

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

SENATE BILL 545

By: Snyder

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 1000.4, as amended by Section 1, Chapter 457, O.S.L. 2002, 1009, 1038, 1688, as amended by Section 9, Chapter 457, O.S.L. 2002, 1850.8, as amended by Section 11, Chapter 457, O.S.L. 2002 (59 O.S. Supp. 2002, Sections 1000.4, 1688 and 1850.8), which relate to the Construction Industries Board; modifying authority of Board; deleting requirement that Department of Health provide specified assistance and manage Board funds; deleting certain Board authority; modifying status of employees; modifying procedures and authority for hiring administrator; authorizing Board to enter specified job sites under certain circumstances; mandating access for inspection within specified time period; authorizing issuance of administrative fine if access is denied; authorizing Board to issue order under certain circumstances; specifying notice period; providing for contents of order; limiting penalty; providing for administrative hearing and final order; subjecting orders and hearings to Administrative Procedures Act; establishing effective date for modification of plumbing license expiration and requiring Board to prorate fees; prohibiting renewal unless certain conditions are met; modifying time limit for plumbing license renewal; reducing time period for expiration of apprentice registration certificate; establishing effective date for modification of inspector license expiration and requiring Board to prorate fees; modifying time limit for inspector license renewal; establishing effective date for modification of electrical license expiration; establishing requirements for renewal of expired electrical licenses; clarifying continuing education requirements; establishing effective date for modification of mechanical license expiration and requiring Board to prorate fees; establishing requirements for renewal of expired mechanical licenses; specifying continuing education requirements; deleting requirement for examination under certain circumstances; limiting inactive license status to contractors; updating references; repealing 59 O.S. 2001, Section 1000.7, which relates to the Construction and Safety Code Review Task Force; providing for codification; and providing an effective date.

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

SECTION 1. 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:

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. 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 president and secretary-treasurer 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 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 2. 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 appointment 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 3. 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 4. 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 the hearing. The Board shall dismiss such proceedings where compliance with the order is demonstrated. A final order following a hearing may assess an administrative fine of an amount 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 5. 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 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. 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 6. 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 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.

B. For 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 1037 of this ~~act~~ title, an additional fee of Five Dollars (\$5.00) for late renewal, 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 7. 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. 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 8. 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 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 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 a contractor 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 9. REPEALER 59 O.S. 2001, Section 1000.7, is hereby repealed.

SECTION 10. This act shall become effective November 1, 2003.

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