

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2257

By: McBride

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2011, Section 1000.4, as last amended by Section 4, Chapter 332, O.S.L. 2013 (59 O.S. Supp. 2015, Section 1000.4), which relates to the Construction Industries Board Act; modifying powers and duties of the Construction Industries Board; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 1000.4, as last amended by Section 4, Chapter 332, O.S.L. 2013 (59 O.S. Supp. 2015, Section 1000.4), is amended to read as follows:

Section 1000.4 A. 1. 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 and roofing trades, building and construction inspectors and home inspectors. All rules promulgated by the Board shall be reviewed and approved as provided in subsection F of Section 308 of Title 75 of the Oklahoma Statutes.

1           2. The Board shall have the power to enforce the provisions of  
2 the Construction Industries Board Act, The Plumbing License Law of  
3 1955, the Oklahoma Inspectors Act, the Electrical License Act, the  
4 Mechanical Licensing Act, the Roofing Contractor Registration Act  
5 and the Home Inspection Licensing Act, ~~and the Roofing Contractor~~  
6 ~~Registration Act,~~ as provided in the respective acts.

7           B. The Board shall have the following powers:

8           1. Exercise all incidental powers and duties which are  
9 necessary to effectuate the provisions of The Plumbing License Law  
10 of 1955, the Oklahoma Inspectors Act, the Electrical License Act,  
11 the Mechanical Licensing Act, the Roofing Contractor Registration  
12 Act and the Home Inspection Licensing Act;

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

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

20           4. Initiate disciplinary proceedings, request prosecution of  
21 and initiate injunctive proceedings against any person who violates  
22 any of the provisions of The Plumbing License Law of 1955, the  
23 Oklahoma Inspectors Act, the Electrical License Act, the Mechanical  
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1 Licensing Act, the Roofing Contractor Registration Act and the Home  
2 Inspection Licensing Act;

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

6 6. Establish and levy administrative fines for violations of  
7 law or rule in the trades and industries the Board licenses or  
8 regulates or against any person or entity denying the Board or its  
9 representatives access to a job site for purposes of enforcing any  
10 of the provisions of The Plumbing License Law of 1955, the Oklahoma  
11 Inspectors Act, the Electrical License Act, ~~and~~ the Mechanical  
12 Licensing Act, ~~or~~ the Roofing Contractor Registration Act and the  
13 Home Inspection Licensing Act; provided, however, the Board is not  
14 authorized to inspect or issue administrative violations or fines  
15 for public utilities, public service corporations, intrastate gas  
16 pipeline companies, gas gathering pipeline companies, gas processing  
17 companies, rural electric associations, municipal utilities or their  
18 subsidiaries, chemical plants, gas processing plants or petroleum  
19 refineries where the entity uses their employees or contractors to  
20 work on their own facilities or equipment;

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

3 8. Enforce provisions of the plumbing, electrical and  
4 mechanical codes as adopted by the Oklahoma Uniform Building Code  
5 Commission pursuant to the Oklahoma Uniform Building Code Commission  
6 Act.

7 C. The Board shall account for all receipts and expenditures of  
8 the monies of the Board, including annually preparing and publishing  
9 a statement of receipts and expenditures of the Board for each  
10 fiscal year. The Board's annual statement of receipts and  
11 expenditures shall be audited by the State Auditor and Inspector or  
12 an independent accounting firm in accordance with the provisions of  
13 subsection B of Section 212 of Title 74 of the Oklahoma Statutes,  
14 and the audit report shall be certified to the Governor of this  
15 state to be true and correct, under oath, by the chair and vice-  
16 chair of the Board. A copy of such certified report shall be  
17 delivered to the chairs of the respective Senate and House of  
18 Representatives Committees having authority over matters relating to  
19 business, labor and construction industry licensing or regulation  
20 not later than February 1 each year.

21 D. The Board shall account for all fines, penalties and fees  
22 assessed and collected pursuant to the Administrative Procedures Act  
23 or any rule promulgated for regulation of any industry and trade  
24 under the authority of the Construction Industries Board. All

1 fines, penalties and fees assessed for any violation of law or rule  
2 shall be automatically reviewed and brought before the entire Board  
3 for consideration and vote not later than the last day of the  
4 monthly quarter in which it was imposed. The Construction  
5 Industries Administrator shall present to the Board a written  
6 recommendation and summary for each case in which an assessment of a  
7 fine, penalty or fee was imposed after administrative proceedings.  
8 The Board shall consider the recommendations for each case at the  
9 next meeting date and at such meeting shall either vote to affirm  
10 the recommendations or vote to deny the recommendations and remand  
11 the case for further administrative hearing, with or without  
12 instructions. No administrative case shall be delayed or continued  
13 by the Board after being placed on an agenda for final Board review,  
14 except with the consent of all parties. The licensee or persons  
15 affected by the imposition of an administrative fine, penalty or fee  
16 on final review by the Board shall have all rights of appeal  
17 preserved pursuant to the Administrative Procedures Act until final  
18 action by the Board.

19 E. The Construction Industries Board shall hear all appeals  
20 timely made from an administrative ruling relating to an industry  
21 and trade regulated by the Board; however, this appeal authority  
22 shall not be in addition to the appeal process authorized by the  
23 Administrative Procedures Act. Any ruling by the Board from an  
24 administrative hearing may be further appealed to the district court

1 of Oklahoma County. The district court, upon conclusion of an  
2 appeal from a Board ruling, shall be authorized to award reasonable  
3 legal fees to the prevailing party.

4 SECTION 2. This act shall become effective November 1, 2016.

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