

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 545

By: Snyder of the Senate

and

Paulk of the House

COMMITTEE SUBSTITUTE

(Professions and occupations - Construction Industries

Board -

effective date)

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

SECTION 1. AMENDATORY 25 O.S. 2001, Section 307.1, is amended to read as follows:

Section 307.1 A. No public body shall hold meetings by teleconference except:

1. Oklahoma Futures;
2. The Oklahoma State Regents for Higher Education;
3. The Oklahoma Board of Medical Licensure and Supervision;
4. The State Board of Osteopathic Examiners;
5. The Board of Dentistry;
6. The Variance and Appeals Boards created in Sections 1021.1, 1697 and 1850.16 and the Construction Industries Board created in Section 1000.2 of Title 59 of the Oklahoma Statutes;
7. A public trust whose beneficiary is a municipality; however, no more than twenty percent (20%) of a quorum of the trustees may participate by teleconference and during any such meetings all votes shall be roll call votes;
8. The Native American Cultural and Educational Authority;

9. The Corporation Commission; and

10. The State Board of Vocational and Technical Education.

B. No public body authorized to hold meetings by teleconference shall conduct an executive session by teleconference.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 1000.4, as amended by Section 1, Chapter 457, O.S.L. 2002 (59 O.S. Supp. 2002, Section 1000.4), is amended to read as follows:

Section 1000.4 A. 1. Beginning September 1, 2001, pursuant to and in compliance with Article I of the Administrative Procedures Act, the Construction Industries Board shall have the power to adopt, amend, repeal, and promulgate rules as may be necessary to regulate the plumbing, electrical and mechanical trades, and building and construction inspectors. Rules authorized under this section shall not become effective prior to January 1, 2002.

2. Beginning January 1, 2002, the Board shall have the power to enforce the provisions of the Construction Industries Board Act, The Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, and the Mechanical Licensing Act.

3. In addition to rules promulgated by the Construction Industries Board, rules promulgated by the State Board of Health prior to January 1, 2002, shall be the rules of the Construction Industries Board and shall continue in effect until such rules are amended or repealed by rules promulgated by the Construction Industries Board.

4. Any order made or action taken prior to January 1, 2002, 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 License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, or the Mechanical Licensing Act shall be considered valid and in effect unless rescinded by the Construction Industries Board.

B. ~~The Board may~~ Duties of the Board:

1. Exercise all incidental powers and duties which are necessary to effectuate the provisions of The Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, and the Mechanical Licensing Act;

2. Serve as a code variance and appeals board for the trades and industries 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 Board;

4. Initiate disciplinary proceedings, request prosecution of and initiate injunctive proceedings against any person who violates any of the provisions of the Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, and the Mechanical Licensing Act;

5. ~~Recommend at least three candidates for the position of~~
Maintain an administrative staff including, but not limited to, a
Construction Industries Administrator to the State Commissioner of
Health when a vacancy exists, and fix the salary of the Construction
Industries Administrator whose appointment shall be made as provided
in Section 1000.6 of this title; and

6. Establish and levy administrative fines against any person
or entity denying the Board or its representatives access to a job
site for purposes of enforcing any of the provisions of the Plumbing
License Law of 1955, the Oklahoma Inspectors Act, the Electrical
License Act, and the Mechanical Licensing Act;

7. Direct such other expenditures as may be necessary in the
performance of its duties including, but not limited to,
expenditures for office space, equipment, furnishings and contracts
for legal services. All expenditures shall be made pursuant to the
Oklahoma Central Purchasing Act; and

8. After January 1, 2005, account for all receipts and expenditures of the monies of the Board, including annually preparing and publishing a statement of receipts and expenditures of the Board for each fiscal year. The Board's annual statement of receipts and expenditures shall be audited by the State Auditor and Inspector or an independent accounting firm, and the audit report shall be certified to the Governor of this state to be true and correct, under oath, by the chair and vice-chair of the Board.

C. Effective January 1, 2002, all powers, duties, responsibilities, employees, records, and equipment of the State Board of Health, the State Department of Health, and the State Commissioner of Health relating exclusively to the regulation of the plumbing, electrical and mechanical trades, and building and construction inspectors shall be placed under the authority of the Construction Industries Board. To the extent practicable, this shall include all computer hardware and software used in regulating industries listed in this section. ~~The~~ Until January 1, 2005, the State Department of Health shall provide all necessary administrative support, including, but not limited to, office space, equipment, furnishings, and legal staff support for the Board and may manage the Board's funds, subject to Board approval. The Construction Industries Board may contract for additional legal services as necessary, pursuant to the Central Purchasing Act. Employees shall be under the ~~general~~ direction of the Construction Industries Administrator and the Construction Industries Board, ~~but in all other respects shall be employees of the Department of Health.~~

D. The Construction Industries Board and the State Board of Health may enter into an agreement for the transfer of personnel into the unclassified service under the direction of the Construction Industries Board effective January 1, 2002. No employee shall be transferred into the unclassified service under

the direction of the Construction Industries Board except on the freely given written consent of the employee. All classified employees under the Merit System of Personnel Administration who are not transferred into the unclassified service as provided shall retain the status in the class occupied by the employee on July 1, 2001, as allocated by the Office of Personnel Management. The salary of such an employee shall not be reduced as a result of such position allocation. Employees who are transferred as provided shall not be required to accept a lesser grade or salary than that in effect on July 1, 2001. All employees shall retain leave, sick and annual time earned, and any retirement and longevity benefits which have accrued during their tenure in the classified service. The transfer of personnel shall be coordinated with the Office of Personnel Management.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 1000.6, is amended to read as follows:

Section 1000.6 A. No later than January 1, 2002, and thereafter, each time the position becomes vacant, the ~~State Commissioner of Health~~ Construction Industries Board shall hire a Construction Industries Administrator ~~from a list of at least three names of individuals provided to the State Commissioner of Health by the Construction Industries Board.~~ The Construction Industries Board may, upon a majority vote ~~of the Board recommend termination,~~ terminate the employment of the Construction Industries Administrator ~~to the State Commissioner of Health.~~

B. The Construction Industries Administrator shall assist the Construction Industries Board in the performance of its duties and shall report directly to the ~~Commissioner of Health~~ Board.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.8 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Construction Industries Board or its representatives are hereby authorized to enter into any uninhabited job site during any time when work is being performed to conduct an inspection for compliance with applicable laws and rules if any activity at the job site is subject to Board jurisdiction.

B. 1. The on-site foreman or overall supervisor of the job site shall immediately be identified to the Board or its representative and shall be available for interview in the shortest practicable time.

2. The Board or its representative shall have physical access to any area within the job site in the shortest practicable time, but in no event, any later than fifteen (15) minutes after the Board or its representative arrives and provides credentials and notice of the intent to conduct an inspection to any person in control of ingress and egress to the job site.

C. If any person or entity denies access to the Board or its representative, the general contractor and owner of the property shall each be subject to an administrative fine of not more than One Thousand Dollars (\$1,000.00) for each violation. Each day a person or entity is in violation may constitute a separate violation.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.9 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In addition to any other remedies provided for by law, the Construction Industries Board, pursuant to rules promulgated by the Board, may issue a written order to any person or entity whom the Board has reason to believe is presently in violation of any standards or rules promulgated by the Construction Industries Board and to whom the Board has served, no less than fifteen (15) days previously, a written notice of violation of such standards or rules. The fifteen-day notice period may be reduced as, in the

opinion of the Board, may be necessary to render the order reasonably effectual.

B. The written order may require compliance with such standards or rules immediately or within a specified time period or both. The order may also assess an administrative fine for each day or part of a day that such person fails to comply with the order.

C. Any order issued pursuant to this section shall state with specificity the nature of the violation. Any penalty assessed in the order shall not exceed One Thousand Dollars (\$1,000.00) per day of noncompliance with the order. In assessing such a penalty, the Board shall consider the seriousness of the violation and any efforts to comply with applicable requirements.

D. Any order issued pursuant to the provisions of this section shall become a final order unless, no later than fifteen (15) days after the order is served, the person or persons named therein request an administrative hearing. Upon such request, the Board shall promptly conduct a hearing. The Board shall dismiss such proceedings when compliance with the order is demonstrated. A final order following a hearing may assess an administrative fine based upon consideration of the evidence, but not exceeding the amount stated in the written order provided for in subsections A through C of this section.

E. Such orders and hearings are subject to the Administrative Procedures Act.

SECTION 6. AMENDATORY 59 O.S. 2001, Section 1002, is amended to read as follows:

Section 1002. A. The Construction Industries Board is hereby authorized, empowered, and directed to make, prescribe, enforce, amend, and repeal rules governing the following:

1. The examination and licensing of persons desiring or intending to engage in the business, trade or calling of plumbing contractor or journeyman plumber;

2. The registering of and issuing of certificates to persons desiring or intending to work or act as a plumber's apprentice;

3. The establishment and levying of administrative fines;

4. The initiation of disciplinary proceedings;

5. The requesting of prosecution of and initiation of injunctive proceedings against any person who violates any of the provisions of The Plumbing License Law of 1955 or any rule promulgated pursuant to The Plumbing License Law of 1955; and

6. The establishment of bonding and insurance requirements for the issuance of a license as a plumbing contractor; provided, such rules shall not be inconsistent with the terms and conditions hereinafter provided.

B. Such bonding requirements shall allow the filing of cash or a certificate of deposit in lieu of a bond. A state bond or cash or certificate of deposit filed in lieu of a bond and which is posted pursuant to the provisions of this section shall be deemed sufficient to meet the requirements of any municipality, provided that a copy of said bond or documentation of cash or certificate of deposit filed in lieu of a bond shall be filed with any municipality in which the licensee does work as a plumbing contractor. A copy of the bond or documentation of cash or certificate of deposit filed in lieu of a bond shall be filed with the municipality prior to the commencement of any such work by the licensee.

SECTION 7. AMENDATORY 59 O.S. 2001, Section 1009, is amended to read as follows:

Section 1009. ~~No~~ Until June 30, 2004, no license shall be issued for longer than one (1) year and all licenses shall expire on June 30th of each year and such licenses may be renewed upon application and payment of fees within thirty (30) days preceding or following June 30th of each year, or the date the license renewal is due. Beginning July 1, 2004, all licenses shall expire on the birth date of the licensee. The Construction Industries Board shall

establish by rule a method for prorating license fees to coincide with the birth date of the licensee. No journeyman or contractor license shall be renewed unless the licensee has completed the required hours of continuing education as determined and approved by the Committee. Such requirement may be satisfied by completing a course on the current edition of the International Plumbing Code revision of not less than six (6) hours of instruction within one (1) year of adoption of the current International Plumbing Code revision. The Committee may renew licenses upon application made ~~during the thirty (30) days preceding or following June 30th of each year and~~ more than thirty (30) days following the date of expiration upon payment of the renewal and additional fee prescribed and upon compliance with any applicable continuing education requirements as established by the Board and this act. Provided that no penalty for renewal shall be charged to any holder of a license which expires while such holder is in military service if application is made within one (1) year following his service discharge.

Apprentice registration certificates expire ~~four (4) years~~ one (1) year after date of registration, at which time the apprentice may reregister.

SECTION 8. AMENDATORY 59 O.S. 2001, Section 1038, is amended to read as follows:

Section 1038. A. ~~No~~ Until June 30, 2004, no license shall be issued for longer than one (1) year and all licenses shall expire on June 30 of each year. Beginning July 1, 2004, all licenses shall expire on the birth date of the licensee. The Construction Industries Board shall establish by rule a method for prorating license fees to coincide with the birth date of the licensee.

B. ~~For an~~ An application for the renewal of a license which is received ~~after~~ more than thirty (30) days following the date of expiration but no later than one (1) year after expiration and which is accompanied by ~~the Twenty-five Dollar (\$25.00) fee required by~~

~~Section 7 of this act, an additional fee of Five Dollars (\$5.00) for late renewal~~ a fee established pursuant to Section 1000.5 of this title, and proof of current continuing education requirements, may be accepted and the license reissued without examination.

C. The fee for late renewal and the continuing education requirements shall not be required of any holder of a license which expires while such holder is in military service, if application for renewal is made within one (1) year following the service discharge of such person.

SECTION 9. AMENDATORY 59 O.S. 2001, Section 1682, is amended to read as follows:

Section 1682. As used in the Electrical License Act:

1. "Board" means the Construction Industries Board;
2. "Committee" means the Committee of Electrical Examiners appointed by the Board;
3. "Electrical apprentice" means any person sixteen (16) years of age or older whose principal occupation is the learning of and assisting in the installation of electrical work under the direct supervision of a licensed journeyman electrician or electrical contractor;
4. "Journeyman electrician" means any person other than an electrical contractor who engages in the actual installation, alteration, repair or renovation of electrical facilities or electrical construction work unless specifically exempted by the provisions of the Electrical License Act;
5. "Electrical contractor" means any person skilled in the planning, superintending and practical installation of electrical facilities who is familiar with the laws, rules and regulations governing such work. Electrical contractor also means any individual, firm, partnership, corporation, limited liability company, or business performing skills of an electrical contractor or an electrician or the business of contracting, or furnishing

labor or labor and materials for the installation, repair, maintenance or renovation of electrical facilities or electrical construction work according to the provisions of the Electrical License Act;

6. "Electrical facilities" means all wiring, fixtures, appurtenances, and appliances for, and in connection with, a supply of electricity within or adjacent to any building, structure or conveyance on the premises but not including the connection with a power supply meter or other power supply source;

7. "Category" means the classification by which licenses and electrical work may be limited. Such categories shall include but shall not be limited to installation, maintenance, repair, alteration, residential, oilfield, and commercial;

8. "Temporary journeyman electrician" means any person other than a person permanently licensed as a journeyman electrician or electrical contractor in this state who meets the temporary licensure requirements of Section 1685.1 of this title;

9. "Variance and Appeals Board" means the Oklahoma State Electrical Installation Code Variance and Appeals Board; and

10. "Electrical construction work" means installation, fabrication or assembly of equipment or systems included in "premises wiring" as defined in the ~~1996~~ 2002 edition of the National Electrical Code, which is hereby adopted and incorporated by reference. Electrical construction work includes, but is not limited to, installation of raceway systems used for any electrical purposes, and installation of field-assembled systems such as ice and snow melting, pipe-tracing, and manufactured wiring systems. Electrical construction work shall not include in-plant work performed by employees of the company owning the plant, work performed by telecommunications employees for telecommunications companies, or installation of factory-assembled appliances or machinery which is not part of the premises wiring unless wiring

interconnections external to the equipment are required in the field.

SECTION 10. AMENDATORY 59 O.S. 2001, Section 1688, as amended by Section 9, Chapter 457, O.S.L. 2002 (59 O.S. Supp. 2002, Section 1688), is amended to read as follows:

Section 1688. A. Until June 30, ~~2003~~ 2004, no license shall be issued for longer than one (1) year and all licenses shall expire on June 30 of each year. A license may be renewed upon application and payment of fees thirty (30) days preceding or following June 30 of each year, or the date the license is due, and not be subject to a late-renewal penalty. Beginning July 1, ~~2003~~ 2004, all licenses shall expire on the birthdate of the licensee. The Construction Industries Board shall establish by rule a method for prorating license fees to coincide with the birthdate of the licensee.

Licenses which have not been renewed more than thirty (30) days following the date of expiration may be renewed upon application and payment of all required fees and payment of any penalty for late renewal established by the Board and upon compliance with any applicable continuing education requirements established by the Board and this act. No penalty for late renewal shall be charged to any holder of a license which expires while the holder is in military service, if an application for renewal is made within one (1) year following the service discharge of the holder.

B. No journeyman or contractor license shall be renewed unless the licensee has completed the required hours of continuing education, as determined and approved by the Committee of Electrical Examiners and approved by the Construction Industries Board. The requirement may be satisfied by completing a course on the current national electrical code revision of not less than six (6) hours of instruction ~~as determined by the Committee of Electrical Examiners and approved by the Construction Industries Board~~, within one (1) year of adoption of the current national electrical code revision.

C. An apprentice registration certificate shall be issued for one (1) year, at which time the apprentice may reregister upon meeting the requirements of the Construction Industries Board and paying the renewal fee.

SECTION 11. AMENDATORY 59 O.S. 2001, Section 1850.8, as amended by Section 11, Chapter 457, O.S.L. 2002 (59 O.S. Supp. 2002, Section 1850.8), is amended to read as follows:

Section 1850.8 A. The Construction Industries Board shall issue a license as a mechanical journeyman or mechanical contractor to any person who:

1. Has been certified by the Committee of Mechanical Examiners as having successfully passed the appropriate examination; and

2. Has paid the license fee and has otherwise complied with the provisions of the Mechanical Licensing Act. The license fees shall be established by rule by the Board pursuant to Section 1000.5 of this title.

B. All licenses shall be nontransferable. ~~No~~ Until June 30, 2004, no license shall be issued for longer than one (1) year and all licenses shall expire on June 30 of each year. Beginning July 1, 2004, all licenses shall expire on the birth date of the licensee. The Construction Industries Board shall establish by rule a method for prorating license fees to coincide with the birth date of the licensee. Licenses which have not been renewed more than thirty (30) days following the date of expiration may be renewed upon application and payment of the required fees and payment of any penalty for late renewal, as shall be established by the Board. Licenses, issued without state examination, that have not been renewed by June 30 of the year following expiration, shall not be renewed until the applicant passes the appropriate examination No journeyman or contractor license shall be renewed unless the licensee has completed the required hours of continuing education as determined by the Committee. The requirement may be satisfied by

completing a course on the current edition of the International Mechanical Code revision or the mechanical provisions of the International Residential Code revision, whichever is applicable to the category of licensure, of not less than six (6) hours of instruction, within one (1) year of adoption of the current International Mechanical Code revision or the International Residential Code revisions. Persons who are licensed as contractors under the Mechanical Licensing Act may have their license placed on inactive status by paying the annual renewal fee and eliminating the bonding and insurance requirements. No late fee shall be charged to renew a license which expired while the applicant was in military service, if application is made within one (1) year of discharge from the military service.

C. The Board is authorized to establish and issue, subject to the provisions of the Mechanical Licensing Act, limited licenses in each area of mechanical work based on the experience, ability, examination scores and the education of the applicant. The limited licenses shall authorize the licensee to engage in only those activities and within the limits specified in the license.

SECTION 12. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Upon the availability of funding, the Construction Industries Board is authorized to hire four (4) additional full-time equivalent employees. One (1) employee each shall perform duties necessary to carry out the Construction Industries Board Act, the Plumbing License Law of 1955, the Electrical License Act, and the Mechanical Licensing Act.

SECTION 13. REPEALER 59 O.S. 2001, Section 1000.7, is hereby repealed.

SECTION 14. This act shall become effective November 1, 2003.

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