STATE OF OKLAHOMA

1st Session of the 51st Legislature (2007)

SENATE BILL 45 By: Coates

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 1000.5, as amended by Section 2, Chapter 457, O.S.L. 2002, 1002, as amended by Section 7, Chapter 318, O.S.L. 2003, 1009, as amended by Section 8, Chapter 318, O.S.L. 2003, 1010, 1019, 1683, as amended by Section 7, Chapter 457, O.S.L. 2002, 1688, as last amended by Section 12, Chapter 318, O.S.L. 2003, 1689, 1850.8, as last amended by Section 7, Chapter 163, O.S.L. 2004, 1850.8A, 1850.13, as amended by Section 9, Chapter 163, O.S.L. 2004, and 1850.14 (59 O.S. Supp. 2006, Sections 1000.5, 1002, 1009, 1683, 1688, 1850.8 and 1850.13), which relate to the Construction Industries Board, The Plumbing License Law of 1955, the Electrical License Act, and the Mechanical Licensing Act; authorizing certain fee and providing range of fee; providing for certain license or registration issuance or renewal paid for by dishonored checks; authorizing the Construction Industries Board to provide for rules relating to certain minimum standards of plumbing installation; modifying provisions relating to certain bonding requirements; modifying requirements for certain license expiration dates and renewals; stating certain registrations are subject to the Plumbing Hearing Board; modifying membership of Committee of Electrical Examiners; providing for the conduct of certain administrative hearings; making certain hearing examiners' decisions final; providing for certain appeals; authorizing application for enjoining certain acts or practices; providing for certain injunctions, restraining orders or other orders by a court; modifying membership certain hearing boards; modifying requirement for renewal of certain licenses relating to continuing education; deleting obsolete language; updating

language; authorizing certain fee to be established by rule; providing for recodification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 1000.5, as amended by Section 2, Chapter 457, O.S.L. 2002 (59 O.S. Supp. 2006, Section 1000.5), is amended to read as follows:

Section 1000.5 A. The Construction Industries Board may establish a system of fees to be charged for the application for licenses, for the issuance and renewal of licenses and permits, for administration of examinations ~~and~~, for formal project reviews and dishonored checks under the Board's authority. This provision is subject to the following limitations:

1. No schedule of fees may be established or amended by the Board except during such times as the Legislature is in session; provided, the Board may establish or amend a schedule of fees at a time when the Legislature is not in session if the fees or schedule of fees has been specifically authorized by the Legislature pursuant to paragraph 2 of this subsection. The Board must follow the procedures required by Article I of the Administrative Procedures Act for adoption of rules in establishing or amending any such schedule of fees; and

2. The Board shall charge fees only within the following ranges, except as may be otherwise specified in this section.

For application for license	not to exceed $30.00
For administration of license examinations:	not to exceed $200.00
For license or permit issuance:	not to exceed $300.00
For license or permit renewal:	not to exceed $200.00
For formal project review for code conformance:	not to exceed $200.00
For permit issuance for the use of alternative materials or methods:	not to exceed $50.00
For dishonored checks:	
not to exceed amount pursuant to the provisions of Section 1121 of Title 47 of the Oklahoma Statutes.	

B. The Board shall base its schedule of fees upon the reasonable costs of review and inspection services rendered in connection with each license, permit, or review, but shall be within the ranges specified in paragraph 2 of subsection A of this section, except as otherwise specified in this section. The Board shall establish a system of training for all personnel who render review and inspection services in order to assure uniform statewide

application of rules. The Board shall include the reasonable costs associated with such training in the fees provided for in this section.

C. The Board may exempt by rule any class of licensee or permittee from the requirements of the fee schedule if the Board determines that the creation of such a schedule for any such class would create an unreasonable economic hardship.

D. All statutory fees now in effect for the issuance and renewal of any license, permit, or review under the authority of the Construction Industries Board shall remain in effect until such time as the Board, by its rulemaking authority, acts to implement new fee schedules pursuant to the provisions of this section.

E. Unless otherwise provided, licenses and permits issued by the Construction Industries Board shall be for a one-year period.

F. When, at the time of application or renewal of any license or registration, payment is made by check for fees and the check is not paid by the bank on which drawn for any reason, such license or registration issued at that time shall be invalid. In all such cases, the license or registration shall be subject to the license or registration fees and penalties provided in subsection A of this section and treated as though no attempt to apply for or renew a license or registration had been made. The Board may charge and collect from the licensee, registrant or other obligor of fees or fines, a fee for each return by a bank or other depository

institution of a dishonored check, negotiable order of withdrawal or share draft issued by the licensee, registrant or other obligor.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 1002, as amended by Section 7, Chapter 318, O.S.L. 2003 (59 O.S. Supp. 2006, 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 minimum standards of plumbing installation through the adoption of standards published by a recognized code body; and

7. 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 by the contractor prior to the commencement of any plumbing work 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~~ if required by local ordinances or rules.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 1009, as amended by Section 8, Chapter 318, O.S.L. 2003 (59 O.S. Supp. 2006, Section 1009), is amended to read as follows:

Section 1009. ~~Until June 30, 2004, no~~ No license shall be issued for longer than one (1) year and all licenses shall expire on ~~June 30th of each year and such~~ the last day in the birth month of the licensee. 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 Fuel Gas Code or 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 more than thirty (30) days following the date of expiration only 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 from the military service.

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

SECTION 4. AMENDATORY 59 O.S. 2001, Section 1010, is amended to read as follows:

Section 1010. A. The designee of the Construction Industries Board, as chair, and the members of the Oklahoma State Committee of Plumbing Examiners shall constitute a Plumbing Hearing Board, which may on its own motion make investigations and conduct hearings. The Plumbing Hearing Board may, on its own motion or upon complaint in writing duly signed and verified by the complainant, and upon not less than ten (10) days' notice to the licensee, suspend any license or registration issued under The Plumbing License Law of 1955, and may revoke such license or registration in the manner hereinafter provided, if by clear and convincing evidence it finds that the holder of the license has:

1. Made a material misstatement in the application for license or renewal thereof;

2. Loaned or illegally used the license;

3. Demonstrated incompetency to act as a journeyman plumber or plumbing contractor, as the case may be;

4. Violated any provision of The Plumbing License Law of 1955, or any rule or order prescribed by the Construction Industries Board, or any ordinance or regulation for the installation of plumbing made or enacted by a city, town, or sewer Board by authority of The Plumbing License Law of 1955; or

5. Willfully and unreasonably failed to perform his or her normal business obligations without justifiable cause.

B. A copy of the complaint with notice of the suspension of license, if ordered by the Plumbing Hearing Board, shall be served on the person complained against, and the answer thereto shall be filed in the time allowed for the filing of answers in legal proceedings by the statutes of this state.

C. Any administrative hearing on suspensions, revocations or fines shall be conducted by a hearing examiner appointed by the Construction Industries Board. The hearing examiner's decision shall be a final decision which may be appealed to a district court in accordance with the Administrative Procedures Act.

D. No order revoking a license shall be made until after a public hearing, held in accordance with the provisions of Article II of the Administrative Procedures Act, by the Plumbing Hearing Board which shall not be less than thirty (30) days and not more than sixty (60) days after the date of notice of suspension. The hearing shall be held at the place designated by the Plumbing Hearing Board. The person complained against shall have the right to be represented by counsel and to introduce any evidence in defense. The conduct of the hearing shall be in accordance with recognized rules of legal procedure and any member of the Plumbing Hearing Board or a representative designated by the Plumbing Hearing Board shall have authority to administer oaths and take testimony.

~~D.~~ E. Any person whose license or registration has been revoked may, after the expiration of one (1) year from the date of such revocation, but not before, apply for a new license.

~~E.~~ F. Notwithstanding any other provision of law, a political subdivision of this state that has adopted a nationally recognized plumbing code and appointed an inspector pursuant to Section 1016 of this title or pursuant to the Oklahoma Inspectors Act for such work shall have jurisdiction over the interpretation of the code and the installation of all plumbing work done in that political subdivision, subject to the provisions of the Oklahoma Inspectors Act. Provided, a state inspector may work directly with a plumbing contractor or journeyman plumber in such a locality if a violation of the code creates an immediate threat to life or health.

~~F.~~ G. In the case of a complaint about, investigation of, or inspection of any license, registration, permit or plumbing in any political subdivision of this state which has not adopted a nationally recognized plumbing code and appointed an inspector pursuant to Section 1016 of this title or pursuant to the Oklahoma Inspectors Act for such work, the Construction Industries Board shall have jurisdiction over such matters.

~~G.~~ H. 1. No individual, business, company, corporation, limited liability company, association or other entity subject to the provisions of Section 1001 et seq. of this title shall install, modify or alter plumbing in any incorporated area of this state

which has not adopted a nationally recognized plumbing code and appointed an inspector pursuant to Section 1016 of this title or pursuant to the Oklahoma Inspectors Act for such work without providing notice of such plumbing to the Construction Industries Board. A notice form for reproduction by an individual or entity required to make such notice shall be provided by the Construction Industries Board upon request.

2. Notice to the Construction Industries Board pursuant to this subsection shall not be required for plumbing maintenance or replacement of an existing plumbing device or fixture, unless such device is gas fired, or of any petroleum refinery or its research facilities.

3. Enforcement of this subsection is authorized pursuant to The Plumbing License Law of 1955, or under authority granted to the Construction Industries Board.

SECTION 5. AMENDATORY 59 O.S. 2001, Section 1019, is amended to read as follows:

Section 1019. A. Any person, firm, partnership, association or corporation who shall violate any of the provisions of this act, or any provision of an ordinance or regulation enacted by a city, town, or sewer commission, by authority of this act shall, in addition to suffering possible suspension or revocation of a license, be guilty of a misdemeanor and upon conviction thereof shall be punished by a

fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00), together with the costs of prosecution.

B. The Plumbing Hearing Board may make application to the appropriate court for an order enjoining the acts or practices prohibited by this act, and upon a showing by the Plumbing Hearing Board that the person or firm has engaged in any of the prohibited acts or practices, an injunction, restraining order or other order as may be appropriate shall be granted by the court.

SECTION 6. AMENDATORY 59 O.S. 2001, Section 1683, as amended by Section 7, Chapter 457, O.S.L. 2002 (59 O.S. Supp. 2006, Section 1683), is amended to read as follows:

Section 1683. A. There is hereby established the Committee of Electrical Examiners which shall consist of seven (7) members. All members of the Committee shall be residents of this state.

B. Beginning January 1, 2002, as the terms of members serving on the Committee expire, six voting members of the Committee shall be appointed by the Construction Industries Board as follows:

1. One member shall be an electrical inspector selected from a list of names submitted by a statewide organization of electrical inspectors;

2. One member shall be selected from a list of names submitted by a statewide organization of electrical contractors representing union contractors;

3. One member shall be selected from a list of names submitted by a statewide organization representing builders and contractors;

4. One member shall be a journeyman wireman selected from a list of names submitted by a statewide organization of union journeymen wiremen;

5. One member shall be a journeyman wireman selected from lists of names submitted from the electrical construction industry; and

6. One member shall be selected from a list of names submitted by a statewide organization of electrical contractors representing nonunion contractors. The term of the initial appointee shall be for two (2) years.

All members shall each have at least ten (10) years of active experience as licensed electrical contractors, journeyman electricians or as an electrical inspector. No member shall be employed by the same person or firm as any other member of the Committee. The terms of members so appointed shall be staggered and shall be for two (2) years, or until their successors are appointed and qualified.

The nonvoting member shall be designated by the Board from its staff to serve ~~as Program Administrator and serve as the Chief Electrical Inspector for the state~~ on the Committee at the will of the Board.

C. Vacancies which may occur in the membership of the Committee shall be filled by appointment of the Board. Each person who has

been appointed to fill a vacancy shall serve for the remainder of the term for which the member he or she succeeds was appointed and until his or her successor has been appointed and has qualified. Members of the Committee may be removed from office by the Board for cause in the manner provided by law for the removal of officers not subject to impeachment.

D. The Committee shall assist and advise the Board on all matters relating to the formulation of rules and standards in accordance with the Electrical License Act. The Committee shall administer the examinations of applicants for licenses as electrical contractors or journeyman electricians provided that such examinations shall be in accordance with the provisions of the Electrical License Act. The Committee may authorize the Board to conduct tests on their behalf as the Committee deems necessary.

E. All members of the Committee shall be reimbursed for expenses incurred while in the performance of their duties in accordance with the State Travel Reimbursement Act.

F. A majority of the total membership of the Committee shall constitute a quorum for the transaction of business.

G. The Committee shall elect from among its membership a ~~chairperson~~ chair, ~~vice-chairperson~~ vice-chair and secretary to serve terms of not more than one (1) year ending on June 30 of the year designated as the end of the officer's term. The ~~chairperson~~ chair or ~~vice chairperson~~ vice-chair shall preside at all meetings.

The ~~chairperson~~ chair, ~~vice-chairperson~~ vice-chair and secretary shall perform such duties as may be directed by the Committee. The Committee shall meet at such times as the ~~chairperson~~ chair or presiding officer deems necessary to carry out the responsibilities of the Board.

SECTION 7. AMENDATORY 59 O.S. 2001, Section 1688, as last amended by Section 12, Chapter 318, O.S.L. 2003 (59 O.S. Supp. 2006, Section 1688), is amended to read as follows:

Section 1688. A. ~~Until June 30, 2004, no~~ No license shall be issued for longer than one (1) year, and all licenses shall expire ~~on June 30 of each year~~ on the last day in the birth month of the licensee. 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, 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 only 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, 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 1689 is amended to read as follows:

Section 1689. A. The Construction Industries Board <u>or its designee</u> and the Committee of Electrical Examiners shall act as the Electrical Hearing Board and shall comply with the provisions of Article II of the Administrative Procedures Act, Section 308a et seq. of Title 75 of the Oklahoma Statutes.

B. <u>Any administrative hearing on suspensions, revocations or fines shall be conducted by a hearing examiner appointed by the</u>

Board. The hearing examiner's decision shall be a final decision which may be appealed to a district court in accordance with the Administrative Procedures Act.

C. The Electrical Hearing Board may, upon its own motion, and shall, upon written complaint filed by any person, investigate the business transactions of any electrical contractor, journeyman electrician or electrical apprentice. Upon a finding by clear and convincing evidence, the Board shall suspend or revoke any license or registration obtained by false or fraudulent representation. Upon a finding by clear and convincing evidence, the Board shall also suspend or revoke any license or registration for any of the following:

1. Making a material misstatement in the application for a license or registration, or the renewal of a license or registration;

2. Loaning or illegally using a license;

3. Demonstrating incompetence to act as a journeyman electrician or electrical contractor;

4. Violating any provisions of the Electrical License Act, or any rule or order prescribed by the Board or any ordinance for the installation of electrical facilities made or enacted by a city or town by authority of the Electrical License Act; or

5. Willfully failing to perform normal business obligations without justifiable cause.

~~C.~~ D. Any person whose license or registration has been revoked by the Electrical Hearing Board may apply for a new license one (1) year from the date of such revocation.

~~D.~~ E. Notwithstanding any other provision of law, a political subdivision of this state that has adopted a nationally recognized electrical code and appointed an inspector pursuant to the provisions of Section 1693 of this title or pursuant to the provisions of the Oklahoma Inspectors Act for such work shall have jurisdiction over the interpretation of the code and the installation of all electrical work done in that political subdivision, subject to the provisions of the Oklahoma Inspectors Act. Provided, a state inspector may work directly with an electrical contractor, journeyman electrician or electrical apprentice in such a locality if a violation of the code creates an immediate threat to life or health.

~~E.~~ F. In the case of a complaint about, investigation of, or inspection of any license, registration, permit or electrical work in any political subdivision of this state which has not adopted a nationally recognized electrical code and appointed an inspector pursuant to the provisions of Section 1693 of this title or pursuant to the provisions of the Oklahoma Inspectors Act for such work, the Construction Industries Board shall have jurisdiction over such matters.

~~F.~~ G. 1. No individual, business, company, corporation, association or other entity subject to the provisions of the Electrical License Act shall install, modify or alter electrical facilities in any incorporated area of this state which has not adopted a nationally recognized electrical code and appointed an inspector pursuant to the provisions of Section 1693 of this title or pursuant to the provisions of the Oklahoma Inspectors Act for such work without providing notice of such electrical work to the Construction Industries Board. A notice form for reproduction by an individual or entity required to make such notice shall be provided by the Construction Industries Board upon request.

2. Notice to the Construction Industries Board pursuant to this subsection shall not be required for electrical maintenance or replacement of existing electrical appliances or fixtures or of any petroleum refinery or its research facilities.

3. Enforcement of this subsection is authorized pursuant to the Electrical License Act, or under authority granted to the Construction Industries Board.

SECTION 9. AMENDATORY 59 O.S. 2001, Section 1850.8, as last amended by Section 7, Chapter 163, O.S.L. 2004 (59 O.S. Supp. 2006, 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~~ 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 last day in the birth ~~date~~ month 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 only 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 10. AMENDATORY 59 O.S. 2001, Section 1850.8A, is amended to read as follows:

Section 1850.8A A. Within (1) one year of the date the Governor of this state declares a state of emergency in response to a disaster involving the destruction of dwelling units, the ~~State Commissioner of Health~~ Construction Industries Board shall issue a distinctively colored, nonrenewable, temporary mechanical journeyman license which shall expire one (1) year after the date of declaration to any person who is currently licensed as a mechanical journeyman by another state and who:

1. Submits, within ten (10) days of beginning mechanical journeyman's work in this state, an application and fee for a mechanical journeyman's examination;

2. Takes and passes the examination at the first opportunity thereafter offered by the ~~Commissioner~~ Board; and

3. Pays a temporary mechanical journeyman's license fee ~~of Twenty-five Dollars ($25.00)~~ to be established by rule by the Board pursuant to Section 1000.5 of this title.

B. Nothing in this section shall be construed as prohibiting any person from qualifying at any time for any other license by meeting the requirements for the other license.

SECTION 11. AMENDATORY 59 O.S. 2001, Section 1850.13, as amended by Section 9, Chapter 163, O.S.L. 2004 (59 O.S. Supp. 2006, 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~~ Board 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 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 12. AMENDATORY 59 O.S. 2001, Section 1850.14, is amended to read as follows:

Section 1850.14 A. The Construction Industries Board or its designee and the Committee of Mechanical Examiners shall act as the Mechanical Hearing Board and shall comply with the provisions of Article II of the Administrative Procedures Act.

B. Any administrative hearing on suspensions, revocations or fines shall be conducted by a hearing examiner appointed by the Construction Industries Board. The hearing examiner's decision shall be a final decision which may be appealed to a district court in accordance with the Administrative Procedures Act.

C. The Mechanical Hearing Board may, upon its own motion, and shall, upon written complaint filed by any person, investigate the business transactions of any mechanical contractor, mechanical journeyman, mechanical apprentice or mechanical firm. The Construction Industries Board shall suspend or revoke or may refuse to issue or renew any license or registration under the Mechanical Licensing Act for any of the following:

1. Making a material misstatement in the application for a license or registration, or the renewal of a license or registration;

2. Obtaining any license or registration by false or fraudulent representation;

3. Loaning or allowing the use of such license by any other person or illegally using a license;

4. Demonstrating incompetence to act as a mechanical journeyman or mechanical contractor;

5. Violating any provisions of the Mechanical Licensing Act, or any rule or order prescribed by the Construction Industries Board pursuant to the provisions of the Mechanical Licensing Act; or

6. Willfully failing to perform normal business obligations without justifiable cause.

~~C.~~ D. Any person whose license or registration has been revoked by the Mechanical Hearing Board may apply for a new license one (1) year from the date of such revocation.

~~D.~~ E. Notwithstanding any other provision of law, a political subdivision of this state that has adopted a nationally recognized mechanical code and appointed an inspector pursuant to Section 1850.12 of this title or pursuant to the Oklahoma Inspectors Act for such work shall have jurisdiction over the interpretation of said code and the installation of all mechanical work done in that political subdivision, subject to the provisions of the Oklahoma Inspectors Act. Provided, a state inspector may work directly with a mechanical contractor, mechanical journeyman, mechanical apprentice or mechanical firm in such a locality if a violation of the code creates an immediate threat to life or health.

~~E.~~ F. In the case of a complaint about, investigation of, or inspection of any license, registration, permit or mechanical work in any political subdivision of this state which has not adopted a nationally recognized mechanical code and appointed an inspector pursuant to Section 1850.12 of this title or pursuant to the Oklahoma Inspectors Act for such work, the Board shall have jurisdiction over such matters.

~~F.~~ G. 1. No individual, business, company, corporation, association, limited liability company, or other entity subject to the provisions of the Mechanical Licensing Act shall install, modify or alter mechanical systems in any incorporated area of this state which has not adopted a nationally recognized mechanical code and appointed an inspector pursuant to Section 1850.12 of this title or

pursuant to the Oklahoma Inspectors Act for such work without providing notice of such mechanical work to the Board. A notice form for reproduction by an individual or entity required to make such notice shall be provided by the Board upon request.

2. Notice to the Board pursuant to this subsection shall not be required for minor repair or maintenance performed according to the mechanical equipment manufacturer's instructions or of any petroleum refinery or its research facilities.

3. Enforcement of this subsection is authorized pursuant to the Mechanical Licensing Act, or under authority granted to the Board.

SECTION 13. RECODIFICATION 59 O.S. 2001, Section 1860, shall be recodified as Section 1000.5b of Title 59 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 14. This act shall become effective November 1, 2007.

51-1-170 LKS 11/2/2007 11:27:57 PM