

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 HOUSE BILL 2858

 By: Wallace of the House

5 and

6 **Coleman** of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to the Construction Industries Board;
11 amending 59 O.S. 2021, Section 1000.2, which relates
12 to the recreation of the Board; amending regulated
13 industries; amending 59 O.S. 2021, Section 1000.4,
14 which relates to the powers of the Board; amending
15 the scope of the Board; authorizing certain members
16 to make specific changes to meetings; altering
17 receipt of certain reports; modifying when certain
18 votes must occur; amending 59 O.S. 2021, Section
19 1000.4a, which relates to additional powers of the
20 Board; addressing sharing certain information related
21 to workforce; modifying certain contracting ability;
22 implementing reporting requirements for certain
23 funds; creating processes for reclaiming lapsed
24 funds; providing an effective date; and declaring an
 emergency.

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

21 SECTION 1. SECTION 1. AMENDATORY 59 O.S. 2021,

22 Section 1000.2, is amended to read as follows:

23 Section 1000.2 A. The Construction Industries Board is hereby
24 re-created to continue until July 1, 2023, in accordance with the

1 provisions of the Oklahoma Sunset Law. The Board shall regulate the
2 plumbing, electrical and mechanical trades, the building and
3 construction inspectors, the home inspectors, and the roofing
4 contractors through the powers and duties set forth in the
5 Construction Industries Board Act and in the respective licensing or
6 registration acts for such trades, or as otherwise provided by law.

7 B. 1. Beginning July 1, 2013, the Board shall be composed of
8 seven (7) members appointed by the Governor with the advice and
9 consent of the Senate, as follows:

- 10 a. two members shall have at least ten (10) years'
11 experience in the plumbing trade, of which one shall
12 be a plumbing contractor and one shall be a journeyman
13 plumber,
- 14 b. two members shall have at least ten (10) years'
15 experience in the electrical trade, of which one shall
16 be an electrical contractor and one shall be a
17 journeyman electrician,
- 18 c. two members shall have at least ten (10) years'
19 experience in the mechanical trade, of which one shall
20 be a mechanical contractor and one shall be a
21 mechanical journeyman, and
- 22 d. one member shall have at least ten (10) years'
23 experience as a building and construction inspector.

1 2. Members shall be appointed for staggered terms of four (4)
2 years, as designated by the Governor. Members shall continue in
3 office until a successor is appointed by the Governor. The Governor
4 shall fill all vacancies and unexpired terms in the same manner as
5 the original appointment of the member whose position is to be
6 filled. A member may be removed by the Governor at any time.

7 SECTION 2. AMENDATORY 59 O.S. 2021, Section 1000.4, is
8 amended to read as follows:

9 Section 1000.4 A. 1. Pursuant to and in compliance with
10 Article I of the Administrative Procedures Act, the Construction
11 Industries Board shall have the power to adopt, amend, repeal, and
12 promulgate rules as may be necessary to regulate the plumbing,
13 electrical and mechanical trades, building and construction
14 inspectors and home inspectors. All rules promulgated by the Board
15 shall be reviewed and approved as provided in subsection F of
16 Section 308 of Title 75 of the Oklahoma Statutes.

17 2. The Board shall have the power to enforce the provisions of
18 the Construction Industries Board Act, The Plumbing License Law of
19 1955, the Oklahoma Inspectors Act, the Electrical License Act, the
20 Mechanical Licensing Act, the Home Inspection Licensing Act, and the
21 Roofing Contractor Registration Act, as provided in the respective
22 acts.

23 B. The Board shall have the following powers:
24

1 1. Exercise all incidental powers and duties which are
2 necessary to effectuate the provisions of The Plumbing License Law
3 of 1955, the Oklahoma Inspectors Act, the Electrical License Act,
4 the Mechanical Licensing Act, ~~and~~ the Home Inspection Licensing Act,
5 and the Roofing Contractor Registration Act, including but not
6 limited to authorizing the Board chair, vice-chair, administrator,
7 or designee to determine good reason for and to cancel a scheduled
8 meeting or reschedule meetings of a licensing or registration act
9 advisory examining committee of the Board pursuant to state
10 requirements; such canceling or rescheduling meetings authority
11 provided for in this section shall supersede all other meeting
12 scheduling requirements for acts administer by the Board;

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
24

1 Licensing Act, ~~and~~ the Home Inspection Licensing Act, and the
2 Roofing Contractor Registration 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, the Home Inspection Licensing Act, or the Roofing
13 Contractor Registration 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
24

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, if not already
17 available online, shall be delivered to the chairs of the respective
18 Senate and House of Representatives Committees having authority over
19 matters relating to business, labor and construction industry
20 licensing or regulation 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~~ ninety (90) days from ~~in~~ which it was imposed. The
5 Construction Industries Administrator shall present to the Board a
6 written recommendation and summary for each case in which an
7 assessment of a fine, penalty or fee was imposed after
8 administrative proceedings. The Board shall consider the
9 recommendations for each case at the next meeting date and at such
10 meeting shall either vote to affirm the recommendations or vote to
11 deny the recommendations and remand the case for further
12 administrative hearing, with or without instructions. No
13 administrative case shall be delayed or continued by the Board after
14 being placed on an agenda for final Board review, except with the
15 consent of all parties. The licensee or persons affected by the
16 imposition of an administrative fine, penalty or fee on final review
17 by the Board shall have all rights of appeal preserved pursuant to
18 the Administrative Procedures Act until final 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 3. AMENDATORY 59 O.S. 2021, Section 1000.4a, is
5 amended to read as follows:

6 Section 1000.4a A. The Construction Industries Board shall
7 have the additional powers to:

8 1. Receive and convey information relating to the skilled
9 trades regulated by the Construction Industries Board including, but
10 not limited to, workforce development; and

11 2. Enter into contracts with the Oklahoma Department of Career
12 and Technology Education ~~for~~ or any Oklahoma State Board of Career
13 and Technology fully accredited vocational or technical school or
14 system of education institution in the State of Oklahoma receiving
15 state appropriations and offering programs in secondary and
16 postsecondary instruction that provide electrical, mechanical,
17 plumbing or roofing trade coursework for any of the following
18 purposes, or combination thereof:

19 a. developing and implementing instructional courses on
20 Oklahoma statutes and rules that govern the
21 electrical, mechanical, plumbing and roofing trades,
22 which courses can be in conjunction with instruction
23 in performing trade work or instruction on statewide-
24 adopted trade codes, or both, for the advancement of

1 the electrical, mechanical, plumbing and roofing
2 trades, or

- 3 b. developing and implementing a workforce development
4 program that will create interest in the pursuit of a
5 skilled trade career. The workforce development
6 program may consist of, but is not limited to, use of
7 the Internet, community and school presentations, and
8 research and instruction on the electrical,
9 mechanical, plumbing and roofing trades.

10 B. All contracts ~~with the Oklahoma Department of Career and~~
11 ~~Technology Education~~ pursuant to this section shall be approved by
12 the Construction Industries Board in accordance with the Oklahoma
13 Open Meeting Act. Costs of the contracts ~~with the Oklahoma~~
14 ~~Department of Career and Technology Education~~ for education and
15 workforce development programs shall be paid from the Skilled Trade
16 Education and Workforce Development Fund established herein and
17 funded by administrative fines or penalties as described in this
18 section. Applications for proposals are to be submitted to the
19 Board on forms provided requiring sufficient justification and
20 information to evaluate costs, return on investment, value, and
21 viability of the proposal. Any contracts will include the
22 requirement that the recipient of the funds will upon the completion
23 of the contract provide a written report to the Board providing an
24 accounting of expenditures, describing an explanation of the funds

1 used for the services provided and the success of outreach
2 demonstrating a return on the investment including, but not limited
3 to, an accounting of accomplishments.

4 C. Fines or penalties collected by the Board and deposited in
5 the Oklahoma Mechanical Licensing Revolving Fund, the Electrical
6 Revolving Fund, the Plumbing Licensing Revolving Fund and the
7 Roofing Contractor Registration Revolving Fund may be transferred to
8 the Skilled Trade Education and Workforce Development Fund created
9 in subsection E of this section for the following purposes:

10 1. To develop instructional materials on Oklahoma laws,
11 statutes and rules, as they relate to the plumbing, mechanical,
12 electrical and roofing trades and state licensing standards;

13 2. To cover the cost of equipment, materials, personnel and any
14 other costs of developing and implementing the trade curriculum; and

15 3. To cover the cost of equipment, materials, personnel and any
16 other costs of developing and implementing the workforce development
17 program used to promote the plumbing, mechanical, electrical and
18 roofing trades as a career in Oklahoma.

19 D. The Skilled Trade Education and Workforce Development Fund
20 monies shall be used only for the advancement of trade-related
21 education and workforce development, and only if available based
22 upon statutory limitations.

23 E. 1. There is hereby created in the State Treasury a
24 revolving fund for the Construction Industries Board to be

1 designated the "Skilled Trade Education and Workforce Development
2 Fund". The fund shall be a continuing fund, not subject to fiscal
3 year limitations. The fund shall consist of an annual transfer of
4 fully adjudicated fine revenue received in the Oklahoma Mechanical
5 Licensing Revolving Fund, Electrical Revolving Fund, Plumbing
6 Licensing Revolving Fund or Roofing Contractor Registration
7 Revolving Fund as determined pursuant to this section. Funds may be
8 transferred only from the prior fiscal year.

9 2. If actual receipts, not including fine receipts, exceed
10 actual expenses and outstanding encumbrances, then one hundred
11 percent (100%) of all fully adjudicated fine revenue received shall
12 be transferred from each specific trade revolving fund: the
13 Oklahoma Mechanical Licensing Revolving Fund, Electrical Revolving
14 Fund, Plumbing Licensing Revolving Fund or Roofing Contractor
15 Registration Revolving Fund.

16 3. If at any time the receipts in the Oklahoma Mechanical
17 Licensing Revolving Fund, Electrical Revolving Fund, Plumbing
18 Licensing Revolving Fund or Roofing Contractor Registration
19 Revolving Fund, not including fine receipts, are less than actual
20 expenses and outstanding encumbrances, then the difference of fine
21 receipts over actual expenses and outstanding encumbrances, if any,
22 shall be transferred.

23 4. If at any time the annual receipts in the Oklahoma
24 Mechanical Licensing Revolving Fund, Electrical Revolving Fund,

1 Plumbing Licensing Revolving Fund or Roofing Contractor Registration
2 Revolving Fund, including fine receipts, are less than the actual
3 expenses and outstanding encumbrances, there shall be no transfer of
4 funds for that period.

5 5. All monies accruing to the credit of the Skilled Trade
6 Education and Workforce Development Fund may be budgeted and
7 expended by the Construction Industries Board for workforce
8 development as it relates to the skilled trades and to contract for
9 the services identified in ~~Section 1000.4 of Title 59 of the~~
10 ~~Oklahoma Statutes or~~ this act. Expenditures from the fund shall be
11 made upon warrants issued by the State Treasurer against claims
12 filed as prescribed by law with the Director of the Office of
13 Management and Enterprise Services for approval and payment.

14 6. All unexpected or outstanding Skilled Trade Education and
15 Workforce Development Funds from any written agreement where work or
16 services have not been previously approved by specific quote or cost
17 estimate and have not been performed within eighteen (18) months of
18 the date the agreement was signed are hereby released from the
19 agreement and are available for future agreements approved by the
20 Board pursuant to this act, except for specific quotes, estimates,
21 or invoices that previously have been approved for payment,
22 performance has been initiated, and completed within twenty-four
23 (24) months of the signed agreement.

24 SECTION 4. This act shall become effective July 1, 2023.

SECTION 5. It being immediately necessary for the preservation of the public peace, health or 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.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated 02/16/2023 - DO PASS, As Coauthored.