
Detailed Fiscal Analysis

Background

The Ohio Construction Industry Licensing Board (OCILB) licenses specialty contractors in the heating, ventilating and air conditioning (HVAC), refrigeration, plumbing, hydronics, and electrical trades who perform commercial work in Ohio. OCILB administers these licenses through separate HVAC, Refrigeration, Plumbing, Electrical, and Administrative sections. Under current law, no person can act as or claim to be a specialty contractor in one of the above five trades unless that person is licensed by OCILB. Currently, OCILB oversees approximately 21,000 contractor licenses. The bill contains a number of provisions to reign in unlicensed contractors.

State fiscal effects

Unlicensed contractor sanctions

Currently, OCILB has little recourse against contractors operating without a license. OCILB may investigate a complaint concerning an unlicensed contractor and, if there is reasonable evidence, forward the complaint to the appropriate local prosecutor for criminal charges. OCILB refers approximately 150 complaints to local prosecutors in a typical year. Unlicensed contractors can be found guilty of a minor misdemeanor on a first offense and a fourth-degree misdemeanor (M4) on a subsequent offense. A minor misdemeanor carries no jail term and a maximum fine of \$150, while an M4 carries a maximum jail term of 30 days and a maximum fine of \$250. Yet, according to OCILB, few unlicensed contractors ultimately are prosecuted and fined. This is because many prosecutors find it difficult to successfully prosecute an individual if the work has already been completed by the time the prosecutor receives the complaint from OCILB. Also, some prosecutors are either unaware of the law or do not have the resources to take on these cases.

To pursue unlicensed contractors, the bill permits the appropriate section of OCILB to investigate any person who allegedly has operated as a contractor without a license. If there is reasonable evidence to support that conclusion, the bill requires the appropriate section to hold a hearing to determine if a violation has occurred. If a violation has occurred, that section may impose civil penalties of up to \$1,000 per violation per day. Any civil penalties or fines received by OCILB would be deposited into the Industrial Compliance Operating Fund (Fund 5560), OCILB's operating fund. LSC is uncertain of the annual amount of civil penalty revenue that may be gained, but if it is assumed that at least 150 complaints continue to be worthy of referral to local prosecutors each year and thus could now result in civil penalties, civil penalty revenue could easily be in the hundreds of thousands of dollars annually. Revenue from the fine may decrease in future years if compliance increases.

These hearings would pose no additional cost to OCILB since existing hearing officers would be used for any additional hearings that occur. OCILB will continue to refer unlicensed contractors for prosecution, but on a case-by-case basis given the difficulties in prosecuting such individuals. Additionally, the bill requires the appropriate section to forward to the Attorney

General the name of the person failing to pay any civil penalty to ensure that the penalty is collected. In this circumstance, the person is also liable for any fee assessed by the Attorney General for collection of the civil penalty. Attorney General fees would likely be deposited into the General Reimbursement Fund (Fund 1060).

Another factor to consider is that there might be a significant increase in contractor licensure over time as knowledge of the new disciplinary measure spreads through the industry. If this occurs, there would be a gain in license fee revenue to the Industrial Compliance Operating Fund in addition to any civil penalty revenue received. Contractors licensed by OCILB pay a \$50 initial license and examination fee and a \$60 annual renewal fee.

Contractor definition

Current law defines a contractor as any individual or business entity that works *for compensation*. The bill removes this qualification from the definition of a contractor. This change is intended to prevent situations in which an unlicensed contractor claims to have not been compensated for their work in an effort to avoid licensure requirements such as paying license fees, obtaining liability insurance, and completing continuing education. By specifying that a contractor must be licensed whether or not they are compensated, contractor licensure may increase, which in turn would increase revenue to the Industrial Compliance Operating Fund.

License assignment

The bill requires (rather than permits, as under current law) each licensee to request that the individual's license be assigned to one business entity with whom the individual is associated as a full-time officer, proprietor, partner, or employee at the time the individual submits the license application. The bill also requires an individual's license to be reassigned to a new business entity or held in escrow when a license becomes invalid if the individual is no longer associated with their current business entity.

Normally, an individual assigns a company name to his or her license and the individual's company will pay the individual's license renewal fee, liability insurance, and continuing education fees. Accordingly, the individual's license should be used exclusively for that company. OCILB noted that individuals not having a business entity on their license are able to pull construction permits to perform work for different persons or companies, many of which are either out-of-state or otherwise unlicensed. The above provisions are intended to stop such activity, but would likely have no discernable fiscal effect on OCILB.

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