

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 737 Swimming Pool and Spa Contracting

**SPONSOR(S):** Business & Professional Regulation Subcommittee

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 156

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Business & Professional Regulation Subcommittee		Collins	Luczynski

### SUMMARY ANALYSIS

In Florida, the Construction Industry Licensing Board within the Department of Business and Professional Regulation oversees the licensure of pool and spa contractors, including:

- Commercial pool/spa contractors;
- Residential pool/spa contractors; and
- Swimming pool/spa servicing contractors.

An applicant for a swimming pool/spa servicing contractors' license is qualified to sit for the state certification examination if he or she possesses one year of proven experience in swimming pool/spa service work, and completes 60 hours of course work, as approved by the CILB.

The bill amends s. 489.111(2)(c)6.d., F.S., to reduce the experience requirements needed for an applicant to obtain a swimming pool/spa servicing contractors' license. The bill specifically provides that an applicant for a swimming pool/spa servicing contractors' license is qualified to sit for the state certification examination if he or she has satisfactorily completed 60 hours of instruction and 20 hours of in-field, hands-on instruction that is related to the scope of work covered by the license.

The bill would allow individuals who only offer cleaning, maintenance, or water treatment of pools, spas, and hot tubs to seek licensure without ceasing their existing business, in order to obtain experience working for a licensed pool/spa contractor.

The bill has an indeterminate, but likely insignificant fiscal impact. See fiscal comments.

The bill has an effective date of October 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

In Florida, the practice of pool contracting is regulated by the Construction Industry Licensing Board (hereinafter "CILB") within the Department of Business and Professional Regulation (hereinafter "Department"). Mandatory licensure is required for:

- Commercial pool/spa contractors;
- Residential pool/spa contractors; and
- Swimming pool/spa servicing contractors.<sup>1</sup>

As such, contractors must maintain one of these licenses to contract for the installation, repair, or servicing of commercial or residential pools, spas, and hot tubs; however, each of these categories of licensure specifically exempts persons who offer only cleaning, maintenance, and water treatment of pools, spas, and hot tubs from mandatory licensing, so long as the work contracted does not affect the structural integrity of the pool, spa, or hot tub or require installation, modification, or replacement of its permanently-attached equipment. This exemption was added by the legislature in 1996.<sup>2</sup>

While the Department does not currently require licensure for persons offering only pool cleaning services, the Department of Health (hereinafter "DOH") has responsibility under s. 514.075, F.S., to certify public pool service technicians. Public pool service technicians must demonstrate knowledge of pool maintenance and water treatment by passing a 16-hour course approved by DOH. Persons holding a current commercial pool/spa contractor, residential pool/spa contractor, and/or swimming pool/spa servicing contractor license from the Department are exempt from certification under s. 514.075, F.S. DOH reported that approximately 14,000 people had been certified by their largest approved trainer during a 5-year period.<sup>3</sup>

Pursuant to current law, an applicant for a commercial or residential pool/spa contractors' license is eligible to sit for the state certification examination if he or she has at least four years of experience in the required licensure category.<sup>4</sup> Applicants may substitute up to three years of college credits in lieu of years of experience so long as the applicant has at least one year of experience as a foreman in the license category sought.<sup>5</sup>

Similarly, an applicant for a swimming pool/spa servicing contractors' license is qualified to sit for the state certification examination if he or she possesses one year of proven experience in swimming pool/spa service work, and has completed 60 hours of course work, as approved by the CILB.<sup>6</sup>

Applicants for all three categories must also establish that they are at least 18 years of age of good moral character.<sup>7</sup>

##### **Effect of Proposed Changes**

The bill amends s. 489.111(2)(c)6.d., F.S., to reduce the experience requirements needed for an applicant to obtain a swimming pool/spa servicing contractors' license.

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<sup>1</sup> Sections 489.105(3)(j), 489.105(3)(k), and 489.105(3)(l), F.S.

<sup>2</sup> Ch. 96-365 (Laws of Fla).

<sup>3</sup> Department of Business and Professional Regulation Legislative Analysis, page 2, dated March 5, 2013, on file with subcommittee.

<sup>4</sup> Section 489.111(2)(c)2., F.S.

<sup>5</sup> Id.

<sup>6</sup> Section 489.111(2)(c)6.d., F.S.

<sup>7</sup> Sections 489.111(2)(a) and 489.111(2)(b), F.S.

The bill reduces the experience requirements from one year of verifiable work experience in swimming pool/spa service work to 20 hours of in-field, hands-on instruction. As such, an applicant for a swimming pool/spa servicing contractors' license is qualified to sit for the state certification examination if he or she has satisfactorily completed 60 hours of course work instruction and 20 hours of in-field, hands-on instruction that is related to the scope of work covered by the license.

**B. SECTION DIRECTORY:**

**Section 1:** amends s. 489.111(2)(c)6.d., F.S., to reduce the experience requirements needed for an applicant to obtain a swimming pool/spa servicing contractors' license.

**Section 2:** provides an effective date of October 1, 2014.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

There may be an increase in the number of applicants who apply to the Department to be licensed as swimming pool/spa servicing contractors. The Department has indicated that this increase should have a minor negative fiscal impact, and can be handled with existing resources.<sup>8</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill will make it less burdensome for potential swimming pool/spa servicing contractors to get their contractors' license.

**D. FISCAL COMMENTS:**

None.

**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, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of sales tax shared with counties or municipalities.

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<sup>8</sup> Email with staff at the Department of Business and Professional Regulation, dated March 25, 2013, on file with subcommittee.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill provides that an applicant for a swimming pool/spa servicing contractors' license is qualified to sit for the state certification examination if he or she has satisfactorily completed 60 hours of instruction and 20 hours of in-field, hands-on instruction that is related to the scope of work covered by the license, as approved by the CILB.

The Department would need to promulgate rules relating to the requirements for "in-field, hands-on training." Although the bill itself does not contain specific rulemaking authority, the Department has indicated that it believes that it has sufficient rulemaking authority under current statutory provisions in order to adopt adequate rules.<sup>9</sup>

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

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<sup>9</sup> Department of Business and Professional Regulation Legislative Analysis Form, page 7, dated March 5, 2013, on file with subcommittee.