

STORAGE NAME: h0805.sgc.doc
DATE: March 30, 2001

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE
COUNCIL FOR SMARTER GOVERNMENT
ANALYSIS**

BILL #: HB 805
RELATING TO: Swimming Pool/Spa Servicing Contracting
SPONSOR(S): Representative(s) Benson

TIED BILL(S):

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

- (1) BUSINESS REGULATION YEAS 11 NAYS 0
 - (2) COUNCIL FOR SMARTER GOVERNMENT YEAS 7 NAYS 0
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

Swimming pool/spa servicing contractors are regulated by the Construction Industry Licensing Board (CILB), under the Department of Business and Professional Regulation (DBPR). Persons meeting the definition of this category of contracting are required to be licensed by the CILB. These activities are presently regulated as contractors requiring any one of three licenses: residential pool/spa, commercial pool/spa, or swimming pool/spa servicing.

Swimming pool/spa servicing contractors are authorized to repair or renovate pools and spas and repair or replace equipment on a limited basis. Eligibility requirements to take the pool/spa servicing examination for initial certification include being eighteen years of age and of good moral character. The applicant must also have a combination of formal education and work experience ranging from 4 years of formal education and 1 year of experience to a combination of 1 to 4 years of college level courses and 1 to 4 years of work experience.

The bill allows a swimming pool/spa servicing contractor to be exempt from the education and work experience prerequisites for taking the pool/spa servicing examination if the applicant has completed sixty hours of instruction. The instruction must relate to the authorized scope of work as prescribed in the statutory definition of a swimming pool/spa servicing contractor. The DBPR is authorized to approve these instructional courses.

The Committee on Business Regulation adopted a strike everything amendment which is traveling with the bill. The amendment adds a requirement of two years of experience to the requirements in the bill. The Council on Smarter Government adopted an amendment to the strike everything amendment to reduce the experience requirement from two years to one year.

The bill does not appear to have a fiscal impact on state or local government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|-----------------------------------------|-----------------------------|-----------------------------------------|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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:

B. PRESENT SITUATION:

Construction contracting in Florida encompasses a variety of activities, and involves over a dozen different licensure categories. Swimming pool/spa servicing contracting is one of those licensure categories. Currently, chapter 489, F.S., requires any person who practices "contracting" in the State of Florida to be licensed.

"Contracting" essentially, means building or altering a structure, for compensation. Several specific varieties of contracting are set forth in the chapter, each with a license that may be obtained for that contracting category. Describing the licensure activities in the definition section creates a license. The description becomes the "job scope" and, when paired with a "prohibitions provision", any activities set forth in the job scope are considered activities that require licensure. "Contractor" is incorporated into the job scope of a swimming pool/spa servicing contractor.

The "swimming pool/spa servicing contractor" license is set forth in paragraph (l) of section 489.105(3), F.S. "Swimming pool/spa servicing contractor" means a contractor whose scope of work involves the servicing, repair, water treatment, including, but not limited to, the direct infusion of chlorine gas accomplished through the use of machinery attached to the pool, and maintenance of any swimming pool or hot tub or spa, whether public or private. The scope of such work may include any necessary piping and repairs, replacement and repairs, replacement and repair of existing equipment, or installation of new additional equipment as necessary. The scope of such work includes the reinstallation of tile and coping, repair and replacement of all piping, filter equipment, and chemical feeders of any type, replastering, reconstruction of decks, and reinstallation or addition of pool heaters.

Chapter 489, F.S., requires all individuals who practice contracting in Florida must either be "registered" or "certified." Florida allows two alternative systems of licensure to exist simultaneously and in a parallel fashion.

"Registration" allows an individual to practice contracting only in the jurisdiction that issues that individual's local license. This registration is issued by the DBPR upon proof of local licensure. Such proof consists of an occupational license issued by the local jurisdiction, and evidence of compliance with local licensing requirements, if a local licensing requirement exists. The CILB has no input in, or control over, the licensure standards utilized by local jurisdictions. Some local jurisdictions have rigorous standards for license issuance, such as experience and insurance

requirements, and passage of an examination. Other local jurisdictions will issue a license for a nominal fee and have no experience or examination requirements.

The DBPR issues a "certificate" to those individuals, who apply to the CILB, shows compliance with education and experience requirements, and pass a DBPR/CILB sanctioned and administered examination for a particular scope of practice. A certification allows an individual to practice their trade in any jurisdiction in the State.

Eligibility requirements to take the pool/spa servicing examination for initial certification include the same contractor prerequisites of other categories of construction work. These include being eighteen years of age and of good moral character. The applicant must also have a combination of formal education and work experience ranging from 4 years of formal education and 1 year of experience to a combination of 1 to 4 years of "college level courses" and 1 to 4 years of work experience.

The examination used by the DBPR for all construction contractors includes questions on technical competency, as well as, questions on the business knowledge necessary to successfully operate a business. The exam tests in the area of business knowledge because most construction complaints relate to project abandonment or mismanagement of funds often attributed to financial difficulties. Therefore, the regulation assumes the position that a contractor must not only know a particular craft, but must also know how to run a business.

C. EFFECT OF PROPOSED CHANGES:

The bill allows a swimming pool/spa servicing contractor to be exempt from the formal education and work experience prerequisites to qualify to take the pool/spa servicing examination. The bill provides that an applicant is eligible to take the examination if the applicant has completed sixty hours of instruction. The applicant would continue to be eligible to take the examination by meeting the more formal requirements of college level education in combination with work experience.

The bill provides that the sixty hours of instruction must be related to the authorized scope of work as prescribed in the current definition of a swimming pool/spa servicing contractor. The bill authorizes the DBPR to approve courses that provide this instruction.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None anticipated.

2. Expenditures:

None anticipated.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

None.

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 take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues.

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 noted.

B. RULE-MAKING AUTHORITY:

The DBPR is authorized to approve courses of instruction for this category of licensure. The process of approval of these courses could be anticipated to include DBPR adopting rules to implement this responsibility.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 27, 2001, the Committee on Business Regulation adopted a strike everything amendment which is traveling with the bill. The amendment adopts nearly identical language of the bill that requires 60 hours of instruction in preparation for the pool/spa servicing examination.

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The amendment differs from the bill in that it requires two years of experience relating to the scope of work of a pool/spa servicing contractor as part of the prerequisites to take the examination.

On March 29, 2001, the Council on Smarter Government adopted an amendment to the strike everything amendment to reduce the experience requirement from two years to one year.

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION:

Prepared by:

Staff Director:

Alan W. Livingston

Paul Liepshutz

AS REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

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