

Committee Substitute for  
Committee Substitute for Senate Bill No. 2026

An act relating to regulation of professions and occupations under the Department of Business and Professional Regulation; amending s. 455.32, F.S.; revising the Management Privatization Act; providing definitions; authorizing the department, pursuant to board, commission, or council request, to establish and contract with a nonprofit corporation to perform support services specified pursuant to contract for the applicable profession; requiring development of a business case subject to executive and legislative approval; providing corporation organization, powers, duties, and staff; authorizing per diem and reimbursement for travel expenses; requiring adherence to the code of ethics for public officers and employees; providing sovereign immunity; providing for corporation boards of directors and for contract managers; providing contract requirements; establishing financing, reporting, recordkeeping, and audit requirements; providing for quarterly assessment and annual certification of contract compliance; providing requirements in the event any provision of the section is held unconstitutional; amending s. 455.2177, F.S.; revising requirements for the monitoring of continuing education compliance; removing provisions relating to privatization and dispute resolution; revising penalties for failure to comply with continuing education requirements; revising requirements for waiver of such monitoring; providing rulemaking authority; amending s. 455.2178, F.S.; revising reporting requirements for continuing education providers; removing provisions relating to private vendors; revising penalties for noncompliant continuing education providers; providing for conduct of investigations and prosecutions of noncompliant continuing education providers; providing rulemaking authority; amending s. 455.2179, F.S.; revising continuing education provider and course approval procedures; revising penalties for failing to teach approved course content; providing for conduct of investigations and prosecutions of noncompliant continuing education providers; providing rulemaking authority; amending s. 455.2281, F.S., relating to unlicensed activities; removing a cross-reference to conform; amending s. 481.205, F.S., relating to the Board of Architecture and Interior Design; removing a cross-reference to conform; amending s. 509.013, F.S.; defining the term "third party provider" for purposes of public lodging and public food service establishments; amending s. 509.049, F.S.; revising provisions regarding approval of foods safety training programs and responsibilities of public food service establishments, employees, and third party providers of training; revising rulemaking authority; providing penalties; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 455.32, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 455.32, F.S., for present text.)

455.32 Management Privatization Act.—

(1) This section shall be known by the popular name the “Management Privatization Act.”

(2) The purpose of this section is to create a model for contracting with nonprofit corporations to provide services for the regulation of Florida’s professionals which will ensure a consistent, effective application of regulatory provisions and appropriate budgetary oversight to achieve the most efficient use of public funds. Nonprofit corporations may be established pursuant to this section to provide administrative, examination, licensing, investigative, and prosecutorial services to any board created within the department pursuant to chapter 20 in accordance with the provisions of this chapter and the applicable practice act. No additional entities may be created to provide these services.

(3) As used in this section, the term:

(a) “Board” means any board, commission, or council created within the department pursuant to chapter 20.

(b) “Corporation” means any nonprofit corporation with which the department contracts pursuant to subsection (14).

(c) “Department” means the Department of Business and Professional Regulation.

(d) “Contract manager” means an employee of the department who serves as a liaison between the department, the board, and the corporation and is responsible for ensuring that the police powers of the state are not exercised by the corporation, while also serving as the contract monitor.

(e) “Business case” means a needs assessment, financial feasibility study, and corporate financial model as specified in paragraph (4).

(f) “Performance standards and measurable outcomes” shall include, but not be limited to, timeliness and qualitative criteria for the activities specified in paragraph (6)(o).

(g) “Secretary” means the Secretary of Business and Professional Regulation.

(4) Based upon the request of any board, the department is authorized to establish and contract with a nonprofit corporation to provide administrative, examination, licensing, investigative, and prosecutorial services to that board, in accordance with the provisions of this chapter and the applicable practice act and as specified in a contract between the department and the corporation. The privatization request must contain a business case that includes a needs assessment and financial feasibility study performed by the board or an entity commissioned by a majority vote of the board. The needs assessment must contain specific performance standards and measurable

outcomes and an evaluation of the department's current and projected performance in regard to those standards. The feasibility study must include the financial status of the board for the current fiscal year and the next 2 fiscal years. A financial model for the corporation must also be developed which includes projected costs and expenses for the first 2 years of operation and specific performance standards and measurable outcomes. The business case must be approved by the Executive Office of the Governor and the Legislative Budget Commission prior to the establishment of the nonprofit corporation.

(5) Any such corporation may hire staff as necessary to carry out its functions. Such staff are not public employees for the purposes of chapter 110 or chapter 112, except that the board of directors and the employees of the corporation are subject to the provisions of s. 112.061 and part III of chapter 112. The provisions of s. 768.28 apply to each such corporation, which is deemed to be a corporation primarily acting as an instrumentality of the state but which is not an agency within the meaning of s. 20.03(11).

(6) Each corporation created to perform the functions provided in this section shall:

(a) Be a Florida corporation not for profit, incorporated under the provisions of chapter 617.

(b) Provide administrative, examination, licensing, investigative, and prosecutorial services to the board, which services may include unlicensed activity investigations and prosecutions, in accordance with the provisions of this chapter, the applicable practice act, and the contract required by this section.

(c) Receive, hold, and administer property and make only prudent expenditures directly related to the responsibilities of the applicable board and in accordance with the contract required by this section.

(d) Be approved by the department to operate for the benefit of the board and in the best interest of the state.

(e) Operate under a fiscal year that begins on July 1 of each year and ends on June 30 of the following year.

(f) Be funded through appropriations allocated to the regulation of the relevant profession from the Professional Regulation Trust Fund pursuant to s. 455.219.

(g) Have a five-member board of directors, three of whom are to be appointed by the applicable board and must be licensees regulated by that board and two of whom are to be appointed by the secretary and are laypersons not regulated by that board. Initially, one member shall be appointed for 2 years, two members shall be appointed for 3 years, and two members shall be appointed for 4 years. One layperson shall be appointed to a 3-year term and one layperson shall be appointed to a 4-year term. Thereafter, all appointments shall be for 4-year terms. No new member shall serve more than two consecutive terms. Failure to attend three consecutive meetings

shall be deemed a resignation from the board of directors, and the vacancy shall be filled by a new appointment. No professional board member may also serve on the board of directors for the corporation.

(h) Select its officers in accordance with its bylaws. The members of the board of directors may be removed by the Governor, for the same reasons that a board member may be removed pursuant to s. 455.209.

(i) Select the president of the corporation, who shall manage the operations of the corporation, subject to the approval of the board.

(j) Use a portion of the interest derived from the corporation account to offset the costs associated with the use of credit cards for payment of fees by applicants or licensees.

(k) Operate under a written contract with the department.

(l) Provide for an annual financial audit of its financial accounts and records by an independent certified public accountant. The annual audit report shall include a management letter in accordance with s. 11.45 and a detailed supplemental schedule of expenditures for each expenditure category. The annual audit report must be submitted to the board, the department, and the Auditor General for review.

(m) Provide for all employees and nonemployees charged with the responsibility of receiving and depositing fee and fine revenues to have a faithful performance bond in such an amount and according to such terms as shall be determined in the contract.

(n) Keep financial and statistical information as necessary to completely disclose the financial condition and operation of the corporation and as requested by the Office of Program Policy Analysis and Government Accountability, the Auditor General, and the department.

(o) Submit to the secretary, the board, and the Legislature, on or before October 1 of each year, a report describing all of the activities of the corporation for the previous fiscal year which includes, but is not limited to, information concerning the programs and funds that have been transferred to the corporation. The report must include:

1. The number of license renewals.
2. The number of license applications received.
3. The number of license applications approved and denied and the number of licenses issued.
4. The average time required to issue a license.
5. The number of examinations administered and the number of applicants who passed or failed the examination.
6. The number of complaints received.

7. The number of complaints determined to be legally sufficient.
  8. The number of complaints dismissed.
  9. The number of complaints determined to have probable cause.
  10. The number of administrative complaints issued and the status of the complaints.
  11. The number and nature of disciplinary actions taken by the board.
  12. All revenues received and all expenses incurred by the corporation during the preceding fiscal year in its performance of the duties under the contract.
  13. Any audit performed under paragraph (1), including financial reports and performance audits.
  14. The status of the compliance of the corporation with all performance-based program measures adopted by the board.
- (p) Meet or exceed the requirements of the business case developed by the board and approved by the Executive Office of the Governor and the Legislative Budget Commission.

(7) The department shall annually certify that the corporation is complying with the terms of the contract in a manner consistent with the goals and purposes of the board and in the best interest of the state. If the department determines the corporation is not compliant with the terms of the contract, including performance standards and measurable outcomes, the contract may be terminated as provided in paragraph (14)(e).

(8) Nothing in this section shall limit the ability of the corporation to enter into contracts and perform all other acts incidental to those contracts which are necessary for the administration of its affairs and for the attainment of its purposes.

(9) The corporation may acquire by lease, and maintain, use, and operate, any real or personal property necessary to perform the duties provided by the contract and this section.

(10) The corporation may exercise the authority assigned to the department or board under this section or the practice act of the relevant profession, pursuant to the contract, including but not limited to initiating disciplinary investigations for unlicensed practice of the relevant profession. The corporation may make a determination of legal sufficiency to begin the investigative process as provided in s. 455.225. However, the department or the board may not delegate to the corporation, by contract or otherwise, the authority for determining probable cause to pursue disciplinary action against a licensee, taking final action on license actions or on disciplinary cases, or adopting administrative rules under chapter 120.

(11) The department shall retain the independent authority to open, investigate, or prosecute any cases or complaints, as necessary to protect the

public health, safety, or welfare. In addition, the department shall retain sole authority to issue emergency suspension or restriction orders pursuant to s. 120.60 or may delegate concurrent authority for this purpose to the relevant professional board.

(12) The corporation is the sole source and depository for the records of the board, including all historical information and records. The corporation shall maintain those records in accordance with the guidelines of the Department of State and shall not destroy any records prior to the limits imposed by the Department of State.

(13) The board shall provide by rule for the procedures the corporation must follow to ensure that all licensure examinations are secure while under the responsibility of the corporation and that there is an appropriate level of monitoring during the licensure examinations.

(14) The contract between the department and the corporation must be in compliance with this section and other applicable laws. The department shall retain responsibility for any duties it currently exercises relating to its police powers and any other current duty that is not provided to the corporation by contract or this section. The contract shall provide, at a minimum, that:

(a) The corporation provide administrative, examination, licensing, investigative, and prosecutorial services in accordance with the provisions of this section and the practice act of the relevant profession. The prosecutorial functions of the corporation shall include the authority to pursue investigations leading to unlicensed practice complaints, with the approval of and at the direction of the relevant professional board. With approval of the department and the board, the corporation may subcontract for specialized services for the investigation and prosecution of unlicensed activity pursuant to this chapter. The corporation shall be required to report all criminal matters, including unlicensed activity that constitutes a crime, to the state attorney for criminal prosecution pursuant to s. 455.2277.

(b) The articles of incorporation and bylaws of the corporation be approved by the department.

(c) The corporation submit an annual budget for approval by the department. If the department's appropriations request differs from the budget submitted by the corporation, the relevant professional board shall be permitted to authorize the inclusion in the appropriations request a comment or statement of disagreement with the department's request.

(d) The corporation utilize the department's licensing and computerized database system.

(e) The corporation be annually certified by the department as complying with the terms of the contract in a manner consistent with the goals and purposes of the board and in the best interest of the state. As part of the annual certification, the department shall make quarterly assessments regarding contract compliance by the corporation. The contract must also provide for methods and mechanisms for resolving any situation in which

the assessment and certification process determines noncompliance, to include termination.

(f) The department employ a contract manager to actively monitor the activities of the corporation to ensure compliance with the contract, the provisions of this chapter, and the applicable practice act.

(g) The corporation be funded through appropriations allocated to the regulation of the relevant profession from the Professional Regulation Trust Fund.

(h) If the corporation is no longer approved to operate for the board or the board ceases to exist, all moneys, records, data, and property held in trust by the corporation for the benefit of the board revert to the department, or the state if the department ceases to exist. All records and data in a computerized database must be returned to the department in a form that is compatible with the computerized database of the department.

(i) The corporation secure and maintain, during the term of the contract and for all acts performed during the term of the contract, all liability insurance coverages in an amount to be approved by the department to defend, indemnify, and hold harmless the corporation and its officers and employees, the department and its employees, the board, and the state against all claims arising from state and federal laws. Such insurance coverage must be with insurers qualified and doing business in the state. The corporation must provide proof of insurance to the department. The department and its employees, the board, and the state are exempt from and are not liable for any sum of money which represents a deductible, which sums shall be the sole responsibility of the corporation. Violation of this paragraph shall be grounds for terminating the contract.

(j) The board, in lieu of the department, shall retain board counsel pursuant to the requirements of s. 455.221. The corporation, out of its allocated budget, shall pay all costs of representation by the board counsel, including salary and benefits, travel, and any other compensation traditionally paid by the department to other board counsels.

(k) The corporation, out of its allocated budget, pay to the department all costs incurred by the corporation or the board for the Division of Administrative Hearings of the Department of Management Services and any other cost for utilization of these state services.

(l) The corporation, out of its allocated budget, pay to the department all direct and indirect costs associated with the monitoring of the contract, including salary and benefits, travel, and other related costs traditionally paid to state employees.

(m) The corporation comply with the performance standards and measurable outcomes developed by the board and the department. The performance standards and measurable outcomes must be specified within the contract.

(15) Corporation records are public records subject to the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution; however, public

records exemptions set forth in ss. 455.217, 455.225, and 455.229 for records held by the department shall apply to records held by the corporation. In addition, all meetings of the board of directors are open to the public in accordance with s. 286.011 and s. 24(b), Art. I of the State Constitution. The department and the board shall have access to all records of the corporation as necessary to exercise their authority to approve and supervise the contract. The Auditor General and the Office of Program Policy Analysis and Government Accountability shall have access to all records of the corporation as necessary to conduct financial and operational audits or examinations.

(16) If any provision of this section is held to be unconstitutional or is held to violate the state or federal antitrust laws, the following shall occur:

(a) The corporation shall cease and desist from exercising any powers and duties enumerated in this section.

(b) The department shall resume the performance of such activities. The department shall regain and receive, hold, invest, and administer property and make expenditures for the benefit of the board.

(c) The Executive Office of the Governor, notwithstanding chapter 216, may reestablish positions, budget authority, and salary rate necessary to carry out the department's responsibilities related to the board.

Section 2. Section 455.2177, Florida Statutes, is amended to read:

455.2177 Monitoring of compliance with continuing education requirements.—

~~(1) The department shall establish a system to monitor licensee compliance with applicable continuing education requirements and to determine each licensee's continuing education status. The department is authorized to provide for a phase-in of the compliance monitoring system, but the system must provide for monitoring of compliance with applicable continuing education requirements by all professions regulated by the department no later than July 1, 2002. The compliance monitoring system may use staff of the department or may be privatized. As used in this section, the term "monitor" means the act of determining, for each licensee, whether the licensee was in full compliance with applicable continuing education requirements as of the time of the licensee's license renewal.~~

~~(2) If the compliance monitoring system required under this section is privatized, the following provisions apply:~~

~~(a) The department may contract pursuant to s. 287.057 with a vendor or vendors for the monitoring of compliance with applicable continuing education requirements by all licensees within one or more professions regulated by the department. The contract shall include, but need not be limited to, the following terms and conditions:~~

~~1.a. The vendor shall create a computer database, in the form required by the department, that includes the continuing education status of each~~



~~licensee and shall provide a report to the department within 90 days after the vendor receives the list of licensees to be monitored as provided in sub-subparagraph b. The report shall be in a format determined by the department and shall include each licensee's continuing education status by license number, hours of continuing education credit per cycle, and such other information the department deems necessary.~~

~~b.— No later than 30 days after the end of each renewal period, the department shall provide to the vendor a list that includes all licensees of a particular profession whose licenses were renewed during a particular renewal period. In order to account for late renewals, the department shall provide the vendor with such updates to the list as are mutually determined to be necessary.~~

~~2.a.— Before the vendor informs the department of the status of any licensee the vendor has determined is not in compliance with continuing education requirements, the vendor, acting on behalf of the department, shall provide the licensee with a notice stating that the vendor has determined that the licensee is not in compliance with applicable continuing education requirements. The notice shall also include the licensee's continuing education record for the renewal period, as shown in the records of the vendor, and a description of the process for correcting the vendor's record under sub-subparagraph b.~~

~~b.— The vendor shall give the licensee 45 days to correct the vendor's information. The vendor shall correct a record only on the basis of evidence of compliance supplied to the vendor by a continuing education provider.~~

~~3.a.— The vendor must provide the department, with the report required under subparagraph 1., a list, in a form determined by the department, identifying each licensee who the vendor has determined is not in compliance with applicable continuing education requirements.~~

~~b.— The vendor shall provide the department with access to such information and services as the department deems necessary to ensure that the actions of the vendor conform to the contract and to the duties of the department and the vendor under this subsection.~~

~~4.— The department shall ensure the vendor access to such information from continuing education providers as is necessary to determine the continuing education record of each licensee. The vendor shall inform the department of any provider that fails to provide such information to the vendor.~~

~~5.— If the vendor fails to comply with a provision of the contract, the vendor is obligated to pay the department liquidated damages in the amounts specified in the contract.~~

~~6.— The department's payments to the vendor must be based on the number of licensees monitored. The department may allocate from the unlicensed activity account of any profession under s. 455.2281 up to \$2 per licensee for the monitoring of that profession's licensees under this subsection, which allocations are the exclusive source of funding for contracts under this subsection.~~

7. ~~A continuing education provider is not eligible to be a vendor under this subsection.~~

~~(b) When it receives notice from a vendor that a licensee is not in compliance with continuing education requirements, the department shall send the licensee written notice that disciplinary actions will be taken, together with a description of the remedies available to the licensee under the dispute resolution process created under paragraph (c). If a licensee does not prevail in the dispute resolution process, the department:~~

~~1. May impose an administrative fine in the amount of \$500 against the licensee; however, the department may reduce the amount of the fine to \$250 if the licensee comes into compliance with the applicable continuing education requirements within 90 days after imposition of the original fine. All proceeds of fines under this subparagraph shall be deposited in the appropriate unlicensed activity account under s. 455.2281.~~

~~(2)2. May refuse any further renewal of a the licensee's license until unless the licensee has paid the fine and satisfied all the applicable continuing education requirements. This subsection does not preclude the department or boards from imposing additional penalties pursuant to the applicable practice act or rules adopted pursuant thereto.~~

~~(c) The department is authorized to adopt by rule a process for the resolution of disputes between a vendor and a continuing education provider, between a vendor and a licensee, and between a licensee and a continuing education provider. The process shall ensure all parties a fair opportunity to correct any erroneous information. If the parties are unable to reach an agreement, the department shall determine the resolution of the dispute.~~

~~(d) Upon the failure of a vendor to meet its obligations under a contract as provided in paragraph (a), the department may suspend the contract and enter into an emergency contract under s. 287.057(5).~~

~~(3) Notwithstanding any other provision of law to the contrary and regardless of whether the compliance monitoring system is privatized, neither the department nor a board may impose any sanction other than the sanctions specified in paragraph (2)(b) for the failure of a licensee to meet continuing education requirements. This subsection does not apply to actions under chapter 473.~~

~~(3)(4) The department may shall waive the continuing education monitoring requirements of this section for any profession that demonstrates to the department that the monitoring system places an undue burden on the profession. The department shall waive the continuing education monitoring requirements of this section for any profession that it has a program in place which measures compliance with continuing education requirements through statistical sampling techniques or other methods and can indicate that at least 95 percent of its licensees are in compliance.~~

~~(4)(5) The department may is authorized to adopt rules under ss. 120.536(1) and 120.54 to implement this section.~~

Section 3. Section 455.2178, Florida Statutes, is amended to read:

455.2178 Continuing education providers.—~~If the monitoring of compliance with continuing education requirements is privatized pursuant to s. 455.2177:~~

~~(1)(a) The department shall notify each approved continuing education provider of the name and address of all vendors that monitor compliance of licensees under s. 455.2177. If the department contracts with more than one vendor under s. 455.2177, the notice shall specify the professions to be monitored by each vendor.~~

~~(1)(b) Each continuing education provider shall provide to the department appropriate vendor such information regarding the continuing education status of licensees as the department determines is necessary for the vendor to carry out its duties under s. 455.2177, in an electronic format s. 455.2177(2), in a form determined by the department. After a licensee's completion of a course, the information must be submitted to the department vendor electronically no later than 30 calendar 5-business days thereafter or prior to the licensee's renewal date, whichever occurs sooner after a licensee's completion of a course. The foregoing applies only if the profession has not been granted a waiver from the monitoring requirements under s. 455.2177. Upon the request of a licensee, the provider must also furnish to the department a vendor information regarding courses completed by the licensee.~~

(2) Each continuing education provider shall retain all records relating to a licensee's completion of continuing education courses for at least 4 years after completion of a course.

(3) A continuing education provider may not be approved, and the approval may not be renewed, unless the provider agrees in writing to provide such cooperation ~~with vendors~~ under this section and s. 455.2177 as the department deems necessary or appropriate.

(4) The department may fine, suspend, or immediately revoke approval of any continuing education provider that fails to comply with its duties under this section. Such fine may not exceed \$500 per violation. Investigations and prosecutions of a provider's failure to comply with its duties under this section shall be conducted pursuant to s. 455.225.

(5) For the purpose of determining which persons or entities must meet the reporting, recordkeeping, and access provisions of this section, the board of any profession subject to this section, or the department if there is no board, shall, by rule, adopt a definition of the term "continuing education provider" applicable to the profession's continuing education requirements. The intent of the rule shall be to ensure that all records and information necessary to carry out the requirements of this section and s. 455.2177 are maintained and transmitted accordingly and to minimize disputes as to what person or entity is responsible for maintaining and reporting such records and information.

(6) The department ~~may have the authority to~~ adopt rules under ss. 120.536(1) and 120.54 to implement this section.

Section 4. Section 455.2179, Florida Statutes, is amended to read:

455.2179 Continuing education provider and course approval; cease and desist orders.—

(1) If a board, or the department if there is no board, requires completion of continuing education as a requirement for renewal of a license, the board, or the department if there is no board, shall approve providers of the continuing education. The approval of a continuing education providers and courses ~~provider~~ must be for a specified period of time, not to exceed 4 years. An approval that does not include such a time limitation may remain in effect pursuant to the applicable practice act or the rules adopted under the applicable practice act only until July 1, 2001, unless earlier replaced by an approval that includes such a time limitation.

(2) ~~The board, or the department if there is no, on its own motion or at the request of a board,~~ shall issue an order requiring a person or entity to cease and desist from offering any continuing education programs for licensees, and fining, suspending, or revoking any approval of the provider previously granted by the board, or the department if there is no ~~or a board,~~ if the board, or the department if there is no ~~or a board,~~ determines that the person or entity failed to provide appropriate continuing education services that conform to approved course material. Such fine may not exceed \$500 per violation. Investigations and prosecutions of a provider's failure to comply with its duties under this section shall be conducted under s. 455.225.

(3) Each board authorized to approve continuing education providers, or the department if there is no board, may establish, by rule, a fee not to exceed \$250 for anyone seeking approval to provide continuing education courses and may establish, by rule, a biennial fee not to exceed \$250 for the renewal of providership of such courses. The Florida Real Estate Commission, authorized under the provisions of chapter 475 to approve prelicensure, precertification, and postlicensure education providers, may establish, by rule, an application fee not to exceed \$250 for anyone seeking approval to offer prelicensure, precertification, or postlicensure education courses and may establish, by rule, a biennial fee not to exceed \$250 for the renewal of such courses. Such post-licensure education courses are subject to the reporting, monitoring, and compliance provisions of this section and ss. 455.2177 and 455.2178.

(4) The department and each affected board may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

Section 5. Section 455.2281, Florida Statutes, is amended to read:

455.2281 Unlicensed activities; fees; disposition.—In order to protect the public and to ensure a consumer-oriented department, it is the intent of the Legislature that vigorous enforcement of regulation for all professional activities is a state priority. All enforcement costs should be covered by professions regulated by the department. Therefore, the department shall impose,

upon initial licensure and each renewal thereof, a special fee of \$5 per licensee. Such fee shall be in addition to all other fees collected from each licensee and shall fund efforts to combat unlicensed activity. Any profession regulated by the department which offers services that are not subject to regulation when provided by an unlicensed person may use funds in its unlicensed activity account to inform the public of such situation. The board with concurrence of the department, or the department when there is no board, may earmark \$5 of the current licensure fee for this purpose, if such board, or profession regulated by the department, is not in a deficit and has a reasonable cash balance. A board or profession regulated by the department may authorize the transfer of funds from the operating fund account to the unlicensed activity account of that profession if the operating fund account is not in a deficit and has a reasonable cash balance. The department shall make direct charges to this fund by profession and shall not allocate indirect overhead. The department shall seek board advice regarding enforcement methods and strategies prior to expenditure of funds; however, the department may, without board advice, allocate funds to cover the costs of continuing education compliance monitoring under s. 455.2177. The department shall directly credit, by profession, revenues received from the department's efforts to enforce licensure provisions, ~~including revenues received from fines collected under s. 455.2177.~~ The department shall include all financial and statistical data resulting from unlicensed activity enforcement and from continuing education compliance monitoring as separate categories in the quarterly management report provided for in s. 455.219. The department shall not charge the account of any profession for the costs incurred on behalf of any other profession. For an unlicensed activity account, a balance which remains at the end of a renewal cycle may, with concurrence of the applicable board and the department, be transferred to the operating fund account of that profession.

Section 6. Paragraph (b) of subsection (3) of section 481.205, Florida Statutes, is amended to read:

481.205 Board of Architecture and Interior Design.—

(3)

(b) ~~Notwithstanding the provisions of s. 455.32(13),~~ The board, ~~in lieu of the department,~~ shall contract with a corporation or other business entity pursuant to s. 287.057(3) to provide investigative, legal, prosecutorial, and other services necessary to perform its duties.

Section 7. Present subsections (10), (11), and (12) of section 509.013, Florida Statutes, are renumbered subsections (11), (12), and (13), respectively, and a new subsection (10) is added to that section, to read:

509.013 Definitions.—As used in this chapter, the term:

(10) “Third party provider” means, for purposes of s. 509.049, any provider of an approved food safety training program that provides training or such a training program to a public food service establishment that is not under common ownership or control with the provider.

Section 8. Subsections (3), (4), and (5) of section 509.049, Florida Statutes, are amended, present subsection (6) of that section is redesignated as subsection (7), and new subsections (6) and (8) are added to that section, to read:

509.049 Food service employee training.—

(3) Any food safety training program established and administered to food service handler employees utilized at a licensed public food service establishment prior to July 1, 2000, shall ~~may~~ be submitted by the operator or the third party provider to the division for its review and approval on or before September 1, 2004. If the food safety training program is found to be in substantial compliance with the division's required criteria and is approved by the division, nothing in this section shall preclude any other operator of a food service establishment from also utilizing the approved program or require the employees of any operator to receive training from or pay a fee to the division's contracted provider. Review and approval by the division of a program or programs under this section shall include, but need not be limited to, verification that the licensed public food service establishment utilized the program prior to July 1, 2000, and the minimum food safety standards adopted by the division in accordance with this section.

(4) Approval of a program is subject to the provider's continued compliance with the division's minimum program standards. The division may conduct random audits of any approved programs to determine compliance and may audit any program if it has reason to believe a program is not in compliance with this section. The division may revoke a program's approval if it finds a program is not in compliance with this section or the rules adopted under this section.

(5) It shall be the duty of ~~each the licensee of the~~ public food service establishment to provide training in accordance with the described rule to all food service employees of the public food service establishment under the licensee's supervision or control. The public food service establishment licensee may designate any a certified food service manager to perform this function as ~~an agent of the licensee~~. Food service employees must receive certification within 60 days after employment. Certification pursuant to this section shall remain valid for 3 years. All public food service establishments must provide the division with proof of employee training upon request, including, but not limited to, at the time of any division inspection of the establishment. Proof of training for each food service employee shall include the name of the trained employee, the date of birth of the trained employee, the date the training occurred, and the approved food safety training program used.

(6)(a) Third party providers shall issue to a public food service establishment an original certificate for each employee certified by the provider and an original card to be provided to each certified employee. Such card or certificate shall be produced by the certified food service employee or by the public food service establishment, respectively, in its duly issued original form upon request of the division.

(b) Effective January 1, 2005, each third party provider shall provide the following information on each employee upon certification and recertification: the name of the certified food service employee, the employee's date of birth, the employing food service establishment, the name of the certified food manager who conducted the training, the training date, and the certification expiration date. This information shall be reported electronically to the division, in a format prescribed by the division, within 30 days of certification or recertification. The division shall compile the information into an electronic database that is not directly or indirectly owned, maintained, or installed by any nongovernmental provider of food service training. A public food service establishment that trains its employees using its own in-house, proprietary food safety training program approved by the division, and which uses its own employees to provide this training, shall be exempt from the electronic reporting requirements of this paragraph, and from the card or certificate requirement of paragraph (a).

~~(7)~~(6) The division may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to administer this section. The rules may require:

(a) The use of application forms, which may require, but need not be limited to, the identification of training components of the program and an applicant affidavit attesting to the accuracy of the information provided in the application;

(b) Third party providers to maintain and electronically submit information concerning establishments where they provide training or training programs pursuant to this section;

(c) Specific subject matter related to food safety for use in training program components; and

(d) The public food service establishment licensee to be responsible for providing proof of employee training pursuant to this section, and the division may request production of such proof upon inspection of the establishment.

(8) The following are violations for which the division may impose administrative fines of up to \$1,000 on a public food service establishment, or suspend or revoke the approval of a particular provider's use of a food safety training program:

(a) Failure of a public food service establishment to provide proof of training pursuant to subsection (5) upon request by the division or an original certificate to the division when required pursuant to paragraph (6)(a).

(b) Failure of a third party provider to submit required records pursuant to paragraph (6)(b) or to provide original certificates or cards to a public food service establishment or employee pursuant to paragraph (6)(a).

(c) Participating in falsifying any training record.

(d) Failure of the program to maintain the division's minimum program standards.

Section 9. This act shall take effect July 1, 2004.

Approved by the Governor June 10, 2004.

Filed in Office Secretary of State June 10, 2004.