

ENROLLED SENATE
BILL NO. 1211

By: Snyder of the Senate

and

Paulk of the House

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 1000.4, as last amended by Sections 4, Chapter 318, O.S.L. 2003, 1003, 1017, 1018, 1042, 1694, 1850.8, as last amended by Section 14, Chapter 318, O.S.L. 2003, 1850.10 and 1850.13 (59 O.S. Supp. 2003, Sections 1000.4 and 1850.8), which relate to the Construction Industries Board Act, the Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act and the Mechanical Licensing Act; modifying certain effective dates relating to the powers and duties of the Board; authorizing Board to contract for certain administrative services; modifying definition; modifying exceptions; modifying specified authority of certain entity; providing for renewal of certain mechanical licenses within a specified time frame; adding requirement of licensure relating to installation of certain heating systems; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 1000.4, as last amended by Section 4, Chapter 318, O.S.L. 2003 (59 O.S. Supp. 2003, 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amended or repealed by rules promulgated by the Construction Industries Board.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 shall have the following powers:

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. Maintain an administrative staff including, but not limited to, a Construction Industries Administrator whose appointment shall be made as provided in Section 1000.6 of this title;

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; and

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.

C. After ~~January 1, 2005~~ July 1, 2004, the Board shall 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.

D. 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. Until ~~January 1, 2005~~ July 1, 2004, 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 and administrative services as necessary, pursuant to the Central Purchasing Act. Employees shall be under the direction of the Construction Industries Administrator and the Construction Industries Board.

E. 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 2. AMENDATORY 59 O.S. 2001, Section 1003, is amended to read as follows:

Section 1003. As used in The Plumbing License Law of 1955:

1. "Board" means the Construction Industries Board;
2. "Committee" means the State Committee of Plumbing Examiners appointed by the Construction Industries Board;
3. "Plumbing Hearing Board" means the State Plumbing Hearing Board which shall consist of a designee of the Construction Industries Board, as chair, and the members of the State Committee of Plumbing Examiners;

4. "Apprentice" or "plumber's apprentice" means any person sixteen (16) years of age or older who, as the principal occupation of the person, is engaged in learning and assisting in the installation of plumbing under the direct supervision of a licensed journeyman plumber or plumbing contractor;

5. "Journeyman plumber" means any person other than a master plumber or plumbing contractor who engages in or works at the actual installation, alteration, repair and/or renovation of plumbing;

6. "Temporary journeyman plumber" means any person other than a person permanently licensed as a journeyman plumber, master plumber, or plumbing contractor in this state who meets the temporary licensure requirements of Section 1006.1 of this title;

7. "Master plumber" is a term used and defined under laws which have been repealed. A person formerly known as a master plumber is henceforth to be known as a "plumbing contractor" as defined in this section;

8. "Plumbing contractor" means any person who is skilled in the planning, superintending, and practical installation of plumbing and who is familiar with the laws and rules governing the same. This definition may be construed to mean any person who has qualified and is licensed under The Plumbing License Law of 1955 as a plumbing contractor, who may operate as an individual, a firm, partnership, limited liability company, or corporation, or other legal entity to engage in the business of plumbing, or the business of contracting to do plumbing, or furnish labor or materials or both for the installation, repair, maintenance, or renovation of plumbing according to the requirements of The Plumbing License Law of 1955;

9. "Plumbing" means, and includes:

- a. all piping, fixtures, appurtenances and appliances for, and in connection with, a supply of water within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a water main or other source of supply,
- b. all piping, fixtures, appurtenances and appliances for sanitary drainage or storm drainage facilities, including venting systems for such facilities, within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a public disposal system or other acceptable terminal, ~~and~~
- c. the installation, repair, maintenance and renovation of all piping, fixtures, appurtenances and appliances for a supply of water, or for the disposal of waste water, liquid waste, or sewage within or adjacent to any building, structure, or conveyance, on the premises and to the source of supply of water or point of disposal of wastes, and
- d. the installation, repair and maintenance of radiant-floor heating system piping in residential homes with

capacities no greater than one hundred thousand (100,000) BTU's using only piping approved by the most current adopted edition of the International Mechanical Code; and

10. "Variance and Appeals Board" means the Oklahoma State Plumbing Installation Code Variance and Appeals Board.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 1017, is amended to read as follows:

Section 1017. The provisions of The Plumbing License Law of 1955 shall not apply to:

1. Minor repairs, consisting of repairing or replacing faucets or minor working parts of plumbing fixtures;

2. Farm buildings located outside any city or town unless such buildings are connected to a public water or sewer system;

3. Maintenance work for state institutions and school districts;

4. The installation, maintenance, repair, renovation of automatic sprinkler systems and related mechanical appurtenances beginning at a point where the pipe or piping system provides water used exclusively for these automatic sprinklers and their related appurtenances and to standpipes connected to automatic sprinkler systems;

5. The construction, installation, maintenance, repair, renovation, and/or removal of pipe or piping systems and related mechanical appurtenances including backflow preventers, appliances and/or equipment used in connection therewith, directly or indirectly within or without any building or structure, from a point or location in a source of potable water supply at which point or location there exists any backflow preventer, provided that said pipe and/or piping systems are for:

- a. heating, except radiant-floor heating systems as defined in subparagraph d of paragraph 9 of Section 1003 of this title,
- b. cooling,
- c. air conditioning,
- d. refrigeration, or
- e. boilers and other pressure vessels of whatsoever kind and character.

A "backflow preventer," as used herein, means any permanent mechanical device, or combination of permanent mechanical devices, of whatever material, which, after installation acts to prevent a reversal of the normal directional flow of potable water within the piping system in which it is installed, and shall include, but not

be limited to, metal checkvalves and airgaps, either naturally or artificially created. Provided, further, that the exclusionary provisions of this paragraph shall apply only to and within governmental agencies, counties, cities and towns which now have or which hereafter may adopt separate laws relating to the licensing, registration and regulating of persons engaged, for business purposes, in any of the areas of trade hereinbefore specified in this paragraph; the exemptions herein being provided to apply only to these items specifically regulated by any such local laws and ordinances; and

6. An individual who performs plumbing work on such individual's property of residence.

SECTION 4. AMENDATORY 59 O.S. 2001, Section 1018, is amended to read as follows:

Section 1018. All fees, administrative fines or payments of any type received by the Construction Industries Board under The Plumbing License Law of 1955 shall be deposited in a revolving fund to be designated as the "Plumbing Licensing Revolving Fund" and are hereby appropriated and may be expended by the ~~State Department of Health as directed by the~~ Construction Industries Board for the purpose of implementing The Plumbing License Law of 1955. The fund shall be a continuing fund, not subject to fiscal year limitations. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 5. AMENDATORY 59 O.S. 2001, Section 1042, is amended to read as follows:

Section 1042. There is hereby created in the State Treasury a revolving fund for the Construction Industries Board, to be designated the "Oklahoma Inspectors Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Board from fees and fines collected pursuant to the Oklahoma Inspectors Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the ~~State Department of Health as directed by the~~ Construction Industries Board for the purpose of implementing the provisions of the Oklahoma Inspectors Act for the continuing education of building and construction inspectors, and for implementing programs designed to further the efficiency of the building and construction inspector profession and public understanding of the profession. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 6. AMENDATORY 59 O.S. 2001, Section 1694, is amended to read as follows:

Section 1694. All monies received by the Construction Industries Board under the Electrical License Act, including the administrative fines authorized by Section 1695 of this title, shall be deposited with the State Treasurer and credited to the

"Electrical Revolving Fund". The revolving fund shall be a continuing fund not subject to fiscal year limitations and may be budgeted and expended by the ~~State Department of Health as directed by the~~ Construction Industries Board. Expenditures from this fund shall be made pursuant to the purposes of the Electrical License Act and shall include, but not be limited to, payment of operating costs and the costs of programs designed to promote public awareness of the electrical industry, and expenditures for the preparation and printing of regulations, bulletins or other documents and the furnishing of copies of such documents to those persons engaged in the electrical industry or the public. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. The revolving fund shall be audited at least once each year by the State Auditor and Inspector.

SECTION 7. AMENDATORY 59 O.S. 2001, Section 1850.8, as last amended by Section 14, Chapter 318, O.S.L. 2003 (59 O.S. Supp. 2003, 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. 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. Any license issued without state examination that has not been renewed as a result of a tax hold subsequent to the implementation of Section 238.1 of Title 68 of the Oklahoma Statutes, may be renewed without examination anytime before June 30, 2005, upon satisfactory arrangements made with the Oklahoma Tax Commission for the tax liability, payment of the required fees and payment of any penalty for late renewal as established by the Board. 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 International Fuel Gas Code 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 Fuel Gas Code 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 8. AMENDATORY 59 O.S. 2001, Section 1850.10, is amended to read as follows:

Section 1850.10 A. 1. No person shall install, replace or repair gas piping unless such person is licensed under the Mechanical Licensing Act or is licensed as a plumbing contractor or journeyman plumber pursuant to the laws of this state.

2. No person shall install, replace or repair floor furnaces or wall heaters unless such person is licensed under the Mechanical Licensing Act or is licensed as a plumbing contractor or journeyman plumber pursuant to the laws of this state.

3. No person shall install, replace or repair any radiant-floor heating systems unless such person is licensed under the Mechanical Licensing Act or is licensed as a plumbing contractor or journeyman plumber pursuant to the laws of this state.

B. The Mechanical Licensing Act shall not apply to:

1. A person who is the property owner of record, or his or her authorized representative, when performing minor repair which shall include, but not be limited to, cleaning, adjusting, calibrating and repair of mechanical system parts and the replacement of fuses and room thermostats, and other minor repairs which shall not include any repair which could violate the safe operation of the equipment;

2. The installation of portable, self-contained, ductless air conditioners or heaters;

3. The setting or connecting of detached air conditioning units which utilize flexible ductwork on a manufactured home. The term manufactured home shall have the same definition as such term is defined in Section 1102 of Title 47 of the Oklahoma Statutes;

4. Any permanent employee of a manufacturing facility, whether owned or leased, while performing mechanical work on the premises of such facility. The performance of such mechanical work authorized by this paragraph shall not violate any manufacturer specification or compromise any health or safety standards and practices in accordance with state and federal regulations;

5. The service, repair and installation of boilers, pressure vessels and welded steam lines which are subject to the jurisdiction of the Commissioner of Labor pursuant to the provisions of Sections 141.1 through 141.18 of Title 40 of the Oklahoma Statutes; or

6. Employees of state-owned institutions doing maintenance to state-owned facilities which does not violate manufacturer specifications nor compromise health or safety standards and practices.

C. The licensing requirements of the Mechanical Licensing Act shall not apply to public utilities, public service corporations, intrastate gas pipeline companies, gas gathering pipeline companies, gas processing companies, rural electric associations, or municipal utilities and their subsidiaries during work on their own facilities or during the performance of energy audits, operational inspections, minor maintenance, or minor repairs for their customers or on their own equipment.

D. The licensing requirements of the Mechanical Licensing Act shall not apply to employees of chemical plants, gas processing plants, and petroleum refineries during work on their own facilities or during the performance of operational inspections, mechanical work, maintenance, or repairs on their own equipment, the performance of which does not violate any manufacturer specification or compromise any health or safety standards and practices in accordance with state and federal regulations.

E. The licensing requirements of the Mechanical Licensing Act shall not apply to employees of research facilities during work on their own facilities or during the performance of operational inspections, mechanical work, maintenance, or repairs on their own equipment used solely for research purposes when such items of equipment require one or more details of construction not covered by normally used national codes and standards or which involve destruction or reduce life of the equipment and systems.

SECTION 9. AMENDATORY 59 O.S. 2001, Section 1850.13, is amended to read as follows:

Section 1850.13 There is hereby created in the State Treasury a revolving fund for the Construction Industries Board, to be designated the "Oklahoma Mechanical Licensing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health pursuant to the Mechanical Licensing Act, including administrative fines authorized by Section 1850.11 of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the ~~State Department of Health as directed by the~~ Construction Industries Board for the purpose of implementing the Mechanical Licensing Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 10. 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.

Passed the Senate the 8th day of March, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the 19th day of April, 2004.

Presiding Officer of the House
of Representatives