

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 Innovation, Industry, and Technology

BILL: SB 890

INTRODUCER: Senator Perry

SUBJECT: Local Licensing

DATE: January 27, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	IT	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 890 allows an individual with a valid local license required by a municipality or county (local government) in Florida to work within the scope of a noncontractor local license throughout the state with no geographic limitation, and without obtaining an additional local license, taking an examination, or paying additional fees. Under the bill, local governments have disciplinary authority over licensees who are licensed by another local government.

The expanded authorization for local licensees to work anywhere in Florida does not include performance of construction contracting work in regulated trade categories, such as roofing or plumbing. The type of work authorized in the bill for local licensees working outside their original license area includes, in part, the performance or installation of cabinetry, drywall, fencing and decks, rain gutters, interior remodeling, masonry, painting, paving, stuccoing, vinyl siding, and decorative tile and granite.

The bill requires the Department of Business and Professional Regulation (DBPR) to maintain a local licensing website to allow the public to review the licensing status of local licensees. The bill also requires a local government to transmit specified local licensing information to the DBPR or to maintain its own website that the DBPR may link to.

Local licensees working outside the jurisdiction in which they were issued a local license must provide consumers seeking services from the licensee sufficient information to allow consumers to access local licensing information and to verify the licensee's status in the licensee's original licensing jurisdiction.

See Section V, Fiscal Impact Statement.

The bill provides an effective date of October 1, 2020.

II. Present Situation:

Construction Contracting Professionals

The Construction Industry Licensing Board (CILB) within the DBPR is responsible for licensing and regulating the construction industry in this state under part I of ch. 489, F.S.¹ The CILB is divided into two divisions with separate jurisdictions:

- Division I comprises the general contractor, building contractor, and residential contractor members of the CILB. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.
- Division II comprises the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the CILB. Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.²

A specialty contractor's scope of work and responsibility is limited to a particular phase of construction as detailed in an administrative rule adopted by the CILB. For example, specialty swimming pool contractors have limited scopes of work for the construction of pools, spas, hot tubs, and decorative or interactive water displays.³ Jurisdiction is dependent on the scope of work and whether Division I or Division II has jurisdiction over such work in accordance with the applicable administrative rule.⁴

The Electrical Contractors' Licensing Board (ECLB) within the DBPR is responsible for licensing and regulating electrical and alarm system contractors in Florida under part II of ch. 489, F.S.⁵ Master septic tank contractors and septic tank contractors are regulated by the Department of Health under part III of ch. 489, F.S.⁶

Construction contractors regulated under part I of ch. 489, F.S., and electrical and alarm contractors regulated under part II of ch. 489, F.S., must satisfactorily complete a licensure examination before being licensed.⁷ The CILB and ECLB may deny a license application for any person who it finds guilty of any of the grounds for discipline set forth in s. 455.227(1), F.S., or set forth in the profession's practice act.⁸

¹ See s. 489.107, F.S.

² Section 489.105(3), F.S.

³ See Fla. Admin. Code R. 61G4-15.032 and 61G4-15.040 (2020) available at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61G4-15> (last visited Jan. 14, 2020).

⁴ See Fla. Admin. Code R. 61G4-15.032 (2020).

⁵ Section 489.507, F.S.

⁶ See ss. 489.551-489.558, F.S.

⁷ See ss. 489.113 and 489.516, F.S., respectively.

⁸ Section 455.227(2), F.S.

Certification and Registration of Contractors

Under current law, a “certified contractor” has met competency requirements for a particular trade category and holds a geographically unlimited certificate of competency from the DBPR which allows the contractor to contract in any jurisdiction in the state without being required to fulfill the competency requirements of other jurisdictions.⁹

The term “registered contractor” means a contractor who has registered with the DBPR as part of meeting competency requirements for a trade category in a particular jurisdiction, which limits the contractor to contracting only in the jurisdiction for which the registration is issued.¹⁰

Fee for Certification and Registration

As provided in s. 489.109, F.S., an applicant for certification as a contractor is required to pay an initial application fee not to exceed \$150, and, if an examination cost is included in the application fee, the combined amount may not exceed \$350. For an applicant for registration as a contractor, the initial application fee may not exceed \$100, and the initial registration fee and the renewal fee may not exceed \$200.¹¹ The initial application fee and the renewal fee is \$50 for an application to certify or register a business.¹²

Fees must be adequate to ensure the continued operation of the CILB, and must be based on estimates of the DBPR of the revenue required to implement part I of ch. 489, F.S., and statutory provisions regulating the construction industry.¹³

All certificate holders and registrants must pay a fee of \$4 to the DBPR at the time of application or renewal, to fund projects relating to the building construction industry or continuing education programs offered to building construction industry workers in Florida, to be selected by the Florida Building Commission.¹⁴

Local Regulation of Construction Trades

According to the DBPR:¹⁵

Other than the [Division I and Division II] state-certified or state-registered professions, other professional trades of construction are not subject to regulation at the state level. However, under local government authority, counties and municipalities have created additional local categories for regulation within the construction industry (i.e., painting, flooring, cabinetry, masonry, plastering, and other construction-related

⁹ Sections 489.105(8) and 489.113(1), F.S.

¹⁰ Sections 489.105(10) and 489.117(1)(b), F.S.

¹¹ Section 489.109, F.S. Any applicant who seeks certification as a contractor under part I of ch. 489, F.S., by taking a practical examination must pay as an examination fee the actual cost incurred by the DBPR in developing, preparing, administering, scoring, score reporting, and evaluating the examination, if the examination is conducted by the DBPR.

¹² *Id.*

¹³ *Id.*

¹⁴ Section 489.109(3), F.S.

¹⁵ See 2020 Agency Legislative Bill Analysis (Department of Business and Professional Regulation) for SB 890, Nov. 25, 2019 at page 3 (on file with Senate Committee on Innovation, Industries, and Technology).

trades). Under this local regulation patchwork, varying regulations and fees often create burdens and limitations on a professional's ability to operate freely and competitively between jurisdictions.

III. Effect of Proposed Changes:

SB 890 creates s. 489.1175, F.S., to allow an individual with a valid local license required by a local government in Florida for a noncontractor job to work in its jurisdiction, to work within the scope of that local license throughout the state with no geographic limitation, and without obtaining an additional local license, taking an examination, or paying additional fees.

The expanded authorization for local licensees to work in any jurisdiction in the state does not include performance of construction contracting work in regulated trade categories, such as roofing or plumbing.¹⁶ The bill creates the term “noncontractor job scope” to describe the authorized types of work done to real property that local licensees working outside their original license area may perform. Authorized work for local licensees includes, but is not limited to, the performance or installation of:

- Awnings;
- Cabinetry;
- Carpentry;
- Caulking;
- Debris removal;
- Driveways;
- Drywall;
- Fence and decks;
- Flooring;
- Garage doors;
- Glass and glazing;
- Gunite;
- Gutters and downspouts;
- Hurricane shutters;
- Insulation;
- Interior remodeling;
- Irrigation;
- Landscaping;
- Lightning protection systems;
- Masonry;
- Nonelectrical signs;
- Painting;
- Paving;

¹⁶ Contractor categories are described ss. 489.105(3)(a) through (o), F.S. The specified scopes of work that are not within the “noncontractor job scope” defined in the bill are identified as general contractor, building contractor, residential contractor, sheet metal contractor, roofing contractor, Class A, B, and C air-conditioning contractor, mechanical contractor, commercial pool/spa contractor, residential pool/spa contractor, swimming pool servicing contractor, plumbing contractor, underground utility and excavation contractor, and solar contractor.

- Plastering;
- Stuccoing;
- Tennis courts;
- Vinyl siding; and
- Ornamental or decorative iron, stone, tile, marble, granite, or terrazzo.

Under the bill, local governments have disciplinary authority over licensees who are licensed by another local government. The bill provides that such disciplinary authority includes, but is not limited to, suspension and revocation of a licensee's ability to operate within the local government's jurisdiction.

Disciplinary orders must be forwarded by local governments to a licensee's original licensing jurisdiction for further action as appropriate. Further, the original licensing jurisdiction may take action against a licensee for being disciplined by another local licensing jurisdiction or for acting in a manner that violates the noncontractor job scope for which the license was issued in the original jurisdiction.

SB 890 requires the DBPR to create and maintain an online local licensing information system (website) to allow the public to review the licensing status of local licensees. The bill further requires a local government that issues local licenses to transmit specified local licensing information to the DBPR. The information must be transmitted by a local government at least monthly and include, at a minimum, the name, business name, address, license number, and licensing status of the local licensee. Alternatively, a local government may maintain a website that allows the DBPR to link to it.

Local licensees working outside the jurisdiction in which they are licensed must provide consumers seeking services from the licensee sufficient information to allow consumers to access local licensing information and to verify the licensee's status in the licensee's original licensing jurisdiction.

The bill provides an effective date of October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill requires a local government that issues local licenses to transmit specified local licensing information to the DBPR or instead maintain a website that allows the DBPR to link to it. These requirements appear to have an insignificant fiscal impact on local government, and 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 and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under the bill, local licensees operating in jurisdictions other than the jurisdiction in which the license was originally issued will no longer have to obtain additional local licenses, take examinations, or pay additional license fees.

According to the DBPR, the fiscal impact to the private sector is indeterminate.¹⁷

C. Government Sector Impact:

The bill requires the DBPR to create and maintain an online local licensing information system (website) so that the public may review the licensing status of local licensees with links to local jurisdictions that maintain their own websites with such information. The DBPR estimates 500 hours of work will be required to develop the website, to be accomplished using existing resources, and hosted through a secure cloud-based internet provider in keeping with state-wide objectives, at an annual estimated cost of \$25,000 to \$50,000.¹⁸

According to the DBPR, the fiscal impact to local and state government is indeterminate.¹⁹ Local governments would lose the revenue received from these licensing fees.

VI. Technical Deficiencies:

None.

¹⁷ See 2020 Agency Legislative Bill Analysis (Department of Business and Professional Regulation) for SB 890, Nov. 25, 2019 at page 5 (on file with Senate Committee on Innovation, Industries, and Technology).

¹⁸ *Id.* at page 6.

¹⁹ *Id.* at pages 5-6.

VII. Related Issues:

The bill provides that the term “noncontractor job scope” does not include the contractor categories defined in s. 489.105(3)(a)-(o), F.S., regulated in part I of ch. 489, F.S., relating to construction contracting. There are two additional contractor categories in part I that are not addressed in the bill. Section 489.105(3)(p) and (q), F.S., relate to pollutant storage systems contractors and specialty contractors, respectively.

Similarly, parts II and III of ch. 489, F.S., regulate additional contractor trade categories that are not addressed in the bill and are not excluded from the term “noncontractor job scope.” The excluded trade categories are electrical contractors, alarm system contractors, and septic tank contractors.²⁰ See ss. 489.505(12), 489.404(2) and (4), and 489.551(4), F.S., respectively.

If excluding the above contractor categories was unintentional, consideration of an amendment may be appropriate to revise the term “noncontractor job scope.”

VIII. Statutes Affected:

This bill creates section 489.1175 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

²⁰ Electrical and alarm system contractors are regulated by the DBPR and the Electrical Contractors’ Licensing Board, and septic tank contractors are regulated by the Department of Health. See parts II and III of ch. 489, F.S.