



Ohio Legislative Service Commission

Bill Analysis

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(As Introduced)

Reps. Stewart and Foley, Domenick, Hagan, Harris, Murray, Okey, B. Williams, Yuko

BILL SUMMARY

- Specifies that the requirements for elevator construction and inspection specified in the Elevator Law apply only to nonresidential elevators.
- Modifies the types of rules that the Board of Building Standards and the Superintendent of Industrial Compliance¹ must adopt regarding elevators and elevator inspectors.
- Permits the Superintendent and each general inspector to enter any nonresidential building or room within that building during all reasonable hours to perform an examination or inspection of a nonresidential elevator.
- Specifies that failure to grant the Superintendent or an inspector access to an elevator under specified conditions may be grounds for an adjudication order.
- Removes the power of the Board to classify specified types of elevators to allow such elevators to be inspected only once every 12 months, with the result that those elevators must be inspected twice every 12 months.
- Removes the exception for vertical wheelchair lifts from having to meet the literal safety requirements specified for elevators.
- Requires a copy of a permit to erect or repair a nonresidential elevator to be posted at the work site at all times while work is in progress.

¹ The Superintendent of Industrial Compliance was renamed the Superintendent of Labor in Am. Sub. H.B. 1 of the 128th General Assembly.

- Requires certificates of operation to be kept on the premises where the nonresidential elevator is located and made readily available to inspectors and elevator mechanics.
- Specifies reasons that the Superintendent may revoke a permit to erect or repair an elevator.
- Allows the Superintendent, with the consent of the Director of Commerce, to employ a chief elevator inspector, rather than an assistant under current law, who satisfies the qualifications specified in continuing law and the bill.
- Prohibits any person from acting or claiming to be an elevator contractor or elevator mechanic unless that person holds a license issued by the Ohio Construction Industry Licensing Board (OCILB).
- Creates the Elevator Section in the OCILB Law to license elevator contractors and elevator mechanics.
- Specifies requirements an individual must satisfy to receive a license as an elevator contractor or elevator mechanic.
- Requires the Elevator Section to direct the Administrative Section of the OCILB to issue a license to or renew a license held by an individual who satisfies the bill's requirements.
- Establishes criteria for the issuance of temporary elevator mechanic licenses and temporary emergency elevator mechanic licenses.
- Imposes on the Elevator Section the same duty as the other trade sections of the OCILB to establish continuing education requirements for licensed elevator contractors and elevator mechanics.
- Subjects licensed elevator contractors and elevator mechanics to the same disciplinary actions for the same reasons as other licensees licensed under the OCILB Law.
- Does not allow an individual who applies for or holds a license as an elevator mechanic, temporary emergency elevator mechanic, or a temporary elevator mechanic to assign the individual's license, unlike other individuals licensed under the OCILB Law.
- Specifies that a licensed elevator contractor cannot use the elevator contractor's liability insurance policy to cover an elevator mechanic who performs work on an

elevator unless the elevator mechanic is performing those activities as an employee of the elevator contractor.

- Expands the current law requirements specified for a political subdivision, district, or agency of the state when adopting an ordinance or rule that requires contractor registration and the assessment of a registration or license fee to include elevator contractors and elevator mechanics.

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CONTENT AND OPERATION

Overview of the Elevator Law

Under current law, "elevator" means a hoisting and lowering apparatus equipped with a car, cage, or platform that moves on or between permanent rails or guides and serves two or more fixed landings in a building or structure that is subject to the Ohio Commercial Building Code or the Ohio Residential Building Code and

includes dumb-waiters other than hand-powered dumb-waiters, escalators, manlifts, moving walks of the endless belt type, other lifting or lowering apparatus permanently installed on or between rails or guides, and all equipment, machinery, and construction related to any elevator. "Elevator" does not include construction hoists and other similar temporary lifting or lowering apparatuses, ski lifts, traveling, portable amusement rides or devices that are not affixed to a permanent foundation, or nonportable amusement rides or devices that are affixed to a permanent foundation. (R.C. 4105.01(A).)

The bill makes the following modifications to the definition of "elevator":

- It eliminates the reference to the Ohio Commercial and Residential Building Codes.
- It removes the requirement that moving walks must be of endless belt type.
- It specifies that manlifts must be *belt* manlifts.
- In the exclusion for portable amusement rides or devices that are not affixed to a permanent foundation, it removes the requirement that the ride or device also be *traveling*.
- It specifies that, to be an excluded type of construction hoist, the hoist must be a *material* hoist.
- It excludes a conveyor belt used for manufacturing that is located within a larger machine. (R.C. 4105.01(A).)

The bill limits the application and enforcement of the Elevator Law to nonresidential elevators, which the bill defines as an elevator located in a nonresidential building.² The bill also specifically limits the application of the requirements specified in the Elevator Law (R.C. Chapter 4105.) for passenger, freight, or gravity elevators, escalators, moving walks, and other specified types of equipment to those elevators, escalators, moving walks, and equipment located in nonresidential buildings. The bill changes references to "elevator" to "nonresidential elevator" throughout the Elevator Law. (R.C. 4105.01(I), 4105.011, 4105.02 to 4105.04, 4105.07 to 4105.17, 4105.191, 4105.20, and 4105.21.)

² "Nonresidential building" means any building that is not a residential building or a manufactured or mobile home (R.C. 4105.01(J) by reference to R.C. 3781.06, not in the bill).

Rule adoption under the Elevator Law

Currently, the Board of Building Standards adopts safety rules, prescribes tests, and establishes other standards for elevators and inspectors under the Elevator Law (R.C. 4105.011). Under continuing law, the Superintendent of Industrial Compliance in the Department of Commerce (Superintendent)³ enforces the Elevator Law (R.C. 4105.21).

Rules adopted by the Board of Building Standards

Under current law, the Board must do all of the following:

(1) Formulate and adopt rules governing the design, construction, repair, alteration, and maintenance of nonresidential elevators (changed from elevators under current law) in accordance with continuing law;

(2) Prescribe the tests that must be used to ascertain the qualities of materials used in the construction, repair, or alteration of elevators;

(3) Make a standard form of certificate of inspection;

(4) Prescribe the examinations for certificates of competency provided for inspectors of nonresidential elevators. (R.C. 4105.011.)

For purposes of (1) above, under current law the Board is permitted to adopt existing published standards as well as amendments thereto subsequently published by the same authority. (R.C. 4105.011(A).)

The bill eliminates (2) and (3) above and specifically allows the Board to adopt other rules in accordance with the Administrative Procedure Act necessary to carry out the Elevator Law. The bill also requires, rather than permits under current law, the Board to adopt existing published standards as well as amendments thereto subsequently published by the same authority. (R.C. 4105.011.)

Rules adopted by the Superintendent

The Superintendent must adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for the conduct of hearings related to these actions, and for the inspection of elevators. The bill limits the application of the Superintendent's rules to nonresidential elevators and requires that the rules concerning the inspection of

³ The Superintendent of Industrial Compliance was renamed the Superintendent of Labor in Am. Sub. H.B. 1 of the 128th General Assembly.

nonresidential elevators include the standards governing the inspection of nonresidential elevators. (R.C. 4105.12.)

Inspection of nonresidential elevators

As discussed under "**Rule adoption under the Elevator Law**" above, the Superintendent enforces the Elevator Law (R.C. 4105.21). Under continuing law, the Superintendent employs general inspectors of nonresidential elevators (changed from elevators under current law) to inspect nonresidential elevators. A company authorized to insure elevators may designate an inspector of nonresidential elevators from the holders of certificate in competency in nonresidential elevators to inspect nonresidential elevators covered by the company's insurance policies. Additionally, a city department of public safety or a village clerk may designate an inspector of nonresidential elevators from the holders of certificate in competency in nonresidential elevators to inspect nonresidential elevators in the city or village. Such investigators are referred to as special inspectors. (R.C. 4105.01(F), 4105.03, 4105.04, and 4105.07.)

The bill specifically requires the Superintendent to enforce the provisions of the Elevator Law that govern nonresidential elevators (R.C. 4105.21). The bill permits the Superintendent and each general inspector to enter any nonresidential building or room within that building during all reasonable hours to perform an examination or inspection of a nonresidential elevator. If an owner or operator fails to allow an inspector access to a nonresidential elevator for purposes of inspection, that failure may be grounds for issuance of an adjudication order in accordance with the Administrative Procedure Act. (R.C. 4105.03 and 4105.11.)

Under continuing law, if the Superintendent or a general inspector of nonresidential elevators finds that a nonresidential elevator or a part thereof does not afford reasonable safety as required, the Superintendent or the general inspector may seal the nonresidential elevator and post a notice on it prohibiting further use of that nonresidential elevator until the changes or alterations set forth in the notice have been made to the Superintendent's or inspector's satisfaction. The bill adds that if an owner or an operator of a nonresidential elevator fails to provide access to the Superintendent or a general inspector to that nonresidential elevator, that failure may be considered grounds to determine that that nonresidential elevator does not afford reasonable safety as required under continuing law. (R.C. 4105.21.)

Nonresidential elevator inspection requirements

Under continuing law, every passenger elevator, escalator, moving walk, and freight elevator, including gravity elevators, must be inspected twice every 12 months. Current law allows the Board to designate by rule, classifications of passenger elevators

with a capacity of 750 pounds or less that must be inspected once every 12 months. (R.C. 4105.10(A) and (C).) The bill limits these inspection requirements to elevators, escalators, and moving walks located in nonresidential buildings. Additionally, the bill eliminates the Board's power to designate classifications of passenger elevators that must be inspected once every 12 months, thus requiring those elevators to be inspected twice every 12 months. Finally, under continuing law, all power dumb-waiters, hoists, and other lifting or lowering apparatus, not designed to carry persons, permanently installed, either on or between rails or guides, must be inspected at least once every 12 months. The bill similarly limits these inspections to apparatus located in a nonresidential building. (R.C. 4105.10.)

Continuing law requires every nonresidential elevator (changed from elevator under current law) to be constructed, equipped, maintained, and operated, with respect to the supporting members, elevator car, shaftways, guides, cables, doors, and gates, safety stops and mechanism, electrical apparatus and wiring, mechanical apparatus, counterweights, and all other appurtenances, in accordance with the state laws and rules as are authorized in respect thereto. Continuing law specifies that, where reasonable safety is obtained without complying to the literal requirements of those rules as in cases of practical difficulty or unnecessary hardship, the literal requirements of the rules are not required. Current law specifically allows the Superintendent to permit the installation of vertical wheelchair lifts in public buildings to provide for handicapped accessibility where the lifts do not meet the literal requirements of the rules adopted by the Board, provided that reasonable safety may be obtained; the bill eliminates the specific exception for vertical wheelchair lifts. (R.C. 4105.13.)

Permits to install elevators

Before any new installation of a nonresidential elevator (changed from elevator under current law) of permanent nature is erected or before any existing nonresidential elevator is removed to and installed in a different location, current law requires an application of specifications in duplicate to be submitted to the Division of Industrial Compliance giving such information concerning the construction, installation, and operation of the nonresidential elevator as the Division may require on forms to be furnished by the Division, together with complete construction plans in duplicate. Continuing law also requires changes in those plans to be submitted to the Division or the appropriate municipal corporation, as applicable. Upon approval of the application and construction plans, the Superintendent must issue a permit for the erection or repair of the nonresidential elevator. (R.C. 4105.16.)

The bill specifically requires an elevator contractor⁴ to submit the application of specifications to the Superintendent, rather than to the Division as under current law. Under the bill, a copy of the permit to erect or repair a nonresidential elevator must be posted at the work site at all times while work is in progress. (R.C. 4105.16(A).)

Under the bill, the Superintendent may revoke a permit issued to erect or repair a nonresidential elevator for any of the following reasons:

- When any false statement or misrepresentation as to a material fact is made regarding the application, plans, or specifications on which the permit is based;
- When the permit is issued in error and should not have been issued in accordance with the Elevator Law;
- When the work detailed under the permit is not being performed in accordance with the provisions of the application, plans, or specifications, or within the conditions of the permit;
- When the elevator contractor to whom the permit is issued fails or refuses to comply with the requirements of a notice related to a sealed nonresidential elevator described under "**Inspection of nonresidential elevators**" above. (R.C. 4105.16(C).)

Certificates of operation

Continuing law prohibits the Director of Commerce from issuing a certificate of operation for any nonresidential elevator (changed from elevator under current law) until the nonresidential elevator has been inspected as required in the Elevator Law. The bill requires certificates of operation to be kept on the premises where the nonresidential elevator is located and made readily available to inspectors and elevator mechanics. (R.C. 4105.15.)

Compliance with the Elevator Law

Current law prohibits any person from violating any law relative to the operation, construction, maintenance, and repair of elevators. Whoever violates this

⁴ The bill defines an elevator contractor, for purposes of the Elevator Law, as any sole proprietor, firm, or corporation, including any form of limited liability organization, that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators and that is licensed by the Ohio Construction Industry Licensing Board pursuant to the bill (R.C. 4105.01(H) and 4740.06).

prohibition may be fined not more than \$200, and for each subsequent offense the person may be fined not more than \$1,000. All fines collected for violation of this prohibition must be forwarded to the Superintendent, who must pay them into the state treasury to the credit of the Industrial Compliance Operating Fund. The bill limits the application of this prohibition to the operation, construction, maintenance, and repair of *nonresidential* elevators. (R.C. 4105.20 and 4105.99, not in the bill.)

Chief elevator inspector

Under current law, the Superintendent, with the Director's consent, must hire an assistant who has at least ten years of experience in the construction, installation, maintenance, and repair of elevators and their appurtenances (R.C. 4105.03).

Under the bill, the Superintendent must hire, with the Director's consent, a chief elevator inspector instead of an assistant. Unlike the assistant hired under current law, the chief elevator inspector is not required to have at least ten years of experience, but the chief elevator inspector must have experience in the inspection of nonresidential elevators in addition to experience in the construction, installation, maintenance, and repair of nonresidential elevators and their appurtenances. (R.C. 4105.03.)

Licensure of elevator contractors and mechanics

Currently, elevator contractors and elevator mechanics are not licensed. Beginning 18 months after the bill's effective date, the bill prohibits any person from acting as or claiming to be an elevator contractor or elevator mechanic unless that person holds a license issued by the Ohio Construction Industry Licensing Board (OCILB) pursuant to the bill (R.C. 4740.13(A)(2) and Section 3). Whoever violates this prohibition is guilty of a minor misdemeanor on the first violation and a fourth-degree misdemeanor on subsequent violations (R.C. 4740.99, not in the bill). The bill defines an "elevator contractor" as any sole proprietor, firm, or corporation, including any form of limited liability organization, that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators. An "elevator mechanic" is any individual who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators. (R.C. 4740.01(F) and (G).) Under the bill, an elevator helper or apprentice is not required to be licensed in order to perform work under the general supervision of an individual who holds a license as an elevator mechanic.⁵ (R.C. 4740.13(E).)

⁵ The bill defines "elevator helper or apprentice" as an individual who works under the general direction of a licensed elevator mechanic (R.C. 4740.01(H)).

The bill incorporates the licensing structure for elevator contractors and elevator mechanics into the OCILB Law (R.C. Chapter 4740.). Under that law, the OCILB, created within the Department of Commerce, licenses the following types of contractors: heating, ventilation, and air conditioning contractors, refrigeration contractors, electrical contractors, plumbing contractors, and hydronics contractors. The bill expands the definition of "license" under that law, to include a license the OCILB issues to an individual as an elevator contractor or elevator mechanic. A "licensed trade" in the OCILB Law is a trade performed by a heating, ventilating, and air conditioning contractor, a refrigeration contractor, an electrical contractor, a plumbing contractor, or a hydronics contractor. The bill expands the definition of "licensed trade" in the OCILB Law to include a trade performed by an elevator contractor or an elevator mechanic. (R.C. 4740.01(A) and (C).)

A "tradesperson," under that law, means an individual who is supervised or directed by a contractor or who is otherwise employed by a contractor and who engages in construction, improvement, renovation, repair, or maintenance of buildings or structures without assuming responsibility for the means, method, or manner of that construction, improvement, renovation, repair, or maintenance. Since tradespersons are not required to be licensed, and the bill requires elevator mechanics to be licensed, the bill excludes elevator mechanics from the definition of tradesperson. (R.C. 4740.01(D).)

The Elevator Section of the OCILB

Currently, the OCILB consists of 17 members that are separated into four sections: an administrative section, a plumbing and hydronics section, an electrical section, and a heating, ventilating, air conditioning, and refrigeration section. The members of the Plumbing and Hydronics Section, Electrical Section, and Heating, Ventilating, Air Conditioning, and Refrigeration Section are appointed by the Director of Commerce. The Administrative Section consists of the Director or the Director's designee, a member appointed by the Director to represent the public who is not a member of any group certified by any section of the OCILB, and a member representing each section, other than the Administrative Section, annually elected by that section to serve a one-year term on the Administrative Section. (R.C. 4740.02(A).)

The bill expands the OCILB to include an elevator section, which has the primary responsibility for the licensure of elevator contractors and elevator mechanics. The Elevator Section consists of five members, one of whom is the Superintendent or the Superintendent's designee. The Director must appoint the remaining four members: one must be an elevator mechanic, one must be a representative of a union representing elevator mechanics, one must be an elevator contractor who is not affiliated with any unions representing elevator mechanics, and one must be an elevator contractor who is a signatory to agreements made with unions representing elevator mechanics. The bill

staggers the terms of the initial members of the Elevator Section, but thereafter, similar to the other sections of the OCILB, terms are for three years, and vacancies in the Elevator Section are filled in the same manner as other vacancies on the OCILB. Except for the Superintendent or the Superintendent's designee, members of the Elevator Section receive a per diem amount fixed under continuing law when actually attending to matters of the OCILB, for the time spent in necessary travel, and for all actual and necessary expenses incurred in the discharge of official duties. The Director may remove any member of the OCILB the Director appoints for malfeasance, misfeasance, or nonfeasance. (R.C. 4740.02 and Section 4.)

Duties of the Elevator Section

Under the bill, the Elevator Section has the same duties as the other sections of the OCILB except for the Administrative Section. Thus, under the bill, the Elevator Section must do the following:

(1) Adopt rules in accordance with the Administrative Procedure Act concerning the following topics: criteria for the Elevator Section to use in evaluating the qualifications of an individual; criteria for the Elevator Section to use in deciding whether to authorize the Administrative Section to issue, renew, suspend, revoke, or refuse to issue or renew a license; the determinations and approvals the Elevator Section makes for reciprocity; criteria for continuing education courses conducted pursuant to the OCILB Law; requirements for persons seeking approval to provide continuing education courses; and a prohibition against any person providing a continuing education course unless the Administrative Section approved that person not more than one year prior to the date the course is offered.

(2) Investigate allegations in reference to violations of the OCILB Law and the rules adopted pursuant to it that pertain to the Elevator Section and determine by rule a procedure to conduct investigations and hearings on these allegations;

(3) Maintain a record of its proceedings;

(4) Grant approval to a person to offer continuing education courses pursuant to rules the OCILB adopts;

(5) As required, do all things necessary to carry out the OCILB Law. (R.C. 4740.05(A).)

Requirements for a license

In addition to the requirements for all of the types of licenses described below, an applicant for initial licensure as an elevator contractor or an elevator mechanic must

comply with the requirements specified in continuing law for criminal records checks. The OCILB must not grant a license to an applicant for an initial license unless the applicant complies with those requirements and the OCILB, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a license issued pursuant to the bill. (R.C. 4740.061 and R.C. Chapter 4776., not in the bill.)

Licensure as an elevator contractor

For 18 months after the bill's effective date, the bill allows a sole proprietor, firm, or corporation to act as an elevator contractor without an elevator contractor license (Section 5(B)). Thereafter, any individual who applies for a license as an elevator contractor must file a written application with the Elevator Section, accompanied by the application fee determined by the Elevator Section in the same manner as the other trade sections of the OCILB determine fees (R.C. 4740.09, not in the bill). The application must be on the form the Elevator Section prescribes and the accuracy of the information contained in the application must be verified by the applicant's oath. The applicant must provide all of the following information on the form:

- (1) The name, residence, and primary business address of the applicant;
- (2) The type of business entity under which the applicant is organized. If organized as a partnership, the applicant must provide the name and residence address of each partner. If organized as a corporation, the applicant must provide the name and business address of the corporation, the name and residence address of the principal officer of the corporation, and the name and address of an agent located in Ohio who is authorized to accept service of process on behalf of the corporation.
- (3) The approximate number of elevator mechanics to be employed by the elevator contractor and evidence satisfactory to the Elevator Section that the applicant is in compliance with Ohio's Workers' Compensation law (R.C. Chapters 4121. and 4123.);
- (4) Evidence satisfactory to the Elevator Section that the applicant maintain liability insurance coverage for each elevator mechanic the applicant employs in an amount the Elevator Section determines is appropriate;
- (5) Other information that the Elevator Section may require.

When an applicant for licensure as an elevator contractor satisfies the qualifications set forth in (1) to (5) immediately above, the Elevator Section, within 90 days after the application was filed, must authorize the Administrative Section to license the applicant. The Administrative Section must issue that license in the same

manner that the Administrative Section issues other licenses under the OCILB Law. (R.C. 4740.04(C) and 4740.06(C) and (E).)

Licensure as an elevator mechanic

Beginning one year after the bill's effective date, any individual who applies for a license as an elevator mechanic must file a written application with the Elevator Section, accompanied by the application fee determined by the Elevator Section in the same manner as the other trade sections of the OCILB determine fees (R.C. 4740.09, not in the bill). The application must be on the form the Elevator Section prescribes and the accuracy of the information contained in the application must be verified by the applicant's oath. The application must include all of the following information: the level of education of the applicant; a list of the applicant's employers; the applicant's period of employment, and the position held with each employer; and any other information that the Elevator Section may require. An applicant also must submit one of the following with the applicant's application:

(1) A letter from one or more of the applicant's previous employers that satisfactorily demonstrates to the Elevator Section that the applicant has at least three years of experience in the elevator industry, including construction, maintenance, service, or repair of elevators, or any combination thereof;

(2) A copy of the applicant's certificate of completion of a nationally recognized training program approved by the Elevator Section pursuant to rules adopted by the Elevator Section and evidence that the applicant successfully passed a nationally recognized examination approved by the Elevator Section pursuant to rules adopted by the Elevator Section;

(3) A copy of the applicant's certificate of completion of an apprenticeship program for elevator mechanics that satisfies the requirements the Elevator Section establishes in rules the section adopts and is registered with the United States Department of Labor, Bureau of Apprenticeship Training, or the Ohio Apprenticeship Council.

An applicant for a license as an elevator mechanic who submits a letter described in (1) above to comply with the bill's licensure requirements also must submit with the applicant's application proof of having passed the examination designed by the Administrative Section. (R.C. 4740.04(B)(4) and 4740.06(D) and Section 5(A).)

When an applicant for licensure as an elevator mechanic satisfies the conditions described above, the Elevator Section, within 90 days after the application was filed, must authorize the Administrative Section to issue a license to the applicant. The Administrative Section must issue that license in the same manner that the

Administrative Section issues other licenses under the OCILB Law. (R.C. 4740.04(C) and 4740.06(E).)

For the time period beginning on the bill's effective date and ending one year after that date, any person who makes an application to the Elevator Section on a form provided by the Elevator Section, submits a fee established by the Elevator Section, and submits proof satisfactory to the Elevator Section that the applicant meets both of the following requirements, may receive a license as an elevator mechanic without examination: (1) that the applicant has worked without direct and immediate supervision as an elevator mechanic for an elevator contractor in the elevator industry and (2) that the applicant has worked as an elevator mechanic for an elevator contractor in the elevator industry within three years immediately prior to the bill's effective date. (Section 5(A).)

Reciprocity

When a written reciprocity agreement between the states exists, and an individual who is registered, licensed, or certified in another state applies to the Elevator Section, submits a copy of the reciprocity agreement, and pays the licensure fee determined by the Elevator Section, the Elevator Section must authorize the Administrative Section to issue, without examination, a license to that individual if the Elevator Section determines, pursuant to rules it adopts, that the requirements for registration, licensure, or certification under the laws of the other state are substantially equal to the requirements for licensure in Ohio and that the other state extends similar reciprocity to persons licensed under the OCILB Law. The Elevator Section may withdraw its authorization to the Administrative Section for issuance of a license for good cause prior to the Administrative Section's issuance of the license. (R.C. 4740.08 and 4740.09, not in the bill.)

Temporary emergency elevator mechanic licenses and temporary elevator mechanic licenses

If the Governor declares the state of Ohio to be in a state of emergency due to a natural disaster or a mass work stoppage that results in an insufficient number of licensed elevator mechanics required to safely inspect, erect, construct, install, alter, service, repair, or maintain elevators in Ohio, the bill requires the Elevator Section to issue temporary emergency elevator mechanic licenses to qualified individuals. The Elevator Section must direct the Administrative Section to issue a temporary emergency mechanic license to an individual who completes an application to the satisfaction of the Elevator Section and meets the additional requirements described in "**Requirements for a temporary license**" below. The temporary emergency mechanic license is valid for a period of not more than 45 days from the date it is issued. The bill

allows the Elevator Section to renew the temporary emergency mechanic license for an additional period of 30 days upon the license holder's request in the event that the state of emergency is still in effect at the time of the request. Under the bill, no fees can be charged for the issuance or renewal of a temporary emergency mechanic license. (R.C. 4740.062(A) and (C).)

Additionally, the bill requires a licensed elevator contractor to notify the Elevator Section of the licensed elevator contractor's inability to secure a qualified workforce in the event that the licensed elevator contractor is unable to locate available elevator mechanics that hold licenses as elevator mechanics. If the Elevator Section determines that there is a shortage of licensed elevator mechanics, the bill requires the Elevator Section to direct the Administrative Section to issue a temporary elevator mechanic license to an individual who completes an application to the satisfaction of the Elevator Section and meets the additional requirements described in "**Requirements for a temporary license**" below. The temporary elevator mechanic license is valid for a period of not more than one year from the date that it is issued and remains valid only while a licensed elevator contractor employs the temporary license holder. The Elevator Section may renew the temporary elevator mechanic license on an annual basis upon the license holder's request if the Elevator Section determines that there continues to be a shortage of elevator mechanics who hold licenses at the time of the request. If the Elevator Section determines that a shortage of elevator mechanics no longer exists and an individual who holds a temporary elevator mechanic license wishes to continue providing services as an elevator mechanic, the individual must apply for a license in accordance with the requirements described under "**Licensure as an elevator mechanic**" above. The Elevator Section must determine the fees for the initial issuance of a temporary elevator mechanic license and the renewal fee for that license in the same manner as the other trade sections of the OCILB determine fees. (R.C. 4740.062(D).)

Requirements for a temporary license

The bill allows an individual to receive either a temporary emergency elevator mechanic license or a temporary elevator mechanic license if the individual satisfies all of the following requirements:

- (1) Applies to the Elevator Section on forms provided by the Elevator Section.
- (2) Provides to the Elevator Section written documentation obtained from a licensed elevator contractor attesting to the fact that the applicant possesses a sufficient amount of education and documented experience to perform elevator mechanic work without direct supervision;

(3) Provides to the Elevator Section any other information the Elevator Section requires. (R.C. 4740.062(B).)

Administrative Section duties relative to elevator contractors and elevator mechanics

Except as otherwise described under "**Licensure as an elevator contractor**" and "**Licensure as an elevator mechanic**" above, the Administrative Section has the same duties with respect to licensed elevator contractors and licensed elevator mechanics, and applicants for those licenses, as the Administrative Section has to all other licensees who receive licenses under the OCILB Law (R.C. 4740.04). Under the bill, in addition to other duties specified in continuing law, the Administrative Section must keep a record containing the name, address, the date on which the OCILB issues or renews a license to, and the license number of, every elevator contractor and elevator mechanic issued a license pursuant to the bill. The Administrative Section also must regulate an elevator contractor's or elevator mechanics' use and display of, and any information contained in, a license issued pursuant to the bill. (R.C. 4740.04(E) and (F).)

License renewal and continuing education requirements

The Elevator Section, under the bill, has the same duty as the other trade sections of the OCILB to establish or approve a continuing education curriculum for license renewal for elevator contractors and elevator mechanics. Thus, under the bill, no curriculum may require more than five hours per year in specific course requirements. No elevator contractor or elevator mechanic may be required to take more than ten hours per year of continuing education courses. The ten hours must be the aggregate of hours of continuing education for all licenses the elevator contractor or elevator mechanic holds. (R.C. 4740.05(C).)

Under the bill, an elevator contractor license and an elevator mechanic license expire annually on the expiration date of the original license issued, which is the same for all other licenses issued under the OCILB Law. An individual holding a valid, unexpired license may renew the license, without reexamination, by submitting an application to the Elevator Section not more than 90 calendar days before the expiration of the license, along with the renewal fee the section requires and proof of compliance with the applicable continuing education requirements. The applicant must provide information in the renewal application satisfactory to demonstrate to the Elevator Section that the applicant continues to meet the requirements described under "**Licensure as an elevator contractor**" or "**Licensure as an elevator mechanic**" above, as applicable. (R.C. 4740.06(F).)

Assignment of a license

Currently, under the OCILB Law, an individual may request, at the time of applying for a license or at any time thereafter, that the individual's license be assigned to a business entity with whom the individual is associated as a full-time officer, proprietor, partner, or employee. If the individual is issued or holds a license and meets the requirements specified in continuing law for the assignment of the license to a business entity, the Administrative Section must assign the license to and issue a license in the name of the business entity. Continuing law prohibits any license from being assigned to more than one business entity at a time. (R.C. 4740.07(B).)

The bill does not permit an individual who applies for or holds a license as an elevator mechanic, temporary emergency elevator mechanic, or a temporary elevator mechanic to assign the individual's license. (R.C. 4740.07.)

Reasons for and types of disciplinary action

The Elevator Section has the same powers to investigate an alleged violation of the OCILB Law as the other sections of the OCILB. An elevator contractor and an elevator mechanic licensed under the bill may be disciplined for the same reasons, and may be subject to the same disciplinary actions, as other licensees licensed under the OCILB Law. (R.C. 4740.10, not in the bill.) The bill adds a prohibition that applies only to elevator contractors and not to any other contractor licensed under the OCILB. The bill prohibits a licensed elevator contractor from using the elevator contractor's liability insurance policy to cover an elevator mechanic who erects, constructs, installs, alters, services, repairs, or maintains an elevator unless the elevator mechanic is performing those activities as an employee of the elevator contractor. (R.C. 4740.071.)

Child support orders

On receipt of a notice that a licensed elevator contractor or licensed elevator mechanic is in default under a child support order under the procedures established under existing law, the bill requires the OCILB to comply with the requirements of the Child Support Law or rules adopted pursuant to it with respect to a license issued under the bill. (R.C. 4740.101, not in the bill.)

Penalty for instruments returned for insufficient funds

An elevator contractor or elevator mechanic licensed under the bill is subject to the same procedures and penalty for an instrument returned to the OCILB for insufficient funds as other licensees licensed under the OCILB Law. (R.C. 4740.15.)

Sanctions against unlicensed activities

In addition to the criminal penalties applicable to unlicensed activity described under "**Licensure of elevator contractors and mechanics**" above, an individual who engages in unlicensed activity also may be subject to sanctions from the Elevator Section of the Board. Under current law, the appropriate section of the Board may investigate any person who allegedly has violated the prohibition against acting as or claiming to be a type of contractor that is licensed under the OCILB Law without such a license. If, after an investigation, the appropriate section determines that reasonable evidence exists that a person has violated that prohibition, within seven days after that determination, the appropriate section must send a written notice to that person in the same manner as prescribed in the Administrative Procedure Act for licensees. The act requires the appropriate section to specify in the notice that a hearing will be held and specify the date, time, and place of the hearing. (R.C. 4740.16(A), not in the bill.)

Under continuing law, the appropriate section must hold a hearing regarding the alleged violation in the same manner prescribed for an adjudication hearing under the Administrative Procedure Act. If the appropriate section, after the hearing, determines a violation has occurred, the appropriate section, upon an affirmative vote of four of its members, may impose a fine on the person, not exceeding \$1,000 per violation per day. The appropriate section's determination is an order that the person may appeal in accordance with the Administrative Procedure Act. (R.C. 4740.16(B), not in the bill.)

If the person who allegedly committed a violation fails to appear for a hearing, the appropriate section may request the court of common pleas of the county where the alleged violation occurred to compel the person to appear before the appropriate section for a hearing. If the appropriate section assesses a person a civil penalty for a violation and the person fails to pay that civil penalty within the time period prescribed by the appropriate section, the appropriate section must forward to the Attorney General the name of the person and the amount of the civil penalty for the purpose of collecting that civil penalty. In addition to this civil penalty, the person also must pay any fee assessed by the Attorney General for collection of the civil penalty. (R.C. 4740.16(C) and (D), not in the bill.)

Under the bill, an individual who allegedly has violated the prohibition against acting as or claiming to be an elevator contractor or elevator mechanic without a license may be subject to the sanctions described above.

Restriction on local governments

Under continuing law, no political subdivision, district, or agency of the state may adopt an ordinance or rule that requires contractor registration and the assessment

of a registration or license fee unless that ordinance or rule also requires any contractor who registers and pays the registration or license fee to be licensed in the contractor's trade pursuant to the OCILB Law. The bill extends this prohibition to cover ordinances or rules that register and assess a registration or license fee on elevator contractors and elevator mechanics. (R.C. 4740.12.)

HISTORY

ACTION	DATE
Introduced	12-03-09

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