

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: SB 802

INTRODUCER: Senator Passidomo

SUBJECT: Regulated Professions and Occupations

DATE: March 9, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	McSwain	RI	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 802 addresses licensing, registration, and regulatory requirements for various professions and occupations. The bill:

- Eliminates the current licensure required for business entities engaged in certain regulated professions, while retaining licensure for the individuals engaged in those professions (architects, interior designers, landscape architects, professional geologists, and asbestos abatement consultants and contractors).
- Modifies talent agency regulation and eliminates licensure requirements for talent agents and talent agencies.
- Allows certain activities to be practiced without licensure, including auctioneering and certain boxing match services (announcers and knockdown timekeepers).
- Eliminates the Auctioneer Recovery Fund for payment of certain losses caused by auctioneer licensees.
- Establishes regulations for restricted barbering, and nail and facial services.
- Reduces the number of training hours requirement to be eligible to take the licensure examination to be a barber.
- Provides requirements for specialists in practices defined as “nail specialty,” “facial specialty,” and “full specialty.”
- Eliminates licensure and registration requirements for those who engage solely in hair braiding, hair wrapping, or body wrapping.
- Eliminates licensure for labor organizations and for yacht and ship brokers’ branch offices.

The bill has a significant 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.

The bill provides for an effective date of October 1, 2017.

II. Present Situation:

Background

Section 20.165, F.S., establishes the organizational structure of the Department of Business and Professional Regulation (DBPR). The DBPR 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 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 pursuant to parts I and III of ch. 450, F.S.

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.”⁵

Under Florida law, regulation of professions is undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state.”⁶ Regulation is required when:

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.

⁴ Section 548.003(1), F.S.

⁵ Section 455.01(6), F.S.

⁶ Section 455.201(2), F.S.

- 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.⁷

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.⁸

Chapter 455, F.S., provides the general powers of the DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under the DBPR as well as the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.⁹ When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a “permit, registration, certificate, or license” to the licensee.¹⁰

In Fiscal Year 2015-2016, the Division of Accountancy had 39,216 licensees, the Division of Real Estate had 349,668 licensees, and the Board of Professional Engineers had 61,396 licensees.¹¹ In Fiscal Year 2015-2016, there were 434,001 licensees in the Division of Professions,¹² 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;
- Landscape architects;
- Harbor pilots;
- Mold-related services;

⁷ *Id.*

⁸ Section 455.201(4)(b), F.S.

⁹ 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.

¹⁰ Section 455.01(4) and (5), F.S.

¹¹ See Department of Business and Professional Regulation, *Annual Report, Fiscal Year 2015-2016*, at http://www.myfloridalicense.com/dbpr/os/documents/ProfessionsAnnualReportFY2015-2016_Final.pdf, (last visited Mar. 3, 2017) at page 21.

¹² Of the total 415,207 licensees in the Division of Professions, 23,183 are inactive. *Id.* at page 22.

- Talent agencies; and
- Veterinarians.¹³

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.¹⁴

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.¹⁵ 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).¹⁶

III. Effect of Proposed Changes:

For ease of reference to each of the topics addressed in SB 802, 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 (DBPR), processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the yacht brokerage industry.¹⁷

¹³ *Id.* at pages 21-22.

¹⁴ Section 455.219(1), F.S.

¹⁵ Department of Business and Professional Regulation, *Division of Florida condominiums, Timeshares, and Mobile Homes*, <http://www.myfloridalicense.com/dbpr/lsc/index.html> (last visited Mar. 3, 2017).

¹⁶ *Id.*

¹⁷ See Department of Business and Professional Regulation, *Yacht and Ship Brokers; Licensing and Enforcement*, <http://www.myfloridalicense.com/dbpr/lsc/YachtandShip.html> (last visited Mar. 3, 2017).

A person may not act as a yacht or ship broker or salesperson unless licensed under ch. 326, F.S.¹⁸ 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.”¹⁹

Applicants for a branch office license and renewal pay a \$100 fee; licenses must be renewed every two years.²⁰ A branch office has no regulatory obligations other than to obtain licensure. Additionally, branch offices are not subject to inspection requirements.

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, in addition to a license for the principal office. Brokers and salespeople are required to maintain individual licensure, with a principal place of business in Florida tied to the broker’s individual license.

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 licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the labor organization industry.

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, 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.”²¹

In Florida, all labor organizations are required to register with the DBPR and all business agents of labor organizations must obtain a license.²² 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.”²³

¹⁸ Section 326.004(1), F.S.

¹⁹ Section 326.004(13), F.S.

²⁰ Rule 61B-60.002, F.A.C.

²¹ Section 447.02(1), F.S.

²² Section 447.04(2), F.S.

²³ Section 447.02(2), F.S.

Applicants for a business agent license must pay a \$25 fee for licensure and must meet a number of licensure requirements.²⁴ Labor organization applicants must pay an annual fee of \$1.²⁵

Effect of Proposed Changes:

Sections 2 through 9 of the bill amend the provisions in Part I of ch. 447, F.S., to eliminate the registration and regulation of labor organizations by the Department of Business and Professional Regulation (DBPR). 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 remain effective.

Auctioneers

Present Situation:

Section 468.385, F.S. requires that a person who auctions or offers to auction any property in Florida must be licensed by the DBPR, unless the person is exempt from licensure as provided in s. 468.385(1) through (9), F.S. A person may not be licensed as an auctioneer or apprentice if he or she is under 18 years of age, or has committed any act or offense which would constitute a basis for disciplinary action under s. 468.389, F.S., such as misrepresenting property for sale at auction, or engaging in false or deceptive advertising. A person seeking auctioneer licensure must pass a written examination testing knowledge of the laws of Florida relating to the Uniform Commercial Code that are relevant to auctions.²⁶

The Auctioneer Recovery Fund (Recovery Fund) is administered by the Florida Board of Auctioneers (Auctioneers Board) and is supported by a recovery fund surcharge of \$100 paid by each applicant for an auctioneer license.²⁷ Pursuant to s. 468.395, F.S., payments from the Recovery Fund may occur upon:

- The issuance of a final order from the Auctioneers Board directing an offending licensee to pay restitution, and a determination by the Auctioneers Board that the order cannot be enforced; or
- An aggrieved party obtaining a final judgment for which all proceedings, including appeals and supplemental proceedings to collect the judgment, have concluded, for the recovery of damages for actual loss that results from a licensed auctioneer engaging in prohibited acts²⁸ in Florida, or violating any rule of the Auctioneers Board.²⁹

²⁴ Section 447.04(2), F.S.

²⁵ Section 447.06(2), F.S.

²⁶ See s. 468.385(4), F.S.

²⁷ See s. 468.392, F.S. and http://www.myfloridalicense.com/dbpr/pro/auct/documents/auc_faqs.pdf (last visited Mar. 9, 2017), at page 4.

²⁸ Section 468.389, F.S. lists the acts that are grounds for the imposition of discipline by the Board.

²⁹ The rules of the board are published as Chapter 61G2 of the Florida Administrative Code. See Fla. Admin. Code R. CCL&-61G2 (2017), at <https://www.flrules.org/gateway/Division.asp?DivID=272> (last visited Mar. 9, 2017)

Effect of Proposed Changes:

Sections 10 through 29 of the bill eliminate regulation of auctioneers, but retain consumer protections and requirements for conducting an auction in Florida. In lieu of discipline imposed by a regulatory agency for certain acts, the bill provides that such acts are grounds for a civil cause of action for damages against the auctioneer, auction business, or any owner or manager thereof, or any substantial stockholder of a corporation owning the auction business.

The bill repeals ss. 468.392 through 468.399, F.S., and eliminates the Auctioneer Recovery Fund.

Talent Agencies***Present Situation:***

Chapter 468, Part VII, F.S., governs the licensing and regulation of talent agencies in the state. The Division of Professions within the DBPR oversees the licensing and regulation of talent agencies. The Division of Professions processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the talent agency industry.

Individuals are prohibited from owning, operating, soliciting business, or otherwise engaging in or carrying on the occupation of a talent agency in this state unless the person first obtains licensure for the talent agency.³⁰ A talent agency is defined as “[a]ny person who, for compensation, engages in the occupation or business of procuring or attempting to procure engagements for an artist.”³¹

To qualify for a talent agency license, the applicant must be of good moral character and must show whether the agency, any person, or any owner of the agency is financially interested in any other business of like nature, and if so, must specify the interests.³²

At the time of application, applicants for a talent agency license must pay an application fee of \$300, an unlicensed activity fee of \$5, and an initial licensure fee of \$200 if licensed after March 31 of any odd numbered year. Otherwise the initial license fee is \$400. Talent agency licensees must pay a biennial renewal fee of \$400.³³

Licensed talent agencies are required to:

- File an itemized schedule of maximum fees, charges, and commissions it intends to charge and collect for its services;³⁴
- Pay to the artist all money collected from an employer for the benefit of an artist within five business days after receipt of the money;³⁵

³⁰ Section 468.403(1), F.S.

³¹ Section 468.401, F.S.

³² Section 468.405, F.S.

³³ Rule 61-19.005, F.A.C.

³⁴ Section 468.406(1), F.S.

³⁵ Section 468.406(2), F.S.

- Display a copy of the license conspicuously in the place of business;³⁶
- File a bond with the DBPR in the form of a surety for the penal sum of \$5,000, which may be drawn upon if a person is aggrieved by the misconduct of the talent agency;³⁷
- Maintain records including the application, registration, or contract of each artist, with additional information;³⁸
- Provide a copy of the contract to the artist within 24 hours of the contract's execution;³⁹ and
- Comply with the prohibited acts set forth in s. 468.412, F.S.

Licensed talent agencies are prohibited from:

- Charging the artist a registration fee;⁴⁰ and
- Requiring the artist to subscribe to, purchase, or attend any publication, postcard service, and advertisement, resume service, photography service, school, acting school, workshop, or acting workshop.⁴¹

Section 468.415, F.S., provides prohibitions against sexual misconduct.

Section 468.413, F.S., provides criminal penalties for:

- Operating a talent agency without a license;
- Obtaining a license through misrepresentation;
- Assigning a license to another individual;
- Relocating a talent agency without notifying the DBPR;
- Failing to provide information on an application regarding related businesses;
- Failing to maintain records;
- Requiring the artist to subscribe to, purchase, or attend any publication, postcard service, advertisement, resume service, photography service, school, acting school, workshop, or acting workshop;
- Failing to provide a copy of the contract to the artist;
- Failing to maintain a record sheet; and
- Knowingly sending an artist to an employer the licensee knows to be in violation of the laws of Florida or of the United States.

Effect of Proposed Changes:

Sections 30 through 43 of the bill amend Part VII of ch. 468, F.S., to eliminate the licensing and regulation of talent agencies by the DBPR. The bill revises the civil and criminal provisions currently provided in ch. 468, Part VII, F.S. Contract, bond, recordkeeping, and notice requirements related to talent agents are retained.

³⁶ Section 468.407(2), F.S.

³⁷ Section 468.408, F.S.

³⁸ Section 468.409, F.S.

³⁹ Section 468.410(3), F.S.

⁴⁰ Section 468.410(1), F.S.

⁴¹ Section 468.410(2), F.S.

According to the DBPR, three disciplinary orders were issued against talent agencies in recent years; two involved minor violations for failure to include the talent agency's license number in advertisements. The financial account of the licensing program has been in a perpetual deficit since the enactment of legislation authorizing talent agency licensure in 1986.⁴²

Asbestos Abatement Business Organization

Present Situation:

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

An asbestos consultant's license may be issued only to an applicant who holds a current, valid, 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.⁴³

A person must be a licensed asbestos contractor in order to conduct asbestos abatement work.⁴⁴ 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
- Prepare asbestos abatement specifications.⁴⁵

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 other legal entity, or in any name other than the applicant's legal name, the business organization must be licensed separately as an asbestos abatement business. Each licensed business organization must have a qualifying agent who is licensed under ch. 469, F.S.,⁴⁶ is qualified to supervise the enterprise, and is financially responsible. 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, and may not engage in the practice of asbestos abatement until it is qualified.

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 \$250.⁴⁷ A branch office has no regulatory obligations other than to obtain licensure. Additionally, branch offices are not subject to inspection.

⁴² *Id.*

⁴³ See *2016 Legislative Bill Analysis for Senate Bill 1050 (2016)* by the Florida Department of Business and Professional Regulation, (Dec 16, 2015) (on file with Senate Committee on Regulated Industries), at page 2.

⁴⁴ Section 469.003(3), F.S.

⁴⁵ Section 469.003, F.S.

⁴⁶ Section 469.006, F.S.

⁴⁷ Rule 61E1-3.001, F.A.C.

Effect of Proposed Changes:

Sections 44 and 45 of the bill amend ch. 469, F.S., to remove the requirement that an asbestos abatement contractor obtain a separate business license in addition to an individual license. Asbestos abatement contractors must qualify the business organizations they supervise and are liable for the actions of those businesses. Asbestos abatement contractors must inform the DBPR of any change in their relationship with the qualified business, and a qualified business has 60 days to obtain another asbestos abatement contractor to serve as qualifying agent.

Restricted Barbering***Present Situation:***

The term “barbering” used 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, but not when done for the treatment of disease or physical or mental ailments: shaving, cutting, trimming, coloring, 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.⁴⁸ Licensure as a barber requires 1,200 hours of training related to sanitation, safety, and laws and rules, to be eligible to take the licensure examination to be a barber. 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 the licensure of such a person who passes the examination.⁴⁹

Effect of Proposed Changes:

Sections 46 through 48 of the bill amend ss. 476.034, 476.114, and 476.144, F.S. to define “restricted barbering” and “restricted barber;” reduce the number of hours of training required relating to sanitation, safety, and laws and rules to be eligible for by examination as a barber from 1,200 hours to 800 hours; repeal the authorization for the Barbers’ Board to establish procedures by rule to allow a barber school or program to certify a person for the licensure examination after completion of a minimum of 1,000 hours of actual school hours and licensure if such a person passes the examination; and establish the requirements to be eligible for licensure by examination as a “restricted barber.”

To be eligible to take a licensure examination to be a restricted barber, a person must have held an active valid license in another state to practice barbering for at least one year or have received a minimum of 525 hours of training relating to sanitation, safety, and laws and rules, as established by the Barbers’ Board, at a school of barbering licensed pursuant to chapter 1005, F.S., a barbering program within the public school system or a government-operated barbering program in this state. “Restricted barbering” includes the following practices when done for payment by the public, but not when done for the treatment of disease or physical or mental ailments: shaving, cutting, trimming, shampooing, arranging, dressing, or curling the hair or beard, including the application of shampoo, hair conditioners, shaving creams, hair tonic, and

⁴⁸ Section 476.034(2), F.S.

⁴⁹ Section 476.114(2), F.S.

hair spray to the face, scalp, or neck, either by hand or by mechanical appliances. However, the term *does not* include the application of oils, creams, lotions, or other preparations to the face, scalp, or neck.

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 wrappers, hair braiders, nail specialists, facial specialists, full specialists, body wrappers and related salons in the state. The Board of Cosmetology, located within the Division of Professions, processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the cosmetology industry.

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

A “specialist” is defined as “any person holding a specialty registration in one or more of the specialties registered under [ch. 477, F.S.]”⁵⁰ 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.”⁵¹

The term “cosmetologist” is defined as “a person who is licensed to engage in the practice of cosmetology [].”⁵² “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 compensation. This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.”⁵³

A nail specialist may complete manicures and pedicures. A full specialist may complete manicures, pedicures, and facials. Manicures and pedicures, as a part of cosmetology services, are required to be provided in a licensed specialty salon or cosmetology salon.⁵⁴ All cosmetology and specialty salons are subject to inspection by the DBPR.⁵⁵

⁵⁰ Section 477.013(5), F.S.

⁵¹ Section 477.013(6), F.S.

⁵² Section 477.013(3), F.S.

⁵³ Section 477.013(4), F.S.

⁵⁴ Section 477.0263, F.S.

⁵⁵ Section 477.025, F.S.

To qualify for a specialist license, the applicant must be at least 16 years old, obtain a certificate of completion from an approved specialty education program, and submit an application for registration with the DBPR with the registration fee.⁵⁶

To qualify for a license as a cosmetologist, the applicant must be at least 16 years old, 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.⁵⁷

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

Effect of Proposed Changes:

Section 49 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:

- 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.

Section 50 of the bill repeals s. 477.0132, F.S., and eliminates registration requirements for persons engaged in hair braiding, hair wrapping, and body wrapping.

Sections 51 and **52** of the bill amend ss. 477.0135 and 477.019, F.S. to eliminate licensure or registration for a person whose occupation or practice is confined solely to hair braiding, to hair wrapping, or to body wrapping, and provide those persons are exempt from certain continuing education requirements.

Section 53 of the bill amends s. 477.0201, F.S., on specialty registration, to include registrations for nail, facial, and full specialty practices, including minimum training requirements.

Section 54 of the bill deletes s. 477.026(1)(f), F.S, relating to registration fees.

⁵⁶ Section 477.0201, F.S.

⁵⁷ Section 477.019(2), F.S.

Architecture Business or Interior Design Organization

Present Situation:

Chapter 481, Part I, F.S., governs the licensing and regulation of architects, interior designers, and related business organizations in the state. The Board of Architecture and Interior Design is a board located under the Division of Professions. The board processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the architecture and interior design industries.

“The practice of or the offer to practice architecture or interior design by licensees through a corporation, limited liability company, or partnership offering architectural or interior design services to the public, or by a corporation, limited liability company, or partnership offering architectural or interior design services to the public through licensees under this part as agents, employees, officers, or partners, is permitted, subject to the provisions of [ch. 481, Part I, F.S.].”⁵⁸ An architecture or interior design business corporation, limited liability company, or partnership, which is offering architecture or interior design service to the public, must obtain a certificate of authorization prior to practicing.⁵⁹

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 \$5.00, and a biennial renewal fee of \$125.00.⁶⁰ A business entity has no regulatory obligations other than to obtain licensure.

Effect of Proposed Changes:

Sections 55 through **58** 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 qualify their business organizations with their individual licenses. The bill provides that architects and interior designers must inform the DBPR of any change in their relationship with the qualified business, and the business has 60 days to obtain a replacement qualifying architect or interior designer. The executive director or chair of the Board of Architecture and Interior Design may authorize another registered architect or interior designer employed by the business organization to temporarily service 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 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 or certification may be denied.”

⁵⁸ Section 481.219(1), F.S.

⁵⁹ Section 481.219(2)-(3), F.S.

⁶⁰ Rules 61G1-17.001 and 61G1-17.002, F.A.C.

According to the DBPR, in recent years, 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; generally, the licensed business was cited for operating without a supervising architect or for failure to include license numbers in advertisements.⁶¹

The Board of Architecture and Interior Design disciplined licensed interior design businesses only four times in recent years in cases that did not also involve discipline against the qualifying interior designer. In three of the four disciplinary cases, the business license was retained by the business after the qualifying interior designer had left the firm.⁶²

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 the state. The Board of Landscape Architecture, a board located within the Division of Professions, processes licenses and responds to consumer complaints and inquiries by monitoring activities and compliance within the landscape architecture industry.

A person may not knowingly practice landscape architecture unless the person holds a valid license issued pursuant to ch. 481, Part II, F.S.⁶³ 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.⁶⁴

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 \$337.50.⁶⁵ A business entity has no regulatory obligations other than to obtain licensure.

Effect of Proposed Changes:

Sections 59 through **64** of the bill amend Part II of ch. 481, F.S., to remove the requirement that landscape architects obtain a separate business license in addition to an individual license. The bill provides that landscape architects must qualify their business organization with their individual licenses and will be liable for the actions of the business organizations they qualify.

⁶¹ *Id.* at 5.

⁶² *Id.*

⁶³ Section 481.323(1)(a), F.S.

⁶⁴ Section 481.319(1), F.S.

⁶⁵ Rule 61G10-12.002, F.A.C.

The bill repeals the DBPR's authority to issue a certificate of authorization to an applicant wishing to practice as a corporation, limited liability company, or partnership offering landscape architectural services. Further, the bill repeals the board's ability to grant a temporary 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, is a licensed landscape architect; and
- 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.

Under the bill, landscape architects must inform the DBPR of any change in their relationship with the qualified business, and the business has one month to obtain another qualifying landscape architect. According to the DBPR, the Board of Landscape Architecture and Design issued no disciplinary orders against landscape architecture businesses during the three previous fiscal years.⁶⁶

Professional Geology

Present Situation:

Section 492.111, F.S. requires that a firm, corporation, or partnership offering geological services to the public first obtain a certification of authorization from the DBPR. No similar requirement exists for a person practicing professional geology in his own name.

Effect of Proposed Changes:

Sections 65 through 68 of the bill amend ss. 492.111, 492.104, and 492.113, F.S., to eliminate the requirement that a firm, corporation, or partnership offering geological services to the public obtain a certification of authorization.

State Boxing Commission

Present Situation:

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing, and mixed martial arts by the Florida State Boxing Commission (commission) within the DBPR.

Section 548.006(3), F.S., provides the commission with exclusive jurisdiction over every professional boxing match and professional mixed martial arts and kickboxing matches. Professional matches held in this state must meet the requirements for holding the match pursuant to ch. 548, F.S., and the rules adopted by the commission.

⁶⁶ *Id.*

The commission's jurisdiction over amateur matches is limited to the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for boxing and kickboxing matches held in the state.⁶⁷ Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.⁶⁸ This jurisdiction does not extend to amateur sanctioning organizations for mixed martial arts.

Under current law, certain persons providing certain services related to professional and amateur boxing, kickboxing, and mixed martial arts 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.⁶⁹

Effect of Proposed Changes:

Sections 69 and 70 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 the licensing of timekeepers by deleting a reference to a "knockdown timekeeper."

The bill provides for an effective date of October 1, 2017.

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:

SB 802 repeals requirements for criminal history record checks for talent agents. The Department of Law Enforcement estimates an annual revenue loss of \$1,824 (approximately 76 records checks that produce \$24 each in fees payable to the state).⁷⁰

⁶⁷ Section 548.006(3), F.S.

⁶⁸ Section 548.002(2), F.S.

⁶⁹ Section 548017, F.S.

⁷⁰ See 2017 FDLE Legislative Bill Analysis for SB 662, dated Feb. 15, 2017 (on file with Senate Committee on Regulated Industries) at page 3.

B. Private Sector Impact:

SB 802 repeals requirements for criminal history record checks for talent agents, who will no longer be required to pay for and obtain such records checks.

According to the Department of Business and Professional Regulation (DBPR), the bill will result in a reduction of license fees, license renewal fees and unlicensed activity fees to the private sector of approximately \$971,003 in Fiscal Year 2017-2018, \$1,123,148 in Fiscal Year 2018-2019, and \$970,828 in Fiscal Year 2019-2020.⁷¹

The Division of Condominiums (Yacht and Ship Brokers) of the DBPR estimates that the bill will result in a reduction of license and license renewal fees to the private sector of approximately \$4,300 in Fiscal Year 2017-2018, \$4,300 in Fiscal Year 2018-2019, and \$4,300 in Fiscal Year 2019-2020.⁷²

The DBPR estimates that the bill will result in a reduction to the private sector of license and license renewal fees paid to the Florida State Boxing Commission of approximately \$1,000 in Fiscal Year 2017-2018, \$1,000 in Fiscal Year 2018-2019, and \$1,000 in Fiscal Year 2019-2020.⁷³

C. Government Sector Impact:

SB 802 eliminates requirements for several professions to obtain licenses in order to practice in the state. According to the Department of Business and Professional Regulation (DBPR), licensees will receive the benefit of fee reductions in the amounts shown below:⁷⁴

- Division of Condominiums Yacht and Ship Brokers licensees - approximately \$4,300 in Fiscal Year 2017-2018; \$4,300 in Fiscal Year 2018-2019; and \$4,300 in Fiscal Year 2019-2020.
- Division of Professions licensees - approximately \$971,003 in Fiscal Year 2017-2018; \$1,123,148 in Fiscal Year 2018-2019; and \$970,828 in Fiscal Year 2019-2020.
- State Boxing Commission licensees - approximately \$1,000 in Fiscal Year 2017-2018; \$1,000 in Fiscal Year 2018-2019; and \$1,000 in Fiscal Year 2019-2020.

The DBPR provided the following information:⁷⁵

	2017-2018	2018-2019	2019-2020
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⁷¹ *Id.* at page 9.

⁷² *Id.* at page 10.

⁷³ *Id.*

⁷⁴ *Id.* at pages 7-10.

⁷⁵ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 802 dated Mar. 2, 2017 (on file with Senate Committee on Regulated Industries) at pages 9-10.

Revenues: License fees and Unlicensed Activity Fees	Condominiums (Yacht and Ship Brokers) (\$4,300)	Condominiums (Yacht and Ship Brokers) (\$4,300)	Condominiums (Yacht and Ship Brokers) (\$4,300)
	Professions (\$971,003)	Professions (\$1,123,148)	Professions (\$970,828)
	Boxing Commission (\$1,000)	Boxing Commission (\$1,000)	Boxing Commission (\$1,000)
Expenditures: Surcharge to GR (non-operating)	Condominiums (Yacht and Ship Brokers) (\$344)	Condominiums (Yacht and Ship Brokers) (\$344)	Condominiums (Yacht and Ship Brokers) (\$344)
	Professions (\$77,680)	Professions (\$89,852)	Professions (\$77,666)
	Boxing Commission (\$80)	Boxing Commission (\$80)	Boxing Commission (\$80)

In total, the revenue reduction to state government is anticipated to be \$3,080,878 over the next three fiscal years (Fiscal Year 2017-2018 to Fiscal Year 2019-2020). As a result, revenue from the General Revenue service charge will be reduced in total by \$246,470 in those fiscal years.

The DBPR notes that as of June 30, 2016, the fund balances for talent agencies , the Board of Professional Geologists and the Board of Auctioneers were negative, and that the proposed elimination of the license fees for the professions that have a deficit balance will result in the fund accounts closing with a negative balance. The DBPR indicates that funds with negative balances have “borrowed from” the funds of other boards during the years they have operated “to address the negative balances.”

The DBPR also notes:

- Although the bill repeals certain definitions relating to auctioneers, types of auctions, barbers, and the DBPR, the changes will not impact the enforceability of civil, criminal, and administrative causes of action.
- The Bureau of Education and Testing in the DBPR indicates that the proposed bill 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.
- The Division of Service Operations estimates that the impact of the bill on that division will be minimal and states that although there will be a slight reduction in the number of applications received by DBPR, the surge in applications in the last few years will offset any reduction resulting from the bill.⁷⁶

⁷⁶ *Id.*

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, 468.381, 468.382, 468.388, 468.389, 468.391, 468.401, 468.406, 468.408, 468.409, 468.410, 468.412, 468.413, 468.415, 469.006, 469.009, 476.034, 476.114, 476.144, 477.013, 477.0135, 477.019, 477.0201, 477.026, 481.203, 481.219, 481.221, 481.229, 481.303, 481.311, 481.317, 481.319, 481.321, 481.329, 492.111, 492.104, 492.113, 492.115, 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, 468.384, 468.385, 468.3851, 468.3852, 468.3855, 468.386, 468.387, 468.392, 468.393, 468.394, 468.395, 468.396, 468.397, 468.398, 468.399, 468.402, 468.403, 468.404, 468.405, 468.407, 468.414, and 477.0132.

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.