



H.B. 396

125th General Assembly
(As Introduced)

Reps. McGregor, Jerse, Widener

BILL SUMMARY

- Changes the name of the Ohio Construction Industry Examining Board to the Ohio Construction Industry Licensing Board.
- Requires the Board to license contractors for roofing, fire and burglar alarms, low voltage electrical contracting using 50 volts or less, traffic signal lighting, pre-fabricated fireplaces, gas piping systems, water softeners, backflow testing, and any area of construction that is reasonably related to an existing section of the Board.
- "Grandfathers" contractors currently working in newly licensed areas.
- Expands the membership of the Licensing Board to 22 members by adding a roofing section.
- Requires the secretary of the Licensing Board to post specified license information on the Internet.
- Modifies the current prohibition against aliens and felons receiving a Board-issued license.
- Requires that a license be assigned to a business entity or, if a person is not employed by a business entity, to request inactive status for the license.
- Modifies and possibly expands the licensing authority of counties and municipal corporations.
- Changes definitions related to "contractor," "specialty contractor," "licensed trade," and "construction project."

- Removes responsibility for setting standards for fire fighting equipment from the State Fire Marshal and assigns that responsibility to the Board of Building Standards.
- Transfers authority for issuing licenses for installing, testing, and repairing specified fire fighting equipment from the State Fire Marshal to the Licensing Board.

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CONTENT AND OPERATION

County licensing authority

Current law authorizes a board of county commissioners to establish standards and provide for the licensing of electrical contractors and heating, ventilating, and air conditioning contractors who perform work only on residential buildings. The bill instead authorizes a board of county commissioners to establish standards and provide for the licensing of contractors who are not required to hold a contractor's license under the Construction Industry Licensing Law (R.C. Chapter 4740.). This provision seems to allow boards of county commissioners to regulate additional types of contractors other than only residential electrical contractors and residential heating, ventilating, and air conditioning contractors, as under existing law. (Sec. 307.382(A).)

Existing law specifies that the authority of a board of county commissioners to establish standards and provide for the licensing of electronic and heating, ventilating, and air conditioning contractors does not impair or restrict the power of municipal corporations under the Municipal Home Rule Law (Section 3, Article XVIII, Ohio Constitution), to adopt rules concerning the erection, construction, repair, alteration, and maintenance of buildings and structures or of establishing standards and providing for the licensing of residential heating, ventilating, and air conditioning contractors, refrigeration contractors, electrical contractors, plumbing contractors, or hydronics contractors. The bill eliminates this provision, the effect of which is uncertain. (Sec. 3781.102(B).)

Municipal corporation licensing powers

Under continuing law, municipal corporations have the option to license specified contractors and contractors who are not required to hold a valid license issued pursuant to Chapter 4740. of the Revised Code. Existing law *permits* a municipal corporation to require a contractor to register with the municipal corporation and pay a fee for that registration. The bill *requires* a municipal corporation to require any contractor it registers and that is performing a trade that is required to be licensed by the state pursuant to Chapter 4740. of the Revised Code to hold a license issued pursuant to Chapter 4740. as a condition of municipal corporation registration (Sec. 715.27(C)(1).)

Licensing for residential construction

Under continuing law, a municipal corporation *may* accept a license issued pursuant to Chapter 4740. of the Revised Code for licensing related to work on one-family, two-family, or three-family dwelling houses. The bill requires a municipal corporation to accept a valid license for purposes of satisfying the licensing requirement for work on these types of homes. (Sec. 715.27(E).)

Examining Board renamed Licensing Board

The bill changes the name of the Ohio Construction Industry Examining Board to the Ohio Construction Industry Licensing Board (hereinafter referred to as the "Licensing Board") and changes the name of the Construction Industry Examining Fund to the Construction Industry Licensing Fund. The Licensing Board is comprised of an administrative section and trade sections that have responsibilities, including examinations and licensing, relative to the construction trade contractors that each section serves. (Secs. 4740.02 and 4740.03.)

Changes in definitions

Contractor

Currently the Licensing Board licenses the following types of contractors: heating, ventilating, and air conditioning, refrigeration, electrical, plumbing, and hydronics. Existing law provides a separate definition of "contractor" for each licensed trade. The bill eliminates the separate definitions and instead simply defines "contractor" in a similar manner as under current law but without reference to a specific trade. (Sec. 4740.01(B).)

Licensed trade

The bill newly defines "licensed trade," with reference to the current definition of "contractor," as a trade performed by a contractor in the various enumerated trades and any other trades that Chapter 4740. of the Revised Code licenses. (Sec. 4740.01(C).)

Construction project

The bill expands the definition of a "construction project" to include the improvement, renovation, repair, or maintenance of a building or structure. (Sec. 4740.01(E).)

Specialty contractors

Under existing law, municipal corporations and boards of county commissioners have authority to register and test "specialty contractors." The term is defined as a "heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor." The specified contractors are those presently licensed pursuant to Chapter 4740. of the Revised Code. The bill eliminates the term "specialty contractor" and instead uses the phrase "contractor licensed pursuant to Chapter 4740. of the Revised Code." This appears to have the effect of providing a general description for the new areas of contractor licensure receiving and affording to all the same treatment under the bill as the types of contractors currently referred to as "specialty contractors." (Secs. 715.27(F) and 3781.102(H).)

New areas of licensure

Roofing contractor

The bill specifically requires that the Licensing Board license "roofing contractors" defined as "a contractor . . . who installs and repairs roofs and decks on residential, commercial, and industrial structures using materials that form water-tight and weather-resistant surfaces, including but not limited to cedar, cement fiber, and composition shingles, all types of metal coverings, wood shakes, slate, metal, and clay shingles, and other applications of protective and reflective roof and deck coatings, sheet metal valleys, flashings, gravel stops, butters and downspouts, and bituminous waterproofing." (Sec. 4740.01(F).)

Additional new licensure areas

The bill grants permissive authority to the Licensing Board to adopt rules under which the Board may issue licenses for any area of construction that is reasonably related to an existing section of the Board. The bill prohibits the Board from issuing licenses for the installation of landscape lighting and irrigation. (Sec. 4740.011(A).)

Under current law, "electrical contracting" does not include work on specified systems using less than 50 volts of electricity. The bill eliminates the exception, and instead, directs the electrical section to issue licenses for low voltage electrical contracting using 50 volts or less. In addition, the bill expands the authority of several sections by requiring that they issue the following licenses in addition to the licenses they currently issue. (Sec. 4740.011(A).)

Electrical section: Fire and burglar alarm installation; low voltage electrical contracting using 50 volts or less; installation of traffic signal lighting.

Mechanical section: Installation of pre-fabricated fireplaces gas piping, including but not limited to propane.

Plumbing section: Installation of water softeners; backflow testing.

Backflow contractors

The plumbing section of the Licensing Board must issue a backflow license to any person who, on the bill's effective date, holds a valid "backflow certificate" in Ohio and who submits an application and pays the fees as the section prescribes. No person who does not hold a valid backflow certificate on the bill's effective date is eligible for licensure pursuant to this section. (Section 4.)

Other new areas of licensure

For the licenses the bill establishes other than backflow contracting licenses, the appropriate section of the Licensing Board is required to issue a license to any individual who does (or meets) all of the following requirements:

- (1) Applies to the section within 180 days of the effective date of the section;
- (2) Pays a fee of \$40;
- (3) Has been actively engaged in the specific trade in Ohio for at least three consecutive years immediately prior to the effective date of the section;
- (4) Furnishes business records, including but not limited to contracts, permits, inspection reports, or other evidence verifying experience to the satisfaction of the section;
- (5) Provides evidence of current contractor's liability insurance including complete operations coverage in the amount of \$500,000, except that any applicant affiliated with a business that has more than one applicant or license holder need only provide evidence of the total amount of \$500,000;
- (6) Provides evidence of current compliance with workers' compensation coverage and any other applicable legal requirement to do business in Ohio as the administrative section of the Board determines.

Licensing requirement for hydronics contractors

The bill specifies that hydronics contractors must pass the examinations that both the heating, ventilating, and air conditioning section and the plumbing sections administer. (Sec. 4740.04(C).)

Grandfathering of persons currently working in the newly licensed area

The bill "grandfathers" persons who currently work in the newly licensed areas.¹

Changes in Board composition

The Licensing Board currently consists of three sections of five members each, as well as a member representing the public and the Director of Commerce or the Director's designee. The members are appointed by the Director of Commerce. The bill increases the size of the Licensing Board from 17 to 22 members by adding a roofing section that consists of five members. The bill requires that one of the members of the roofing section be employed by a state or local certified building department, that two be roofing contractors who are "not affiliated with any union," and two are roofing contractors who are signatories to agreements with unions. The bill specifies the initial terms of the members and the continuing terms which, as for the other sections, are for three years. The bill instructs the Director of Commerce to appoint the five members of the roofing section no later than July 31, 2004. (Sec. 4740.02 (E); Section 3.)

Posting on the Internet

The bill requires the secretary of the Licensing Board to post all of the following on the Internet for each license within seven days after the license is issued: the name of the license holder, the company to which the license is assigned or an indication that the license is in escrow, the license number, and the contractor number. The first posting is required not later than 90 days after the bill's effective date. (Sec. 4740.03(B)(2).)

Uniform rules

The bill directs the administrative section to adopt uniform rules to govern the activities of the other sections. The administrative section's rules control in any conflict with the rules of another section. (Sec. 4740.03(E).)

Continuing education

Under continuing law, each section of the Licensing Board is responsible for adopting rules in accordance with the Administrative Procedure Act that

¹ "Grandfathering" is a slang expression, often used in connection with occupational licensing statutes, for allowing persons already working in an occupation to receive the new license without having to meet the one or more of the education or experience requirements that a statute may impose.

specifies continuing education requirements for license renewal. The bill modifies the requirements by requiring a section's rules, in addition to current requirements, be subject to the following new requirements (sec. 4740.05(A)(2)(b)):

(1) That a section may require an individual to complete ten hours of coursework during each year with the provision that a person may carry over excess credits earned during one year into the next year;

(2) That not less than ten hours during a three-year period be trade specific as the section determines;

(3) That an individual may receive up to ten hours of credit in a single day;

(4) That individuals who hold multiple licenses complete the continuing education requirements for courses that focus on the trade specific curriculum only, as each section determines, applicable to the specific trade for each section in which the individual holds a license;

(5) That the credit an individual earns for non-trade specific courses in one section be credited to the non-trade specific requirements for all licenses the individual holds.

Providing continuing education classes

The bill requires persons seeking approval to provide continuing education courses to submit information regarding the courses to the appropriate section of the Licensing Board not less than 30, instead of 90 days prior to offering the course. The bill clarifies that the fee that can be charged is \$10 plus an additional \$1 per credit hour per attendee, to be paid after the event at the time each attendee's credit is certified. (Sec. 4740.05(A)(2)(c).)

License bond

The bill requires each section of the Licensing Board to provide and maintain a single-license bond for each contractor to which a license is assigned, not to exceed \$25,000. The bond is to be conditioned upon the contractor completing construction and correcting any physical damage to public property or infrastructure, for which the sole beneficiary or obligee of any default payment is the public authority, to correct any noncompliance specific to the default. Any certified county or municipal building department may require as part of local license registration that it be informed of any change in status of the license, bond, or proof of insurance. (Sec. 4740.05(E).)

The bill directs the Licensing Board to adopt rules in accordance with the Administrative Procedure Act to provide appropriate terms for the license bond



and to provide procedures under which the current status of any license, bond, and proof of insurance, including self-insurance, is available to the public and to inspecting authorities. (Sec. 4740.05(F).)

Legal aliens and examination

A current licensure requirement by the Ohio Construction Industry Licensing Board is U.S. citizenship. The bill allows a legal alien to take the licensing examination if the person produces valid documentation to demonstrate the individual is a legal permanent resident of Ohio. (Sec. 4740.06(B)(2).)

Felony conviction and examination

Current law prohibits a person from taking a licensing examination if the person has been convicted of or pleaded guilty to a misdemeanor involving moral turpitude or any felony. The bill limits the application of the prohibition to a felony conviction that is within the ten years prior to the date of application for the examination. It also allows the Licensing Board, notwithstanding the aforesaid ten-year felony conviction bar, in its discretion, to grant a license to a convicted felon if the individual demonstrates to the Licensing Board's satisfaction that granting a license to the individual will not jeopardize the safety of the public. (Sec. 4740.06(B)(5)(a).) (See also section "**Revocation of a license**" that discusses similar modifications to the penalties that may apply to a contractor who is already licensed and who incurs a conviction.)

Inactive status

Under current law, a person could request the section of the Licensing Board that authorized the license to place it in inactive status under conditions and for a period of time as the Licensing Board determines. The bill eliminates the permissive nature of requesting inactive status and requires that a person who is not employed by a contractor business entity request the action. (Sec. 4740.06(E).)

Not limit municipal authority

The bill specifies that no license the Licensing Board issues be construed to limit or eliminate any license or requirement for any license a municipal corporation issues for a journeyman or tradesperson. (Sec. 4740.06(F).)

Assigned licenses

Under current law, a person applying for a license may request that it be assigned to a business entity. The bill requires that a person request that the license be assigned to a business entity with which the individual is associated as a

full-time officer, proprietor, partner, or employee, and that the Licensing Board assign that entity a single contractor number. (Sec. 4740.07(B).)

Display information

The bill requires that a contractor who is issued a license display the following:

(1) A copy of the license in a conspicuous place in each office or place of business;

(2) The contractor number on any vehicles associated with the business to which the license is assigned;

(3) The contractor number on any item associated with the contracting business, including business cards, advertisements, web sites, and promotional materials. (Sec. 4740.07(I).)

Fees

The bill establishes new fees for licensure and renewal. The fees, subject to Controlling Board approval, for license examinations, certificates, and renewals are:

\$25 for the examination for each license;

\$25 for the issuance of each certificate of licensure;

\$40 for the annual renewal of each license. (Sec. 4740.09.)

Revocation of a license

Existing law specifies findings under which the appropriate section of the Licensing Board to suspend or revoke a license or direct the administrative section to refuse to issue or renew a license. One reason is if the person has been convicted of a misdemeanor involving moral turpitude or a felony. The bill modifies this reason by limiting the conviction to the ten years prior to the date of application. Further, under the bill, notwithstanding a conviction, the Licensing Board may grant a license if the individual demonstrates to the Licensing Board's satisfaction that the safety of the public is not jeopardized if it grants the license. (Sec. 4740.10(A).)

Levy fines

The bill extends the powers of the Licensing Board sections by enabling each appropriate section to levy a civil fine of not more than \$500 against any

individual or business who violates the Chapter 4740. of the Revised Code and the rules adopted pursuant to it. (Sec. 4740.10(C).)

Register license for public project

The bill requires the legislative body of a municipal corporation, a board of township trustees, or a board of county commissioners to require a contractor to register a license prior to bidding on any public project the political entity awards, and may not require any other license or permit. (Sec. 4740.13).

Wiring incidental to licensed work

Under current law, a licensed contractor may install, service, and maintain the related or interfaced control wiring for equipment and devices related to their license if the wiring is less than 25 volts. The bill imposes the further qualification that the equipment and devices be "incidental to the licensed work" in order to fall under the exception. (Sec. 4740.13(C).)

Duties assigned to Licensing Board from State Fire Marshal

Fire protection equipment standards

Under current law, a person is prohibited from selling fire protection and fire fighting equipment that does not meet minimum standards the State Fire Marshal establishes in the State Fire Code. The bill eliminates the reference to the State Fire Code, eliminates the State Fire Marshal's responsibility, and assigns the duty of establishing standards to the Board of Building Standards. (Sec. 3737.65(A).)

Certificate to test, repair, and install fire fighting equipment

The authority to issue a certificate and provisional certificates for testing, repairing, and installing fire protection or fire fighting equipment, other than mobile fire trucks, is removed from the State Fire Marshal and given to the Ohio Construction Industry Licensing Board. (Sec. 3737.65(B) and (C).)

Continuing law permits a person issued a provisional certificate for servicing, testing, repairing, or installing fire protection or fire fighting equipment if the person is enrolled in an apprenticeship program and is directly supervised by a certificate holder who supervises only one person. The bill eliminates the specific requirement that the supervising individual have a certificate for the activities in which the apprentice is engaged and simply requires the person hold a valid certificate issued as the bill prescribes. (Sec. 3737.65(C).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-03-04	p. 1593

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