HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 375 Structural Engineering Recognition Program for Professional Engineers
SPONSOR(S): Regulatory Reform Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Regulatory Reform Subcommittee		Thompson	Anstead

SUMMARY ANALYSIS

The practice of engineering is regulated by the Florida Board of Professional Engineers (Board) under the Department of Business and Professional Regulation (DBPR) Division of Professions. The Board is responsible for reviewing applications, administering exams, licensing qualified applicants, and regulating and enforcing the proper practice of engineering in the state. The administrative, investigative, and prosecutorial services for the Board are administered by the Florida Engineers Management Corporation (FEMC). FEMC is a non-profit, single purpose corporation that operates through a contract with DBPR.

Current law requires that applicants for licensure as a professional engineer have certain qualifications, including passing a fundamentals examination and a principles and practice examination, having good moral character, obtaining a degree from a four year engineering curriculum, and having four years of engineering experience.

The bill:

- Establishes the "Structural Engineering Recognition Program for Professional Engineers" (Program).
- Requires the Board to recognize any licensed professional engineer who:
  - Has successfully passed the National Council of Examiners for Engineering and Surveying Structural Engineering 16-hour PE Structural examination or any other examination approved by the Board.
  - Specializes in structural engineering based on alternative criteria determined by the Board.
- Provides that upon application to the Board, a professional engineer who has the minimum program requirements must be recognized as a professional engineer who has gone above and beyond in the field of structural engineering.
- Prohibits the Board from collecting a fee for the application or for recognition by the Program.
- Authorizes a professional engineer who is recognized by the Program to identify the recognition in her or his professional practice, including in marketing and advertising materials.
- Provides that recognition by the Program is not required for a professional engineer to practice structural engineering.
- Requires the Board to adopt rules to implement these requirements.

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

The effective date of the bill is July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Professional Engineering

The practice of engineering[1] is regulated by the Florida Board of Professional Engineers (Board) under the Department of Business and Professional Regulation (DBPR) Division of Professions.[2] The Board is responsible for reviewing applications, administering exams, licensing qualified applicants, and regulating and enforcing the proper practice of engineering in the state. The administrative, investigative, and prosecutorial services for the Board are administered by the Florida Engineers Management Corporation (FEMC).[3] FEMC is a non-profit, single purpose corporation that operates through a contract with DBPR.

There were 62,909 licensed professional engineers in Fiscal Year 2020-2021.[4] The FEMC processed 231 complaints regarding engineering practices during that period, with 137 of the complaints found to be legally sufficient to proceed, and filed 68 administrative complaints in cases where probable cause was found relating to a violation of the practice act.[5]

License Qualifications and Exemptions

Current law provides for license qualifications for a professional engineer to practice in the state.[6] 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:[7]

- An approved engineering science curriculum of four years or more in a board-approved school, college, or university; or
- An approved engineering technology curriculum of four years or more in a board-approved school, college, or university.

The FEMC is required to issue a license to any applicant who the board certifies is qualified to practice engineering and who has passed the fundamentals and the principles and practice examination.[8]

The board is required to certify for licensure any applicant who has submitted proof of being at least 18 years old and has the required engineering experience.[9] For graduates of an approved engineering science curriculum, the applicant must have a record of at least four years of active engineering experience sufficient to indicate competence to be in responsible charge of engineering. Graduates of

[1] Ch. 471, F.S., governs the licensing and regulation of professional engineers.
[2] S. 20.165(4)(a)11., F.S.
[3] S. 471.038(3), F.S.
[4] Department of Business and Professional Regulation, *Annual Report, Fiscal Year 2020-2021, for the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation* (2020-2021 Annual Report) at p. 20, http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Feb. 02, 2022).
[5] *See* the Annual Report of the FEMC for FY 2020-2021, available at https://fbpe.org/wp-content/uploads/2021/10/2020-21-FEMC-Annual-Report.pdf, at p. 2 (last visited Jan. 19, 2022). The FEMC also filed 89 Final Orders with the DBPR; entered into three negotiations, and tried one administrative hearing; dismissed two cases after re-consideration; issued 16 reprimands, three suspensions, four probations, three project reviews, and three license restrictions; and imposed $44,765.23 in administrative costs and $58,500 in fines. The board also issued 88 Final Orders against licensees.
[6] S. 471.013, F.S.,
[7] S. 471.013(1), F.S.
[8] S. 471.015(1), F.S.
[9] S. 471.015(2), F.S.

an approved engineering technology curriculum must have a record of at least six years of such qualified experience.[10]

The law also identifies certain persons who are exempted from the licensing requirements.[11]

Special Inspectors of Threshold Buildings

The board is authorized to establish by rule the qualifications for certification of licensees as inspectors of threshold buildings.[12] 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."[13]

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.[14]

The agency charged with enforcing the building code (enforcing agency)[15] 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.[16]

Engineer Seals

The board is authorized to prescribe, by rule, one or more forms of seal to be used by licensed engineers.[17] Each licensee must obtain at least one seal.[18] 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.[19] The signature, date, and seal are evidence of the authenticity of the document to which they are affixed.[20]

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.[21]

A successor engineer seeking to reuse documents previously sealed by another engineer must be able to independently re-create all of the work done by the original engineer, and assumes full professional and legal responsibility by signing and affixing his or her seal to the assumed documents.[22]

Descriptive Titles

Current law sets forth the permissible and prohibited titles for persons licensed under ch. 471, F.S., and for persons who are otherwise exempted from such licensure.[23] With certain exceptions for persons

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[10] *See* ss. 471.015(2)(a)1. and 2., F.S.
[11] S. 471.003(2), F.S.
[12] S. 471.015(7), F.S.
[13] *See* s. 553.71(12), F.S.
[14] *See* s. 471.015(7), F.S.
[15] *See* s. 553.71(5), F.S., which defines the term "local enforcement agency" to mean "an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities."
[16] S. 553.79(5)(a), F.S.
[17] S. 471.025(1), F.S.
[18] S. 471.025(1), F.S.
[19] *Id*.
[20] *Id*.
[21] S. 471.025(3), F.S.
[22] S. 471.025(4), F.S. The original engineer is released from any professional responsibility or civil liability for work that is assumed.
[23] S. 471.031, F.S.

exempted from licensure, the use of the name "professional engineer" or any other title, designation, abbreviation, or indication that a person holds an active license as an engineer when the person is not licensed under ch. 471, F.S., is prohibited, along with use of the following titles:

- Agricultural engineer;
- Air-conditioning engineer;
- Architectural engineer;
- Building engineer;
- Chemical engineer;
- Civil engineer;
- Control systems engineer;
- Electrical engineer;
- Environmental engineer;
- Fire protection engineer;
- Industrial engineer;
- Manufacturing engineer;
- Mechanical engineer;
- Metallurgical engineer;
- Mining engineer;
- Minerals engineer;
- Marine engineer;
- Nuclear engineer;
- Petroleum engineer;
- Plumbing engineer;
- Structural engineer;
- Transportation engineer;
- Software engineer;
- Computer hardware engineer; and
- Systems engineer.[24]

Violations are a first degree misdemeanor punishable as provided in ss. 775.082 or 775.083, F.S.[25]

Discipline by the Board

Current law outlines the conduct that constitutes grounds for the imposition of discipline by the board.[26] Such discipline includes denial of an application for licensure, suspension or revocation of a license, imposition of fines, reprimands, probation, or restitution, and restriction of the authorized scope of practice of a licensee.

Voluntary Structural Engineer Associations

The Florida Structural Engineers Association (FSEA) provides input on building codes and enforcement and sponsors technical seminars to address common concerns of the profession.[27] Members of FSEA become members of the National Council of Structural Engineers Associations (NCSEA).[28] The NCSEA was formed to improve the standard level of practice of the structural engineering profession and provide an identifiable resource for seeking communication with the profession.[29] It advocates for the practice of structural engineering on behalf of its 44 member organizations.[30] According to the

[24] *See* s. 471.031(1)(b), F.S.
[25] See s. 471.031(2), F.S.
[26] S. 471.033, F.S.
[27] Facebook, Florida Structural Engineers Association, https://www.facebook.com/pages/category/Local-business/Florida-Structural-Engineering-Association-242110399280593/ (last visited Feb. 02, 2022).
[28] National Council of Structural Engineers Associations, About Us, http://www.ncsea.com/about/ (last visited Feb. 02, 2022).
[29] *See* http://www.ncsea.com/about/ (last visited Jan. 19, 2022).
[30] *Id*.

NCSEA, two states restrict who may use the title "structural engineer,"[31] eight states have a partial practice act for structural engineers,[32] and two states have a full practice act for structural engineers.[33]

The National Council of Examiners for Engineering and Surveying is a nonprofit organization composed of 69 engineering and surveying licensing boards from all 50 states, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.[34] It provides services including engineering examinations, surveying examinations, exam preparation materials, records programs, and credentials evaluations among other services to licensing jurisdictions.[35]

Legislative History Related to Structural Engineers

In 2015, the Governor vetoed[36] legislation that created a separate license type for "structural engineers." Under the proposed legislation, structural engineers would have been licensed and regulated similar to licensed professional engineers.

The veto letter pointed out that the bill:

- Contained additional requirements and a new license for current and future engineers who wish to practice structural engineering.
- Required passing 16 hours of exams, and an unwarranted mechanism to exempt currently licensed engineers from having to take and pass the qualifying exams.

Effect of the Bill

The bill establishes the Structural Engineering Recognition Program for Professional Engineers (Program).

The bill requires the Board to:

- Recognize professional engineers who specialize in structural engineering and have gone above and beyond the required minimum professional engineer licensing standards.
- Establish minimum requirements to receive recognition through the Program.
- Recognize any licensed professional engineer who has successfully passed the National Council of Examiners for Engineering and Surveying Structural Engineering 16-hour PE Structural examination or any other examination approved by the Board.

The bill authorizes the Board to recognize any licensed professional engineer who specializes in structural engineering based on alternative criteria determined by the Board.

The bill prohibits the Board from collecting a fee for the application or for recognition by the Program.

The bill authorizes a professional engineer who is recognized by the Program to identify the recognition in her or his professional practice, including in marketing and advertising materials.

Recognition by the Program is not required for a professional engineer to practice structural engineering.

The bill requires the Board to adopt rules to implement these requirements.

B. SECTION DIRECTORY:

[31] Idaho and Nebraska. *See* http://www.ncsea.com/resources/licensure/ (last visited Jan. 19, 2022).
[32] Alaska, California, Georgia, Nevada, Oklahoma, Oregon, Utah, and Washington.
[33] Illinois and Hawaii.
[34] *See* The National Council of Examiners for Engineering and Surveying (ncees.org) (last visited Jan. 19, 2022).
[35] *Id*.
[36] Veto Letter from Governor Rick Scott to Secretary of State Kenneth W. Detzner, House Bill 217 (2015), https://www.flgov.com/wp-content/uploads/2015/06/Transmittal-Letter-6.11.15-HB-217.pdf (last visited Feb. 02, 2022).

Section 1: Creates s. 471.055, F.S., relating to the Structural Engineering Recognition Program for Professional Engineers.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill requires the Board to adopt rules to implement the provisions in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES