

STORAGE NAME: h2211s1.gg

DATE: April 26, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
ANALYSIS**

BILL #: CS/HB 2211 (PCB BRCA 00-02)

RELATING TO: Regulation of Professions under the Department of Business and Professional Regulation

SPONSOR(S): Committees on Finance and Tax, Business Regulation & Consumer Affairs, Representative Ogles, and others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) BUSINESS REGULATION & CONSUMER AFFAIRS (CAC) YEAS 8 NAYS 0
- (2) GOVERNMENTAL RULES & REGULATIONS (PRC) YEAS 8 NAYS 0
- (3) FINANCE AND TAXATION (FRC) YEAS 15 NAYS 0
- (4) GENERAL GOVERNMENT APPROPRIATIONS
- (5)

I. SUMMARY:

This bill contains various modifications and additions relating to regulation of professions under the Department of Business and Professional Regulation (DBPR). Professions included in the bill are: harbor pilots, auctioneers, community association managers, employee leasing companies, funeral directors and embalmers, professional engineers, veterinarians, cosmetologists, real estate brokers, and geologists. Other provisions relate to the DBPR's general regulatory powers, applicable to all of the professions it regulates.

The bill provides the DBPR the authority to privatize staff support functions, upon the request of a specific board, and requires them to contract by October 1, 2000 to privatize staff functions for the Board of Architecture and Interior Design.

The bill provides an appropriation of \$500,000 from the Professional Regulation Trust Fund to offset startup costs for the privatization of the Board of Architecture and Interior Design staff support services. The bill also establishes a fee for limited veterinarian service permittees of up to \$25 for each clinic location, to defray inspection costs.

There is no impact upon local government.

The effective date of the act is July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Lower Taxes

The bill provides for new fees to be paid by limited services veterinarian clinics of up to \$25 per clinic.

B. PRESENT SITUATION:

See section-by-section

C. EFFECT OF PROPOSED CHANGES:

See section-by-section

D. SECTION-BY-SECTION ANALYSIS:

Harbor Pilots

Section 1. Amends s. 310.071, F.S., providing that certain crimes disqualify an applicant from becoming a harbor pilot.

Present Situation

Maritime vessels throughout the world are required to use local (state) pilots to enter and leave ports or navigate through restricted waterways. The reasoning behind this requirement is that intimate knowledge of local conditions is necessary to navigate safely through unfamiliar, congested, or restricted waters. In Florida, all foreign-flagged ships and foreign-traveling American-flagged ships are required by law to employ a state pilot (American ships traveling between American ports use federal pilots).

Harbor piloting in Florida is regulated under chapter 310, Florida Statutes. The regulation of harbor pilots is administered by the Board of Pilot Commissioners (pilot board), established under the DBPR. Rates are set by a separate board, the Pilotage Rate Review Board (rate board).

The pilot board sets the number of pilots in each port. Two levels of licensed pilots (deputy pilots and state pilots) are established by statute. Anyone wishing to become licensed as a state pilot must first be appointed as a deputy pilot in that port and complete the deputy pilot training.

When the pilot board determines that a deputy pilot position is open in a particular port, that opening is publicly noticed. To get a seat at the state exam, the applicant must qualify according to several criteria, including maritime experience. Once the examination is administered, the individual who scores the highest is awarded the deputy pilot position.

The deputy pilot undergoes a training program lasting a minimum of two years. The state pilot evaluates the performance of the deputy pilot, and recommends him or her for advancement through the levels as his or her skills are proven and his or her experience grows. At the successful conclusion of the training program, the deputy pilot must pass another examination before being licensed as a state pilot.

Currently, there are no provisions denying applicants eligibility due to any criminal infraction.

Effect of Proposed Changes

This section ensures that any person who has a felony or first degree misdemeanor directly related to operation of a vessel or a felony relating to drug trafficking, will be disqualified from becoming a licensed state pilot.

Section 2. Amends s. 310.151, F.S., providing an escrow procedure when a rate increase is under challenge.

Present Situation

The rate board has been created for the sole purpose of setting the rates which pilots may charge the ships they pilot. These rates are primarily calculated according to the size of the vessel and vary from port to port. The rationale for making rates port specific is that each port has hazards involving different degrees of difficulty, and also has typical transit times that can vary greatly. For instance, a pilotage job in Tampa averages around 4.5 hours, while a pilotage job in Port Everglades (Ft. Lauderdale) averages just over an hour.

A pilotage rate hearing is convened whenever a substantially affected party (usually the local harbor pilot association or the local shipping concerns) requests a rate hearing for the purpose of raising or lowering that port's pilotage rates.

Whenever the rate board orders a change in the pilotage rate, a substantially affected party may challenge the order through administrative procedures and eventually through the court system. This process can take well over a year (one challenge took over two years) before it is resolved. Upon challenge, the rate board order changing the rate is postponed (stayed), rather than allowed to become effective. The rate only takes effect upon the conclusion of administrative and court challenges.

Since most rate changes are increases, staying the increase affects pilot earnings. But moreover, because substantial sums of money are involved, shipping concerns have a compelling economic incentive to engage in an appeals process, since every day that the appeal process lasts is a day they are free of the increased rate.

Effect of Proposed Changes

This section provides that any change in the pilotage rate will go into effect upon the order of the rate board, with the difference in the old versus new pilotage rate being placed in an escrow account. Then, when the administrative and court challenges have been concluded, the monies (plus the interest) are given to the parties on the prevailing side.

The effect of this section is to remove the compelling economic incentive that presently exists for the party that loses the rate board decision to challenge that decision continually.

Section 3. Amends s. 120.80, F.S., creating an additional exception regarding the role of the administrative law judge in hearing a pilotage rate case.

Present Situation

Chapter 120, F.S., is Florida's Administrative Procedures Act. Among other things, it sets forth the role of the administrative law judge (ALJ) in conducting hearings and generally stipulates that once a case is heard by the Division of Administrative Hearings (DOAH), the ALJ shall issue a recommended order as to final disposition. Section 120.80, F.S., contains exceptions and special requirements regarding the chapter's provisions.

On June 20, 1999, the Third District Court of Appeals reversed a final order by DOAH which had ordered a pilotage rate decrease. Pilotage Rate Review Bd. v. South Florida Cargo Carriers Ass'n, Inc., 1999 WL 452165, 24 Fla. L. Weekly D1455 (Fla.App.3 Dist. 1999). The Pilotage Rate Review Board had appealed the DOAH decision. The rate board explicitly argued that it could ignore the element of the recommended order by DOAH containing the recommendation regarding what rate should be imposed. The rate board argued that rate making is a special variety of agency action, that rate making is a quasi-legislative action rather than a quasi-judicial action, and that courts have held that judicial bodies (such as DOAH) are barred from setting rates.

In making its ruling, the appeals court agreed with the rate board position. In a sparsely worded decision, it declared "valid and binding" the Pilotage Rate Review Board rule stating that the DOAH ALJ's recommendation shall not extend to a recommendation as to what rate should be imposed.

Effect of Proposed Changes

This section places in statute the substance of the appellate court's decision, stipulating that the ALJ's recommended order in pilotage rate cases may contain findings of fact, conclusions of law, and rulings on evidentiary or procedural matters, but that it shall not include a recommendation as to the appropriate rate to be imposed.

DBPR's General Authority

Section 4. Amends s. 455.211, F.S., providing that if a board proposes a rule and refuses to modify the rule to comply with Joint Administrative Procedures Committee (JAPC) concerns, the department must concur with the rule before it can be filed with the Department of State. Also allows the department to repeal a board rule if the board failed to modify the rule to comply with JAPC concerns.

Section 5. Amends s. 455.217, F.S., creating an exception to a foreign language examination requirement.

Present Situation

Currently, an applicant requesting that DBPR provide his or her examination in a foreign language must submit his or her request six months prior to the scheduled examination and pay the cost of developing the examination in that language.

Effect of Proposed Changes

This section exempts requests for examinations to be given in Spanish from provisions requiring such requests to be made in writing six months prior to the examination. It also exempts those requiring Spanish language examinations from paying the cost of developing the examination.

Section 6. Amends s. 455.2179, F.S., moving into this section existing language in s. 455.219 (3), F. S., giving the boards, and the department where there is no board, authority to approve and to charge a fee of up to \$250 to providers of continuing education. The DBPR believes it more clearly puts continuing education providers on notice of the fees they must pay. This is not a new fee.

Section 7. Amends s. 455.219, F.S., modifying fee collection authority to allow DBPR to waive licensure fees and repealing subsection (3) which is moved to 455.2179 (3), F.S., in the preceding section of the bill.

Present Situation

Each board collects renewal fees from its licensed professionals at a regular interval, usually every two years.

Effect of Proposed Changes

This section authorizes the department to waive the payment of fees for up to two years for professions with trust fund balances and projected fiscal stability sufficiently positive that the department concludes it can safely waive fee payment.

DBPR Authority to Privatize Staff Support Functions

Section 8. Creates s. 455.32, F.S., establishing department authority to privatize board staff services.

Present Situation

Presently, the only instance of privatized staff services is for the Board of Professional Engineers. Section 471.038, F.S., created the Florida Engineers Management Corporation (FEMC) in 1997 as a private not-for-profit corporation providing staff support services for that single board.

Effect of Proposed Changes

This section establishes a privatization model for administrative functions of boards under DBPR. The DBPR will be allowed, upon request from a specific board, to contract out staff

support services for that board. It provides that a contract providing for privatization of such services must be approved by the specific board and contains specific provisions relating to the contents of the contract.

The section requires DBPR to contract for privatization of staff support services for the Board of Architects and Interior Design by October 1, 2000.

Auctioneers

Present Situation

Auctioneers are licensed and regulated pursuant to part VI of chapter 468, F.S., by the Department of Business and Professional Regulation. Auctioneers are required to pass a written exam prepared and administered by the DBPR. This part provides for disciplinary actions, including the failure to account for money that has come into their control through an auction. The Auctioneer Recovery Fund (the fund) was established to allow persons to recover losses when they otherwise could not collect a court judgement against an auctioneer.

Recently, the DBPR was asked to review its rules, and those of the boards it administers, and identify rules that lacked clear statutory authority. The DBPR identified several rules under the Board of Auctioneers as lacking clear statutory authority, under the more stringent rule-making standards adopted in chapter 120, F.S., in 1996, and further revised in 1999. Sections 8-16 of the bill codify various auctioneer rule provisions into law.

Effect of Proposed Changes

Section 9. Amends s. 468.382, F.S., to define the term "absolute auction."

Section 10. Amends s. 468.385, F.S., requiring licensees to pass a board approved test that is updated to include provisions of the Uniform Commercial Code and the laws of agency, in addition to existing requirements; and clarifies that an auction must be conducted by an active licensee or apprentice.

Section 11. Creates s. 468.3855, F.S., to specify apprenticeship training requirements to include sponsorship, active participation in sales events, and appropriate supervision, among other requirements.

Section 12. Amends s. 468.388, F.S., striking subsection 3 of the statute that provides exceptions to the requirement that written agreements be executed prior to conducting an auction. Written agreements would be required for all auctions. Additional changes clarify that an auction must be conducted by an active licensee or apprentice and requirements and responsibilities relating to the conduct of an auction are specified.

Section 13. Amends s. 468.389, F.S., to provide that failure to deliver in a reasonable time, money or property that has come into the control of an auctioneer, may be subject to discipline under the statute.

Section 14. Reenacts s. 468.385(3)(b), F.S., and s. 468.391, F.S., for purposes of incorporation of references to s. 468.389(1)(c), F.S., a subsection changed by this bill.

Section 15. Amends s. 468.392(2), F.S., to allow the Secretary of the DBPR to designate a person to sign vouchers for payments and disbursements from the Auctioneer Recovery Fund.

Section 16. Amends s. 468.395, F.S., deleting provisions relating to and requiring a judgment and court ordered payment from the fund; permitting application directly to the board for recovery of a loss; limiting recovery only to losses resulting from actions occurring within this state after October 1, 1991; defining a single transaction or auction, for purposes of the subsection; deleting the required notice to the board upon commencement of court action; and subrogating the fund to the rights of the claimant, to the extent of the payment, upon payment from the fund.

Section 17. Amends s. 468.397, F.S., making grammatical changes.

Community Association Managers

Section 18. Amends s. 468.433, F.S., establishing a requirement for 24 hours of prelicensure education for community association managers 12 months prior to the licensure examination.

Employee Leasing Companies

Section 19. Amends s. 468.525, F.S., removing the prohibition against employee leasing companies having any employees perform duties other than those included in the definition of employee leasing.

Section 20. Amends s. 468.526, F.S., modifying the provision which allows up to five employee leasing companies that are corporations owned by the same "parent" to form an employee leasing company group. This section deletes from that language the provision requiring each of the companies to be corporations.

Section 21. Amends s. 468.531, F.S., adding "offering to practice as an employee leasing company" to the activities which require licensure as an employee licensing company and reserves several additional terms for use exclusively by licensed employee leasing companies.

Funeral Directors and Embalmers

Present Situation

Chapter 470, F.S., provides authority to DBPR and the Board of Funeral Directors and Embalmers to regulate, through licensure, registration and inspection, funeral directors, embalmers, direct disposers and the facilities each operates. The board is given rulemaking authority to set some fees for these regulatory activities. The board appears to lack statutory authority in several areas of regulation which the board feels should be clarified.

Effect of Proposed Changes

Section 22. Amends s. 470.005, F.S., to clarify that the board may adopt rules relating to inspection of records of funeral, incinerator, and direct disposal establishments and those records that directly relate to the regulated activity of the licensee.

Section 23. Amends s. 470.015, F.S., relating to renewing licenses for funeral directors and embalmers to specify board rule authority to allow continuing education credit when a licensee attends a board meeting. Also board rule authority relating to advertising continuing education courses is specified.

Section 24. Amends s. 470.016, F.S., relating to reactivating an inactive license for funeral directors and embalmers to specify board rule authority to allow continuing education credit when a licensee attends a board meeting.

Section 25. Amends s. 470.017, F.S., specifying that the Board of Funeral Directors and Embalmers establish application and registration fees for direct disposers rather than DBPR, and clarifying that qualifications for registration that include criminal background information apply to the ability to practice direct disposition rather than the actual practice of direct disposition by the applicant.

This section is further amended to prohibit DBPR from registering any more direct disposers after June 30, 2000. Direct disposers who are currently registered would continue to be allowed to renew their registrations as long as they remain in good standing.

Section 26. Amends s. 470.018, F.S., relating to the renewal of the license for a direct disposer to specify board rule authority to allow continuing education credit when a licensee attends a board meeting.

Section 27. Amends s. 470.021, F.S., to prohibit co-locating by a direct disposal establishment with other direct disposer or funeral establishments. Funeral establishments are already similarly prohibited from co-locating.

Section 28. Amends s. 470.028, F.S., limiting the services of a preneed sales agent to representing a funeral or direct disposal establishment rather than a funeral director or direct disposer as an individual, and specifying that the board may establish by rule disciplinary guidelines as they relate to liability of licensees and registrants for violations by a preneed sales agent.

Section 29. Amends s. 470.0301, F.S., authorizing the board to adopt rules regarding the operation of centralized embalming facilities in addition to registration of the facilities, and specifying the board adopt a rule relating to the identification of human remains after embalming. The bill further amends this section prohibiting a full-time funeral director in charge, a full-time direct disposer in charge, or a full-time embalmer in charge of a licensed facility from being a full time embalmer in charge of a centralized embalming facility. This prohibition would curtail the practice of being responsible for and in charge of more than one facility at the same time.

Professional Engineers

Sections 30, 31, 33, 37, 39, and 40. Amend ss. 471.003, 471.0035, 471.011, 471.023, 471.031, and 471.037, F.S., making technical changes.

Section 32. Amends s. 471.005, F.S., making technical changes and allowing the board to grant the use of the title "Professional Engineer, Retired," to individuals who have had an engineers' license, but have relinquished that license.

Section 34. Amends s. 471.015, F.S., making a technical change to existing provisions that had erroneously implied that accreditation is given to doctorate programs. Only undergraduate programs receive accreditation.

Section 35. Amends s. 471.017, F.S., requiring the Board of Professional Engineers to require by rule 15 hours of continuing education, as a condition for licensure renewal. Provides for a study of continuing education requirements for engineers.

Section 36. Amends s. 471.019, F.S., making part of that existing section a new section 471.0195, F.S., for clarification and organization purposes.

Section 38. Amends s. 471.025, F.S., providing that engineers must seal all final bid documents.

Present Situation

Fire protection contractors allege, and have presented evidence in support of their allegation, that there have been instances in which engineers have submitted substandard fire protection system design plans as final bid documents in a bid meeting. A fire protection system bid meeting is a meeting between the owner and the potential fire protection system contractors at which the owner hands out copies of the engineer's design document. Current law does not require the engineer to seal such documents, because they are not considered a document for public record. Contractors are bound, however, to follow that document. Therefore, it is essential that it be competently done.

Effect of Proposed Changes

This section requires engineers to seal all final design plans they submit at bid meetings. If engineers submit substandard fire protection systems final design plans at bid meetings, they will be held accountable for those plans, and can be disciplined by the board.

Veterinarians

Present Situation

Chapter 474, F.S., does not currently have a provision for a licensed veterinary specialist from another state to practice in Florida on a limited basis. Additionally, there is no exemption from licensure for faculty, interns, or residents practicing at veterinary colleges in Florida.

The Board of Veterinary Medicine (board) does not currently have explicit authority to approve continuing education providers.

The maximum fine currently allowed as discipline by the board is \$1,000.

Currently, permits are issued to limited service veterinary clinics. There is no statutory authority to collect fees for these permits, although the department reports that there is a considerable amount of work involved at the board office level, in addition to the inspection responsibilities for these clinics.

The law does not currently address county health department-operated vaccination clinics when there is a rabies outbreak and a threat to the public. Consequently, such clinics would have to adhere to all limited service veterinary clinic rules.

Currently, when there is a violation of law or rules at a clinic, the board can only discipline the licensed veterinarian. Any non-veterinarian owner of the clinic cannot be disciplined by the board.

When chapter 455, F.S., was divided into two parts (medical and non-medical) in 1997, the statutes addressing medical patient records and those addressing treatment of impaired practitioners were moved to part II of the chapter, making those provisions applicable only to those boards under the Department of Health. The Board of Veterinary Medicine remained under the DBPR. Therefore, no specific statute addressing medical records or treatment of impaired practitioners applies to veterinarians.

Effect of Proposed Changes

Section 41. Amends s. 474.202, F.S., defining a veterinarian as a health care practitioner.

Section 42. Amends s. 474.203, F.S., allowing a licensed veterinary specialist from another state to practice in Florida on a limited basis, and allowing veterinary faculty, interns and residents to practice veterinary medicine at veterinary colleges in Florida, without having to have a Florida veterinary license.

Section 43. Amends s. 474.211, F.S., providing the Board of Veterinary Medicine authority to approve, by rule, continuing education providers.

Section 44. Amends s. 474.214, F.S., increasing the maximum fine authority of the board to \$5,000 for each offense.

Section 45. Reenacts sections and subdivisions of ss. 474.207 and 474.217, F.S., for technical purposes.

Section 46. Amends s. 474.215, F.S., establishing a fee not to exceed \$25 for each location for limited service veterinary clinics; and providing that a temporary rabies vaccination effort by a county health department, undertaken due to a public health threat, is not subject to preregistration, time limits, or fee requirements that would otherwise be required. The section also requires that a non-veterinarian owner of a clinic must obtain a premises permit, requires certain reporting and other duties of the permit holder, and provides the basis for denying the applicant or disciplining the permit holder.

Section 47. Amends s. 474.2165, F.S., requiring veterinarians to keep and properly maintain records, and not furnish such records to unauthorized persons.

Section 48. Provides that veterinarians shall be governed as if they were under the jurisdiction of the Division of Medical Quality Assurance, for the purposes of the treatment of impaired practitioners.

Florida Real Estate Commission Education and Research Foundation Advisory Committee

The Foundation Advisory Committee is comprised of nine members appointed by the Governor to staggered 4-year terms. Six members must hold real estate licenses and three

must be representatives of the general public. The committee is authorized to establish priorities for the use of education and research funds that have been appropriated.

Section 49. Amends s. 475.045, F.S., to abolish the Real Estate Commission Education and Research Foundation Advisory Committee. The statutory duties of the committee are absorbed by the Real Estate Commission, as part of the Governor's effort to reduce the number of boards throughout state government.

Cosmetologists

Present Situation

Chapter 477, F.S., regulates the practice of cosmetology which is currently defined to include the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes. Under this practice act, a person could also obtain a specialty registration for more narrow professional services, such as manicuring, pedicuring, or facials. Practitioners may also be registered to practice the occupation of hair braiding, hair wrapping, or body wrapping.

Qualifications for licensure as a cosmetologist include 1,200 hours of training at a Florida approved school of instruction and successful completion of the licensure examination. An out-of-state applicant may be qualified to take the Florida examination after completing 1,000 school hours of training at a Florida school. The training schools are not currently authorized to evaluate or approve out-of-state training as a substitute for the required hours of training at a Florida institution.

Applicants for registration, as opposed to licensure, must also complete approved training courses relating to their specialty or specific practice.

Effect of Proposed Changes

Section 50. Amends s. 477.013, F.S., removing the term "weight loss" from the definition of "body wrapping."

Section 51. Amends s. 477.0132, F.S., authorizing the Board of Cosmetology to approve courses required to be taken by an applicant for registration to practice hair braiding, hair wrapping, or body wrapping, and exempting the provider of the courses from licensure under chapter 246, F.S., as a non-public post-secondary institution.

Section 52. Amends s. 477.019, F.S., specifying that the license application fee is not refundable and that the examination fee may be refunded if the applicant is found not to be eligible (except for ineligibility due to examination failure).

Licensure qualifications are amended for persons who are licensed in another jurisdiction to require that the applicant for licensure in Florida must take not only the required training, but also successfully complete the training, and the training hours have to be actual school hours. The curriculum is expanded to include instruction as well as training. Approved schools or programs authorized to provide instruction are further authorized to evaluate the training qualifications of applicants licensed in other jurisdictions. The board is authorized to adopt rules to determine what is considered satisfactory proof of completion of training in the other jurisdictions.

Section 53. Amends s. 477.0201, F.S., addressing registration requirements for a specialty registration and specifying that the application fee is not refundable. The bill authorizes the board to specify by rule the curriculum requirements for training. Specialty schools are authorized to provide training in addition to a school of cosmetology, and government-operated training programs are authorized by the bill.

Authority of the board to adopt rules relating to endorsement is specified for persons practicing a specialty category in another jurisdiction and meeting personal qualifications for registration in this state.

Geologists

Sections 54-57, 59, and 61-64. Amend ss. 492.101, 492.102, 492.104, 492.105, 492.108, 492.112, 492.113, 492.116, and 492.1165, F.S., making technical changes, inserting "this chapter," in place of "ss. 492.101-492.1165."

Section 58. Amends s. 492.107, F.S., allowing, and prescribing procedures for, geological documents requiring a seal to be transmitted electronically.

Section 60. Amends s. 492.111, F.S., requiring firms that offer geology services, and the "geologist of record" (the geologist employed by the firm), to notify the department of any change in their business relationship with one another.

Section 65. Provides a \$500,000 appropriation from the Professional Regulation Trust Fund to the department to pay for the startup costs of the privatization of the Board of Architecture and Interior Design support services, required in section 7 of this bill.

Section 66. Provides that the bill shall take effect July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

Department of Business and Professional Regulation	<u>FY 2000-01</u>
Professional Regulation Trust Fund	\$500,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The pilotage rate provisions in Section 2 of the bill could have a positive effect upon private industry, in that decisions decreasing or increasing pilotage rates could take effect faster. However, the difference between the current rate and the new rate would have to be placed in an escrow account if the new rate was challenged.

The fee waiver authority in section 6 of the bill would allow the members of certain professions to save on payment of renewal licensure fees for various periods of time. Following are the proposed waivers suggested by DBPR:

<u>PROFESSION</u>	<u>POPULATION</u>	<u>WAIVER AMOUNT</u>
Asbestos	496	\$194,600
Athlete Agents	143	62,920
Electrical Contractors	8,747	1,311,650
Employee Leasing Companies	501	640,495
Geologists	1,970	280,150
Landscape Architects	1,266	402,700
Pilots-Harbor	105	19,500
Real Estate Appraisers	5,598	979,650
Surveyors & Mappers	3,570	979,500
Veterinarians	4,958	818,070
Certified Public Accountancy	24,654	1,171,066
Auctioneers	3,798	474,750
Real Estate Commission	190,514	7,942,823
<u>Funeral Directors & Embalmers</u>	<u>2,826</u>	<u>181,430</u>
TOTAL WAIVERS	249,146	\$15,459,304

A new fee of up to \$25 is established for limited service permittees for each location of a limited service veterinarian clinic. The amount is to be set by rule of the Board of Veterinary Medicine.

D. FISCAL COMMENTS:

The bill appropriates \$500,000 from DBPR's Professional Regulation Trust Fund to offset startup costs for the privatization of the support services to the Board of Architecture and Interior Design that is required in section 7 of this bill.

The bill establishes a new fee of up to \$25 to be paid by limited service permittees for each location of a limited service veterinarian clinic. The fee is to offset the DBPR expense in inspecting the clinics. No estimates were provided regarding the revenue anticipated from this fee.

The fee of up to \$250 each board (or the DBPR, when there is no board) is authorized to charge in section 5 of the bill is not a new fee. Instead, it is a reiteration of an existing fee

(s. 455.2179 (3), F.S.) moved to this section to ensure proper notice to continuing education providers.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

Various provisions in this proposed bill require the DBPR or the various professional boards to adopt rules under a specific power or duty. The proposed language provides clear direction for implementing those powers and duties.

C. OTHER COMMENTS:

Comments by the Committee on Business Regulation & Consumer Affairs

An amendment is needed on page 15, line 7 removing the word "project" and inserting the word "corporation" for clarity and consistency.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Proposed Committee Bill

The Business Regulation and Consumer Affairs Committee adopted four amendments on March 14, 2000. The amendments:

- (1) added three sections giving the Board of Auctioneers proper authority for existing rules;
- (2) added one section to the engineer provisions, making engineers accountable for the final document they present at a bid meeting;
- (3) struck from the bill two sections dealing with Certified Public Accountants; and
- (4) clarified a provision relating to cosmetologists.

The bill was then temporarily passed.

On March 21, 2000, the bill was passed by the committee with seven amendments. Notable changes include:

- (1) adding the substance of HB 665, dealing with auctioneers;
- (2) prohibiting registration of new direct disposers (relating to the regulation of funeral directors and embalmers) after June 30, 2000;
- (3) establishing DBPR authority to privatize staff support functions, on a case-by-case basis, upon request by a board; and
- (4) requiring the DBPR to contract by October 1, 2000, for Board of Architecture and Interior Design staff support services.

On April 12, 2000, the Committee on Governmental Rules & Regulations adopted the following three amendments and reported the bill favorably, as amended:

Amendment 1 - Removed Section 2 and Section 3 from the bill. These sections dealt with harbor pilot eligibility disqualifications and pilotage rate processes, respectively.

Amendment 2 - Provides for a study of continuing education requirements for engineers.

Amendment 3 - Clarified an exemption for veterinarians.

On April 18, 2000, the Committee on Finance and Taxation adopted the following nine amendments and reported the bill favorably as a committee substitute:

Amendment 1 removes the term "weight loss" from the definition of "body wrapping."

Amendment 2 makes a technical change to conform to SB 1016, regarding giving professional examinations in Spanish.

Amendment 3 provides that if a board proposes a rule and refuses to modify the rule to comply with JAPC concerns, the department must concur with the rule before it can be filed with the Department of State. Also allows the department to repeal a board rule if the board failed to modify the rule to comply with JAPC concerns.

Amendment 4 allows the Boxing Commission to borrow money from the Professional Regulation Trust Fund. This is similar to what is allowed with all boards under DBPR, and the money must be paid back with interest.

Amendment 5 is a technical correction.

Amendment 6 corrects a technical error, where the provision referred to "part," when it should have referred to "section."

Amendment 7 modifies and clarifies the provisions requiring an audit of the private company providing staff support services to any board under DBPR.

Amendment 8 removes language which would have allowed the department to audit all of the books of any community association manager at any reasonable hour and without probable cause.

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Amendment 9, which contained the same substance as Amendment 8, was *withdrawn*.

Amendment 10 was a substitute amendment to Governmental Rules and Regulations's Amendment 1, placing sections 2 and 3 back into the bill with modifications.

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION AND CONSUMER AFFAIRS:

Prepared by:

Staff Director:

Gip Arthur/Alan Livingston

Rebecca R. Everhart

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES & REGULATIONS:

Prepared by:

Staff Director:

Shari Z. Whittier

David M. Greenbaum

AS FURTHER REVISED BY THE COMMITTEE ON Finance and Taxation:

Prepared by:

Staff Director:

Carol Dickson-Carr

Alan Johansen

AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT
APPROPRIATIONS:

Prepared by:

Staff Director:

Juliette Noble

Cynthia P. Kelly