

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)  
2ND CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 304

By: Long of the Senate

and

Fields of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; providing short title; creating the Building and Construction Commission; stating regulatory authority over certain trades; providing for membership, appointments, qualifications, terms of office, vacancies and removal from office; providing for meetings, quorum, officers and duties; requiring compliance with certain acts; requiring members and certain employees be bonded; clarifying liability of members and providing for certain expenses; stating powers and duties; providing for promulgation of rules and making certain former rules, orders and actions valid until certain action by Commission; make certain licenses, permits, certificates and registrations valid until expiration or unless certain action is taken; transferring certain applications to the Commission; stating additional powers and authority; providing for transfer of certain personnel, powers, duties, responsibilities, records, data processing equipment, fund balances, encumbrances and obligations; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Building and Construction Commission Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Building and Construction Commission is hereby created to continue until July 1, 2003, in accordance with the provisions

of the Oklahoma Sunset Law. Beginning July 1, 1998, the Commission shall regulate the plumbing, electrical, alarm industry and mechanical trades and building and construction inspectors through the power and duties set forth in this act and in the respective licensing acts for such trades, namely Section 1001 et seq., Section 1031 et seq., Section 1680 et seq., Section 1800.1 et seq. and Section 1850.1 et seq. of Title 59 of the Oklahoma Statutes. In addition the Commission shall regulate persons in the business of installing automatic water sprinkler systems in residential and commercial buildings.

B. The Commission shall be composed of twelve (12) voting members, as follows:

1. Ten members shall be appointed by the Governor with the advice and consent of the Senate. No more than two of these members shall be from the same congressional district, and no such member shall be from the same city or town as another of these members. Members shall be appointed as follows:

- a. two members shall have at least ten (10) years' experience in the plumbing trade of which one shall be a plumbing contractor and one shall be a journeyman plumber,
- b. two members shall have at least ten (10) years' experience in the electrical trade of which one shall be an electrical contractor and one shall be a journeyman electrician,
- c. two members shall have at least ten (10) years' experience in the mechanical trade of which one shall be a mechanical contractor and one shall be a mechanical journeyman,
- d. one member shall have at least ten (10) years' experience as a contractor in the alarm industry business pursuant to Section 1800.1 et seq. of Title 59 of the Oklahoma Statutes,
- e. one member shall have at least ten (10) years' experience as a building and construction inspector,

- f. one member shall have at least ten (10) years' experience as a contractor in the business of installing automatic water sprinkler systems and shall be selected from a list of at least three nominees submitted by the State Fire Marshal Commission, and
- g. one member shall represent the public and shall not practice, have practiced or be licensed to practice any of the trades regulated by the Commission, nor be employed by or be related by blood or marriage within the third degree to any person who practices, has practiced or is licensed to practice any such trades.

These members shall be appointed for terms of six (6) years to expire on August 31st; provided, of the members initially appointed to the Commission, five voting members shall be appointed for three-year terms, beginning September 1, 1997, and five voting members shall be appointed for six-year terms, beginning September 1, 1997, as designated by the Governor. All vacancies and unexpired terms shall be filled in the same manner as the original appointment. Members may be removed by the Governor for cause; and

2. In addition to the appointed members, the following persons shall serve on the Commission:

- a. the chair of the Board of Governors of the Licensed Architects and Landscape Architects of Oklahoma or the chair's designee who must be a licensed architect, and
- b. the chair of the State Board of Registration for Professional Engineers and Land Surveyors or the chair's designee who must be a licensed engineer.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.3 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. The Building and Construction Commission shall organize immediately after September 1, 1997, and annually

thereafter, by electing from among its members a president, a vice-president and a secretary-treasurer. The Commission shall hold regularly scheduled meetings at least once each quarter at a time and place determined by the Commission, and may hold such special meetings, emergency meetings, or continued or reconvened meetings as found by the Commission to be expedient or necessary. A majority of the members of the Commission shall constitute a quorum for the transaction of business.

2. The president shall preside at meetings of the Commission, set the agenda, sign orders and other required documents, coordinate Commission activities and perform such other duties as may be prescribed by the Commission.

3. The vice-president shall perform the duties of the president during the president's absence or disability and shall perform such other duties as may be prescribed by the Commission.

4. The secretary-treasurer or the executive director at the discretion of the Commission shall:

- a. keep a record of all proceedings of the Commission and certify to actions of the Commission,
- b. receive and deposit all monies received by the Commission in the appropriate revolving funds,
- c. submit, at the first regular meeting of the Commission after the end of each fiscal year, a full itemized report of the receipts and disbursements for the prior fiscal year, showing the amount of funds on hand, and
- d. perform such other duties as are prescribed in this act or as may be prescribed by the Commission.

B. The Commission shall act in accordance with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, and the Administrative Procedures Act.

C. All members of the Commission and such employees as determined by the Commission shall be bonded as required by Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes.

D. The liability of any member or employee of the Commission acting within the scope of Commission duties or employment shall be governed by the Governmental Tort Claims Act.

E. Members of the Commission shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. 1. Beginning September 1, 1997, pursuant to and in compliance with Article I of the Administrative Procedures Act, the Building and Construction Commission shall have the power to adopt, amend, repeal and promulgate rules as may be necessary to regulate the plumbing, electrical, alarm industry and mechanical trades, building and construction inspectors, and persons in the business of installing automatic water sprinkler systems in residences and commercial buildings. Provided, such rules shall not become effective prior to July 1, 1998.

2. Beginning July 1, 1998, the Commission shall have the power to enforce the provisions of the Building and Construction Commission Act; The Plumbing Licensing Law of 1955, Section 1001 et seq. of Title 59 of the Oklahoma Statutes; the Oklahoma Inspectors Act, Section 1031 et seq. of Title 59 of the Oklahoma Statutes; the Electrical License Act, Section 1680 et seq. of Title 59 of the Oklahoma Statutes; the Alarm Industry Act, Section 1800.1 et seq. of Title 59 of the Oklahoma Statutes; and the Mechanical Licensing Act, Section 1850.1 et seq. of Title 59 of the Oklahoma Statutes.

3. In addition to rules promulgated by the Building and Construction Commission, rules promulgated by the State Board of Health prior to July 1, 1998, shall be the rules of the Commission and shall continue in effect until such rules are amended or repealed by rules promulgated by the Commission.

4. Any order made or action taken prior to July 1, 1998, by the State Board of Health, the State Department of Health or the

State Commissioner of Health pursuant to the provisions of, or rules promulgated pursuant to, The Plumbing Licensing Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, the Alarm Industry Act and the Mechanical Licensing Act shall be considered valid and in effect unless rescinded by the Commission.

5. Any valid license, permit, certificate, or registration issued prior to July 1, 1998, by the State Board of Health, the State Department of Health or the State Commissioner of Health pursuant to the provisions of, or rules promulgated pursuant to, The Plumbing Licensing Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, the Alarm Industry Act and the Mechanical Licensing Act shall remain valid and in effect until it expires pursuant to law or unless suspended or revoked by the Commission pursuant to the provisions of said acts.

6. Any application for a license, permit, certificate, or registration to be issued pursuant to the acts named in paragraph 5 of this subsection which is pending on June 30, 1998, is hereby transferred to the Commission.

B. Beginning July 1, 1998, the Commission is authorized and empowered to:

1. Exercise all incidental powers and duties which are necessary to effectuate the provisions of The Plumbing Licensing Law of 1955, Section 1001 et seq. of Title 59 of the Oklahoma Statutes; the Oklahoma Inspectors Act, Section 1031 et seq. of Title 59 of the Oklahoma Statutes; the Electrical License Act, Section 1680 et seq. of Title 59 of the Oklahoma Statutes; the Alarm Industry Act, Section 1800.1 et seq. of Title 59 of the Oklahoma Statutes; and the Mechanical Licensing Act, Section 1850.1 et seq. of Title 59 of the Oklahoma Statutes;

2. Serve as a code variance and appeals board for the trades it regulates which do not have statutory code variance and appeals boards;

3. Order or subpoena the attendance of witnesses, the inspection of records and premises and the production of relevant books and papers for the investigation of matters that may come before the Commission;

4. Lease office space for the purpose of operating and maintaining a state office and lease or purchase office furniture, equipment and supplies;

5. Employ an executive director and such other personnel as may be necessary, subject to statutory FTE limits, and fix and pay their salaries or wages;

6. Employ legal counsel, as needed, to represent the Commission in all legal matters;

7. Employ one or more investigators, as needed and subject to statutory FTE limits, for the purpose of investigating written complaints which may come before the Commission; and

8. Make such other expenditures as may be necessary in the performance of its duties.

C. Effective July 1, 1998, all personnel, powers, duties, responsibilities, fund balances, encumbrances, obligations and property which shall include records, furniture and equipment of the State Board of Health, the State Department of Health and the State Commissioner of Health relating to the regulation of the plumbing, electrical, alarm industry and mechanical trades, and building and construction inspectors are hereby transferred to the Building and Construction Commission. Data processing equipment of the Department which has been purchased with monies from the revolving funds named in subsection A of Section 2 of this act and which has been used by the Department within the six-month period preceding July 1, 1997, shall be transferred to the Commission.

SECTION 5. This act shall become effective July 1, 1997.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.