

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 Community Affairs

BILL: CS/SB 616

INTRODUCER: Innovation, Industry, and Technology Committee and Senators Perry and Hutson

SUBJECT: Engineering

DATE: April 4, 2019 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer/Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
2.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 616 authorizes the Florida Board of Professional Engineers (board) to establish minimum standards of practice for the profession of engineering and to establish responsibility rules for the profession of engineering. The bill revises the licensure requirements for professional engineers by permitting a license applicant to complete the required years of work experience after sitting for the license examination. Currently, an applicant must satisfy the experience work requirement before sitting for the examination. The bill increases the required experience for a person who graduated with a four-year degree from an engineering technology program, from four years to six years of work experience.

The bill repeals the right of an applicant who does not have the required education, to qualify to sit for the license examination if the person was engaged in 10 years or more of active engineering work experience on July 1, 1981. The bill also:

- Requires an engineering license applicant to be at least 18 years of age;
- Tolls the 90-day period within which the board must grant or deny an application when an applicant is required to make a personal appearance before the board;
- Specifies the stages of construction during which a special inspector must perform structural inspections on a threshold building, which is a building greater than three stories or 50 feet in height, or which has an assembly occupancy classification that exceeds 5,000 square feet in area and an occupancy of greater than 500 persons;
- Provides for shortened deadlines and time frames for notices to, and actions by, local building officials when a private provider performs plans review and inspections;

- Provides for shortened time frames for local building officials to issue building permits and notices of plan deficiencies;
- Reduces requirements for experience and length of licensure in other jurisdictions for applicants to qualify for licensure by endorsement without passing license examinations;
- Adds requirements for qualifying agents and engineering firms, when the agent is no longer affiliated with the engineering firm, to allow work to continue temporarily;
- Authorizes a successor engineer to independently re-create and seal documents that were previously created and sealed by the original engineer, and delineates the obligations of the successor and original engineer; and
- Eliminates a requirement for engineering firms to obtain and pay for certifications of authorization. The firms are now required to register.

CS/SB 616 is estimated to have a fiscal impact on state revenue. *See* Section V, Fiscal Impact Statement.

The bill provides an effective date of October 1, 2019.

II. Present Situation:

Florida Board of Professional Engineers

The practice of engineering is regulated by the board. Unlike most Department of Business and Professional Regulation (DBPR) professions, the administrative, investigative, and prosecutorial services for the board are not provided by DBPR. The DBPR contracts with the Florida Engineers Management Corporation (FEMC), a non-profit corporation, to provide such services.¹ The FEMC is a public-private nonprofit association that has contracted with the DBPR to handle administrative, investigative, and prosecutorial services for the Board of Professional Engineers.²

Section 471.008, F.S., authorizes the board to adopt rules to implement the provisions of ch. 471, F.S., and ch. 455, F.S., which provides the general licensing procedures for professional licensing by the DBPR and its professional licensing boards.

The board has adopted responsibility rules for the profession of engineering.³ The responsibility rules address a variety of issues, including minimum requirements for engineering documents,⁴ and requirements for the retention of engineering documents.⁵

¹ Section 471.038(3), F.S.

² *See* the Annual Report of the FEMC for FY 2017-2018 at <https://fbpe.org/wp-content/uploads/2018/09/2017-2018-FEMC-Annual-Report.pdf> (last visited Apr. 4, 2019) and the contract between DBPR and FEMC for the period between July 1, 2017 and June 30, 2021 at <https://fbpe.org/wp-content/uploads/2018/07/FEMC-DBPR-Contract-2017.pdf> (last visited Apr. 4, 2019).

³ The responsibility rules are contained in Fla. Admin. Code Chs. 61G15-30, 61G15-31, 61G15-32, and 61G15-33 (2019).

⁴ Fla. Admin. Code R. 61G15-30.003 (2019).

⁵ Fla. Admin. Code R. 61G15-30.009 (2019).

There were 64,219 licensed professional engineers in the 2017-2018 fiscal year.⁶ The FEMC processed 310 complaints regarding engineering practice during that period. Only 261 complaints were found to be legally sufficient to proceed, and the FEMC filed 112 administrative complaints in cases where probable cause was found relating to a violation of the practice act.⁷

Professional Engineer License Qualifications

Section 471.013, F.S., provides the license qualifications for a professional engineer. In order to be licensed as a professional engineer, a person must successfully pass two examinations: the fundamentals examination and the principles and practices examination. Prior to being permitted to sit for the fundamentals examination, an applicant must have:

- Graduated from an approved engineering curriculum of four years or more in a board-approved school, college, or university; and
 - Have a record of four years of active engineering experience of a character indicating competence to be in responsible charge of engineering;⁸ or
- Graduated from an approved engineering technology curriculum of four years or more in an board-approved school, college, or university within the State University System, having been enrolled or graduated before July 1, 1979; and
 - Have a record of four years of active engineering experience of a character indicating competence to be in responsible charge of engineering.⁹

Alternatively, if an applicant does not have the required education, the applicant may qualify for an engineer license with work experience consisting of 10 years or more of active engineering work of a character indicating the applicant is competent to be placed in responsible charge of engineering. To qualify for licensure based solely on satisfying the experience requirement, the applicant must have notified the DBPR before July 1, 1984, that she or he was engaged in such work on July 1, 1981.

Licensing Procedure – Appearing Before the Board

Section 471.015(2), F.S., requires the board to certify for licensure any applicant who satisfies the requirements of s. 471.013, F.S.

⁶ There were 526 inactive professional licenses during that fiscal year. See *Annual Report, Division of Professions, Division of Certified Public Accounting, Division of Real Estate, and Division of Regulation, Fiscal Year 2017-2018*, at p. 19, available at <http://www.myfloridalicense.com/DBPR/os/documents/ProfessionsAnnualReport2017-2018.pdf> (last visited Apr. 4., 2019).

⁷ See the Annual Report of the FEMC for FY 2017-2018 at <https://fbpe.org/wp-content/uploads/2018/09/2017-2018-FEMC-Annual-Report.pdf>, at pages 4-5 (last visited Mar. 27, 2019), which indicates the FEMC also filed 30 Final Orders with DBPR; entered 15 Settlement Stipulations; dismissed four cases after re-consideration; issued nine reprimands, five suspensions, five probations, five project reviews, and one license restriction; and imposed \$36,768.50 in administrative costs and \$38,400.00 in fines; The board also issued 30 final orders against licensees.

⁸ Section 471.013, F.S.

⁹ *Id.*

The board may require personal appearance by any applicant for licensure. The board must give the applicant adequate notice of the time and place of the appearance and provide the applicant a statement of the purpose of and reasons requiring the appearance.¹⁰

Certificates of Authorization

Section 471.005, F.S., defines “certificate of authorization” as a license to practice engineering issued by the FEMC to a corporation or partnership. Section 471.023, F.S., requires business organizations that offer engineering services in Florida to obtain a certificate of authorization. The certification is issued by the FEMC pursuant to qualification by the board. The law requires at least one principal officer or partner, and all personnel who act on its behalf as engineers, of the business to be licensed professional engineers. The certification must be renewed every two years, and each certified business organization is required to notify the board within one month after changing information contained in the application.

Section 471.021, F.S., sets forth a process for temporary certificates for out-of-state entities to practice in Florida. The temporary certificate is available to out-of-state engineers who are qualified by licensure by endorsement, and are meant for work on one project for a period of one year. An out-of-state business organization that meets the requirements of s. 471.023, F.S., and upon payment of the required fee, is authorized to be issued a temporary certificate of authorization.

Section 471.011, F.S., authorizes the board by rule to establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status applications and reactivation of inactive licenses, and recordmaking and recordkeeping. It also provides that the fee for a certificate of authorization shall not exceed \$125.

Special Inspectors of Threshold Buildings

Section 471.015(7), F.S., authorizes the board to establish by rule the qualifications for certification of licensees as inspectors of threshold buildings. A “threshold building” is “any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.”¹¹

The board is also authorized to establish minimum qualifications for the qualified representative of the special inspector who is authorized to perform inspections of threshold buildings on behalf of the special inspector. Current law does not authorize the board to establish minimum training or education requirements for maintaining a certification or qualification as a special inspector.

The agency charged with enforcing the building code (enforcing agency)¹² must require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record.¹³

¹⁰ Section 471.015(6), F.S.

¹¹ See s. 553.71(12), F.S.

¹² See s. 553.71(5), F.S., defining the term “local enforcement agency.”

¹³ Section 553.79(5)(a), F.S.

Use of Engineer Seals

Section 471.025(1), F.S., authorizes the board to prescribe, by rule, one or more forms of seal to be used by licensed engineers. Each licensee must obtain at least one seal. All final drawings, specifications, plans, reports, or documents prepared or issued by the licensee and filed for public record and all final documents provided to the owner or the owner's representative must be signed by the licensee, dated, and sealed with the seal. The signature, date, and seal are evidence of the authenticity of the document to which they are affixed.

A licensee may not affix or permit to be affixed his or her seal, name, or digital signature to any plan, specification, drawing, final bid document, or other document that depicts work which he or she is not licensed to perform or which is beyond his or her profession or specialty.¹⁴

Current law does not authorize a successor engineer to independently re-create and seal documents that were previously created and sealed by the original engineer, or delineate the obligations of the successor or original engineer in regards to prior work and documents assumed by the successor engineer.

III. Effect of Proposed Changes:

Reinstatement of Void Licenses

Sections 1 and 7 of the bill amends s. 455.271, F.S., to eliminate a requirement that a delinquent licensee must apply for licensure when a professional or occupational license expires. Current law providing such expired licenses are void, without any further action by the applicable board or the DBPR, is retained. Rulemaking authority is granted to the applicable board or the DBPR to adopt rules for license reinstatement, including continuing education requirements for professional engineers not to exceed the continuing education required to renew a license, as set forth in s. 471.019, F.S.

Certifications of Authorization to Engineering Firms

Sections 2 and 4 of the bill deletes the requirement for engineering firms to obtain a certificate of authorization and pay a fee to the FEMC, as required by ss. 471.005 and 471.011, F.S., in order to practice engineering in Florida.

Rulemaking Authority

Section 3 of the bill amends s. 471.008, F.S., to authorize the board to establish minimum standards of practice for the profession of engineering and to establish responsibility rules for the profession of engineering.

License Qualifications (Age, Examination Eligibility, and Required Experience)

Section 5 of the bill amends s. 471.013(1)(a), F.S., to delete the requirement that an engineering license applicant have four or more years of active engineering experience before the applicant

¹⁴ Section 471.025(3), F.S.

may sit for the fundamentals examination. The educational requirement for taking the fundamentals examination is amended to allow, in addition to a four-year degree in engineering, a four-year engineering technology degree if the approved curriculum at a program has been approved by the board.

The bill repeals the provision in s. 471.013(1)(a)3., F.S., which permits an applicant who does not have the required education, to qualify to sit for the fundamentals examination if the person was engaged in 10 years or more of active engineering work experience on July 1, 1981, and notified the DBPR before July 1, 1984, that she or he was engaged in such work.

Section 6 of the bill amends s. 471.015(2)(a), F.S., to require license applicants to provide proof to the board that he or she is at least 18 years of age. Current law does not provide a minimum age requirement.

The bill also revises licensure requirements by permitting a license applicant to complete the required experience after sitting for the license examination. Currently, an applicant must satisfy the experience requirement before sitting for the examination. Under the bill, a graduate from an approved four-year engineering curriculum must have a record of four years of active engineering experience of a character indicating competence to be in responsible charge of engineering before the person may qualify for a license. This is the same experience currently required to sit for the license examination.

However, the bill increases the required experience for a person who graduated with a four-year degree in engineering technology from four years to six years of work experience.

Licensure by Endorsement

Section 6 of the bill further provides the board must consider an applicant qualified for a license by endorsement, without passing the fundamentals examination, based on a reduced number of years of experience and length of licensure in another state. The required experience and licensure is reduced from:

- 20 years to 15 years, for experience; and
- 15 years to 10 years, for licensure.

Similarly, applicants are qualified for licenses by endorsement without the need to pass the fundamentals examination or the principles and practices examination, based on a reduction in the required years of experience and length of licensure in another state. The required experience and licensure (as to both examinations) is reduced from:

- 30 years to 25 years, for experience; and
- 25 years to 20 years, for licensure.

Licensing Procedure – Appearing Before the Board

Section 6 of the bill also amends s. 471.015(6), F.S., to provide that the period within which an application must be granted or denied is tolled until such time as the applicant appears when required to make a personal appearance before the board. The bill provides the board may deny a

license if the applicant fails to appear before the board at either of the next two regularly scheduled board meetings.¹⁵

Temporary Registration of Engineering Firms for Limited Period

Section 8 of the bill amends s. 471.021, F.S., authorizing out-of-state engineers and firms to practice in Florida on one specified project for a period not to exceed one year is revised to require such persons to be issued a temporary registration, rather than a certificate of authorization, by the FEMC. Section 471.011(6), F.S., currently provides the fee for temporary registrations may not exceed \$25 for individuals or \$50 for business firms.

The bill also amends s. 471.023(4), F.S., to require, as to engineering services by business organizations and other legal entities which practice, offer to practice, or offer to the public such engineering services, that such entities be registered with FEMC, subject to the requirements of ch. 471, F.S. No authority is provided by the bill to the board to establish fees for such registration, which is distinct from the type of temporary registration authorized by s. 471.021, F.S., discussed above.

Requirements for Engineering Firms and Qualifying Agents

Section 9 of the bill amends s. 471.023, F.S., to add requirements for qualifying agents affiliated with qualified engineering firms when the affiliation is terminated. A firm is limited to a maximum of 60 days to operate without a qualifying agent after its affiliation with a qualifying agent ends. The bill provides for a temporary appointment for up to 60 days of another employee as the qualifying agent to complete the current workload, if the departing agent is the only person serving as the firm's qualified agent.

Further, a notice to the local building official must be provided by a departing qualifying agent:

- Within 24 hours after termination of employment; and
- Before practicing engineering by affiliating with another business.

Rulemaking authority is granted to the board to adopt notice procedures.

Use of Engineer Seals

Section 10 of the bill amends s. 471.025(4), F.S., to require a successor engineer seeking to reuse documents previously sealed by another engineer to independently re-create all of the work done previously.

A successor engineer assumes full professional and legal responsibility by signing and affixing his or her seal to the assumed documents, which must be treated as though they were the successor engineer's original product. The original engineer is released from any professional responsibility or civil liability for prior work assumed by the successor engineer.

¹⁵ Section 120.60(1), F.S.

Special Inspections of Threshold Buildings

Section 11 of the bill amends s. 553.79, F.S., relating to building construction permits, to provide that the authority of an enforcement agency to require a special inspector to perform structural inspections on the threshold building applies during new construction or during repair or restoration projects in which the structural system or structural loading of a building is being modified.

Alternative Plans Review and Inspection Notices to Local Building Officials

Section 12 of the bill provides for shortened deadlines for various notices required by s. 553.791(4) and (5), F.S., to be provided to a local building official when a private provider is retained to perform construction inspection services on a project. Notices that a private provider will perform required inspections must be provided to the local building official either:

- At the time of application; or
- No later than 2 p.m. the business day before the first scheduled inspection (previously no less than seven days before).

Once construction begins, if the local building official is unable to provide inspection services in a timely manner, a notice that the owner has elected to retain a private provider to provide inspection services must be provided to the local building official no later than 2 p.m. the business day before the next scheduled inspection (previously no less than seven days before).

The bill also amends s. 553.791(9), F.S., to provide that a local building official may not prohibit a private provider from performing inspections outside of normal operating hours, on weekends, or on holidays.

Time Frames for Issuance of Building Permits for Private Providers

Section 12 of the bill also amends s. 553.791(7), F.S., to shorten time frames for local building officials to issue building permits or notices of construction plan deficiencies to 15 days from 30 days.

Other Revisions

The bill includes technical drafting changes, conforming changes, and elimination of obsolete language.

Effective Date

The bill provides an effective date of October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Engineering firms will no longer be required to pay:

- For an initial certificate of authorization, a \$230 fee, representing:
 - An application fee of \$125;
 - An initial fee of \$100, and
 - An Unlicensed Activities fee of \$5.
- For a renewal of a certificate of authorization, a \$98.75 fee (or \$123.75 if delinquent), representing:
 - A renewal fee of \$93.75;
 - An Unlicensed Activities fee of \$5; and
 - A Delinquent Fee of \$25, if the certificate is delinquent.

C. Government Sector Impact:

According to information provided by the FEMC,¹⁶ the elimination of certificates of authorization and the associated fees will have a fiscal impact, resulting in a reduction of initial application fees, renewal fees, and other related fees paid by the private sector in the approximate amount of \$155,000 annually. However, the DBPR estimates even more significant reductions over the next two years (as a result of the biennial renewal period for licenses) in:

- The Professional Regulation Trust Fund, estimated to be reduced by approximately \$816,250, based on the number of certificates of authorization issued as of March 1, 2019;

¹⁶ See FEMC Report – Cert. of Authorization Fees – Impact on Revenues FY 2016-2018 (on file with Senate Committee on Innovation, Industry, and Technology).

- Revenue from the General Revenue service charge,¹⁷ estimated to be reduced by approximately \$65,300; and
- Unlicensed Activities Fees associated with licensed professional engineers, estimated to be reduced by approximately \$33,000.¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 455.271, 471.005, 471.008, 471.011, 471.013, 471.015, 471.019, 471.021, 471.023, 471.025, 553.79, and 553.791.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Innovation, Industry, and Technology on March 26, 2019:

The committee substitute:

- Revises the licensure requirements for professional engineers by permitting a license applicant to complete the required years of work experience after sitting for the license examination;
- Repeals right of an applicant who does not have the required education, to qualify to sit for the license examination if the person was engaged in 10 years or more of active engineering work experience on July 1, 1981;
- Reduces requirements for experience and length of licensure in other jurisdictions for applicants to qualify for licensure by endorsement without passing license examinations;
- Eliminates a requirement for engineering firms to obtain and pay for certifications of authorization;
- Provides for registration of engineering firms;
- Requires an engineering license applicant to be at least 18 years of age;
- Tolls the 90-day period within which the board must grant or deny an application when an applicant is required to make a personal appearance before the board;
- Specifies the stages of construction during which a special inspector must perform structural inspections on a threshold building, which is a building greater than three

¹⁷ A service charge of eight percent is appropriated from revenue income deposited in specified trust funds, representing the estimated pro rata share of the cost of general government. *See* s. 215.20(1), F.S., relating to the service charge.

¹⁸ Emails between staff of DBPR and staff of the Senate Appropriations Committee (Mar. 26, 2019) (on file with Senate Committee on Innovation, Industry, and Technology).

stories or 50 feet in height, or which has an assembly occupancy classification that exceeds 5,000 square feet in area and an occupancy of greater than 500 persons;

- Provides for shortened deadlines and time frames for notices to, and actions by, local building officials when a private provider performs plans review and inspections;
- Provides for shortened time frames for local building officials to issue building permits and notices of plan deficiencies;
- Adds requirements for qualifying agents and engineering firms, when the agent is no longer affiliated with the engineering firm, to allow work to continue temporarily; and
- Authorizes a successor engineer to independently re-create and seal documents that were previously created and sealed by the original engineer, and delineates the obligations of the successor and original engineer.

B. Amendments:

None.