

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1417 CS Land Surveying and Mapping
SPONSOR(S): Murzin
TIED BILLS: **IDEN./SIM. BILLS:** SB 2050

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Business Regulation Committee</u>	<u>16 Y, 0 N, w/CS</u>	<u>Livingston</u>	<u>Liepshutz</u>
2) <u>Civil Justice Committee</u>	<u>(W/D)</u>	<u></u>	<u></u>
3) <u>Commerce Council</u>	<u>9 Y, 0 N</u>	<u>Livingston</u>	<u>Bohannon</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Chapter 472, F.S., requires the Board of Professional Surveyors and Mappers (board), under the Department of Business & Professional Regulation (DBPR), to license, regulate and discipline surveyors and mappers. Requirements for licensure include good moral character, a degree in surveying and mapping, experience as a subordinate to a registered surveyor and mapper, successful passage of an examination, and payment of applicable fees.

The bill provides that an applicant must have received a degree in surveying and mapping of 4 years or more in a surveying and mapping degree program from a college or university recognized by the board in order to take the licensure examination. The bill requires applicants for licensure who hold 4-year degrees, other than in surveying or mapping, to complete a minimum of 25 semester hours from a college or university approved by the board in surveying, mapping, or other allied subjects. The bill allows photogrammetrists, surveyors conducting aerial map photography, to qualify for licensure as a surveyor and mapper in Florida if they meet certain educational criteria approved by the board. It requires that the applicant must have applied to the DDBPR for licensure on or before July 1, 2007.

The bill revises joint and several liability provisions relating to surveyors and mappers. The bill retains current law in regard to the joint and several liability of partnerships and partners for the negligent or wrongful acts of other partners, employees, or agents, but removes the joint and several liability of mappers and surveyors for the acts of officers, agents, or employees of other types of business entities that provide mapping and surveying services. Surveyors and mappers practicing in other types of business entities would be relieved of joint and several liability for the negligent or wrongful acts of others; however, they would remain personally liable for their own acts and for the acts of those under their direct supervision. Partnerships and other business entities would remain fully liable for the acts of their partners, officers, agents, or employees.

The bill replaces the term "photogrammetric mapper" with "photogrammetrist" to reflect current use of terminology.

The bill is not anticipated to have a significant fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government.

The bill allows the board to approve applicants that would not qualify for examination under the existing statute, resulting in a minimal increase in the number of examination candidates and, therefore, licensees.

B. EFFECT OF PROPOSED CHANGES:

Current situation

Chapter 472, F.S., requires the Board of Professional Surveyors and Mappers, under the DBPR, to license, regulate and discipline surveyors and mappers. This program is designed for the primary purpose of eliminating, according to the statements of legislative intent, the significant threat (economic) to the public presented by improper surveying and mapping of land, water, and space.

Requirements for licensure include good moral character, a degree in surveying and mapping, experience as a subordinate to a registered surveyor and mapper, successful passage of an examination, and payment of applicable fees. Certain exemptions from licensure are specified in s. 472.003, F.S., to include certain government employees and certain contractors in specified lines of work, among others.

Section 472.013, F.S. provides that surveyors and mappers who wish to take the licensure exam must be of good moral character and meet the following requirements:

The applicant is a graduate of an approved course of study in surveying and mapping from a college and university approved by the board and four years of experience subordinate to a professional surveyor and mapper. The course of study must include 32 semester hours of study in surveying and mapping.

The applicant is a graduate of a four year course of study, other than surveying and mapping at an accredited college or university. The applicant must have a specific experience record of 6 or more years as a subordinate to a registered surveyor and mapper in the active practice of surveying and mapping. Five of the six years are required to be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed.

The course of study in disciplines other than surveying and mapping must have included no fewer than 32 hours of study or its academic equivalent, 25 semester hours of which shall be in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences. Work experience acquired as a part of the education requirement shall not be construed as experience in responsible charge.

On March 11, 2005, the Fifth District Court of Appeal held: that the board's interpretation of s. 472.013(2)(a), F.S., as requiring a four-year degree was unreasonable when read in comparison to the requirements set forth in s. 472.013(2)(b), F.S. Section 472.013(2)(a), F.S., requires that the applicant be a graduate of an approved course of study in surveying and mapping from a college or university recognized by the board. The court found that an "approved course of study" could be from colleges

that offer degrees other than four-year degrees. See *Osorio v. Board of Professional Surveyors and Mappers*, 2005 WL 562735 (Fla. 5th DCA 2005).

Section 472.015, F.S., in part, sets forth the criteria for licensure by endorsement for surveyors and mappers who are from out-of-state. The board is required to certify an applicant for licensure, if the surveyor or mapper held a valid license from another state prior to July 1, 1999, passed a national, regional, state or territorial licensing examination that is substantially equivalent to the examination required by the s. 472.013, F.S., and has eight years experience, six years which must have been as a person in responsible charge of the accuracy and correctness of the surveying and mapping work performed. The section also provides that the person can also hold a license from another state or territory that has substantially the same as the licensure criteria that existed in Florida at the time the license was issued.

Section 472.005, F.S. defines "photogrammetric mapper" as any person who engages in the practice of surveying and mapping using aerial or terrestrial photography or other sources of images.

Section 472.021(3), F.S., provides for the following liability provisions:

(3) The fact that any registered surveyor and mapper practices through a corporation or partnership shall not relieve the registrant from personal liability for negligence, misconduct, or wrongful acts committed by him or her. Corporations and stockholders who are surveyors and mappers, or partnerships, and all partners, shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, officers, or partners while acting in a professional capacity.

Section 481.319(6), F.S., regarding the certificate of authorization for corporations and partnerships practicing landscape architecture has the following language regarding liability:

(6) The fact that registered landscape architects practice landscape architecture through a corporation or partnership as provided in this section shall not relieve any landscape architect from personal liability for his or her professional acts.

The certification of partnerships and corporations for the practice of architecture under s. 481.219(11), F.S., has the following liability provisions:

(11) No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section. However, the architect who signs and seals the construction documents and instruments of service shall be liable for the professional services performed, and the interior designer who signs and seals the interior design drawings, plans, or specifications shall be liable for the professional services performed.

No similar language appears to exist in the statutes governing professions under the DBPR.

Effect of proposed changes

The bill provides that an applicant must have received a degree in surveying and mapping of 4 years or more in a surveying and mapping degree program from a college or university recognized by the board in order to take the licensure examination. The bill requires applicants for licensure who hold 4-year degrees, other than in surveying or mapping, to complete a minimum of 25 semester hours from a college or university approved by the board in surveying, mapping, or other allied subjects. Similarly, for the purpose of meeting the 25 semester hour requirement, the bill grants the board the discretionary authority to approve credit hours not taken as a part of the 4-year course of study.

The bill creates a subsection of s. 472.015(3)(a)3., F.S., to provide that the board of surveyors and mappers certify for endorsement an applicant for licensure who:

is a practicing photogrammetrist who holds the Certified Photogrammetrist designation of the American Society for Photogrammetry and Remote Sensing and held such designation on or before July 1, 2005; is a graduate of a 4-year course of study at an accredited college or university; and has a specific experience record of 6 or more years as a subordinate to a Certified Photogrammetrist of the American Society for Photogrammetry and Remote Sensing in the active practice of surveying and mapping, 5 years of which shall be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed.

The bill provides that the course of study must have included not fewer than 32 semester hours of study or its academic equivalent. The applicant must have completed a minimum of 25 semester hours from a college or university approved by the board in surveying and mapping subject or in any combination of courses in: in civil engineering; surveying; mapping; mathematics; photogrammetry; forestry or land law; and the physical sciences.

Any of the required 25 semester hours of study completed not as a part of the four-year course of study shall be approved at the discretion of the board. Work experience acquired as a part of the education requirement shall not be construed as experience in responsible charge and the applicant must have applied to the DBPR for licensure on or before July 1, 2007.

The bill amends s. 472.021, F.S. to provide that surveyor and mapper partnerships and all partners shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity.

It provides that any officer, agent, or employee of a business organization other than a partnership shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control while rendering professional services on behalf of the business organization. Business organization is not defined in ch. 472, F.S.

The bill provides that the personal liability of a shareholder or owner of a business organization, in his or her capacity as shareholder or owner, shall be no greater than that of a shareholder-employee of a corporation incorporated under ch. 607, F.S. The business organization shall be liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on its behalf in the rendering of professional services. The language is identical to the language in s. 471.023(3), F.S., for certification of business organizations practicing engineering. Business organization is defined in this section as a partnership, corporation, business trust, or other legal entity.

The bill deletes the provision that provides corporations and stockholders who are surveyors and mappers, or partnerships, and all partners, shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, officers, or partners while acting in a professional capacity.

The bill replaces the term "photogrammetric mapper" with "photogrammetrist" to reflect current use of terminology.

C. SECTION DIRECTORY:

Section 1. Amends s. 472.013, F.S. relating to education requirements.

Section 2. Creates a subsection of s. 472.015(3)(a)3., F.S., to provide that the board of surveyors and mappers certify for endorsement an applicant for licensure under certain circumstances.

Section 3. Amends s. 472.021, F.S. to provide that surveyor and mapper partnerships and all partners shall be jointly and severally liable.

Section 4. Amends s. 472.005, F.S., to replace the term "photogrammetric mapper" with "photogrammetrist."

Section 5. Amends s.472.007, F.S., to replace the term "photogrammetric mapper" with "photogrammetrist."

Section 6. Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See D., below.
2. Expenditures:
See D., below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See D., below.

D. FISCAL COMMENTS:

According to the DBPR, the bill will have a minimal impact on the number of new licensees. The DBPR estimates that the changes to s. 472.013, F.S. will permit the board to approve applicants that would not qualify for examination under the existing statute, resulting in a minimal increase in the number of examination candidates and, therefore, licensees. The estimate would add between 10-15 additional endorsement applicants per year. The DBPR indicates there are currently between 350-400 examination and endorsement applicants.

The DBPR estimates that the requirements and time limitation imposed in s. 472.015, F.S. will result in a minimal increase of between 5-10 additional applicants per year. The department states that no fiscal impact will result from changes to s. 472.021, F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to

raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

NA.

C. DRAFTING ISSUES OR OTHER COMMENTS:

House bill drafting notes two drafting issues that may need to be addressed in committee or council that have been raised as a result of the adoption of the CS by the Business Regulation Committee.

Amendment 1 which has been incorporated into the bill at lines 28-31.

Instead of: "The applicant received a degree in surveying and mapping of 4 years or more in a surveying and mapping degree program from a college..."

Bill drafting suggests: "The applicant received a degree from a surveying and mapping degree program of 4 years or more from a college..."

Bill drafting believes this is more clear because "4 years" refers to the program, not the actual degree. It is also redundant to say one has a "surveying and mapping degree" from a "surveying and mapping degree program."

Amendment 2 which has been incorporated into the bill at lines 14-17.

The title provision explains this amendment as "providing a definition of photogrammetrist" and "conforming to the definition of photogrammetrist."

Bill drafting suggests: "replacing the term "photogrammetric mapper" with "photogrammetrist."

Bill drafting believes this is more accurate because the definition of photogrammetrist is already provided in the statutes, and all that has changed is what we will call a person who does photogrammetry.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The CS differs from the original bill as follows. The CS provides that an applicant must have received a degree in surveying and mapping of 4 years or more in a surveying and mapping degree program from a college or university recognized by the board in order to take the licensure examination. The CS replaces the term "photogrammetric mapper" with "photogrammetrist" to reflect current use of terminology.