals the following sections of the Florida Statutes: 447.04, 447.041, 447.045, 447.06, 447.12, 447.16, and 477.0132.

¹⁰⁰ See 447.12, F.S.

¹⁰¹ Email from J. Morris, Legislative Affairs Director, DBPR, to Senate Committee on Regulated Industries staff (Dec. 15, 2017) (on file with Senate Committee on Regulated Industries).

¹⁰² *Id.* The DBPR also noted the account balance for yacht and ship brokers funds as of July 1, 2016 was \$759,772.96; actual revenue and expenses for the period were \$898,592.21 and \$521,442.25, respectively; and the account balance as of June 30, 2017 was \$826,722.92.

IX. Additional Information:

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

CS by Regulated Industries on January 24, 2018:

The committee substitute maintains the current law that the minimum number of training hours required for barber licensure is 1,200 hours, and that applicants seeking a barber's license may take the required examination after completing only 1,000 hours of training.

- B. **Amendments:**

None.