



Ohio Legislative Service Commission

Jason Phillips

Fiscal Note & Local Impact Statement

Bill: H.B. 385 of the 128th G.A.

Date: February 8, 2010

Status: As Introduced

Sponsor: Reps. Stewart and Foley

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Requires licensure of elevator contractors and elevator mechanics and makes changes to the laws governing elevator servicing and inspections

State Fiscal Highlights

STATE FUND

FY 2010 – FUTURE YEARS

Labor Operating Fund (Fund 5560) – Department of Commerce

Revenues	Gain of approximately \$462,000 annually in elevator certificate of operation fees
	Gain of \$10,000 to \$15,000 in FY 2011 and increase of \$27,000 to \$40,000 per year thereafter in elevator contractor and mechanic license fees

Expenditures	Increase in payroll and equipment costs of approximately \$180,000
--------------	--

Indigent Defense Support Fund (Fund 5DY0) – Public Defender Commission

Revenues	Potential negligible gain, beginning in FY 2012
----------	---

Expenditures	- 0 -
--------------	-------

Victims of Crime/Reparations Fund (Fund 4020) – Attorney General

Revenues	Potential negligible gain, beginning in FY 2012
----------	---

Expenditures	- 0 -
--------------	-------

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

Elevator fee revenue

- The bill requires handicap chair lifts to be inspected twice every 12 months instead of once annually under current law. This would increase elevator certificate of operation fee revenue to the Labor Operating Fund (Fund 5560) by about \$462,000 annually.

Increased elevator inspection workload

- By requiring handicap chair lifts to be inspected twice annually, the bill would increase the workload for the Department of Commerce's Division of Industrial Compliance and Labor, which houses the elevator inspection program. According to the Division, two additional elevator inspectors will be needed to perform the added inspections, with each inspector's payroll, benefit, and overhead costs amounting to approximately \$90,000.

Elevator Section of the Ohio Construction Industry Licensing Board

- The bill establishes licensure requirements for elevator contractors and elevator mechanics. The minimal amount of new annually-collected license revenue would be deposited into Fund 5560. The licensure requirements take effect in FY 2012.
- The bill expands the number of members serving on the Ohio Construction Industry Licensing Board (OCILB) from 17 to 22. This could result in an increase in OCILB's per diem and travel reimbursement expenses.

New criminal penalties - potential state court cost revenue

- The bill includes criminal penalties for persons acting as or claiming to be an elevator contractor or mechanic without the proper licensure. If there are additional prosecutions as a result, this could increase the amount of state court cost revenue deposited into the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2010 – FUTURE YEARS

Counties and Municipalities

Revenues

Potential gain in court cost and fine revenue

Expenditures

Potential increase in local criminal justice expenditures

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- New criminal penalties for persons acting as or claiming to be an elevator contractor or mechanic without the proper licensure may result in additional prosecutions. If so, there could be a minimal increase in county and municipal adjudication and prosecution expenses. Presumably, fine and court cost revenue would offset some or all of any increase in costs for these entities, making any increase no more than minimal annually. Fines collected remain in the county of prosecution.

Detailed Fiscal Analysis

Overview

The bill creates the Elevator Section of the Ohio Construction Industry Licensing Board (OCILB), requires the licensure of elevator contractors and elevator mechanics, and makes changes to the laws governing elevator servicing and inspections. Provisions of the bill having notable fiscal effects are discussed in detail below.

Elevator inspections

The bill removes a provision allowing the Board of Building Standards (BBS) to designate by rule classifications of passenger elevators with a capacity of 750 pounds or less (i.e., handicap chair lifts) that must be inspected once every 12 months. Removing this provision requires handicap chair lifts to be inspected twice every 12 months, which is the standard for other passenger elevators. These lower capacity elevators make up less than 10% (fewer than 2,800) of the 28,000 units inspected by the Division of Industrial Compliance and Labor. The Division's Operations and Maintenance Bureau performs approximately 54,000 elevator inspections annually with a current staff of 47 field inspectors and four field supervisors. The elevator inspection program is supported by certificate of operation and new unit inspection fees deposited into the Labor Operating Fund (Fund 5560).

The change to handicap chair lift inspection routines would increase elevator certificate of operation fee revenue. The fee for elevators inspected every six months (\$220 plus \$12 per floor and \$3.25 BBS fee) is higher than the fee for units inspected annually (\$55 plus \$12 per floor and \$3.25 BBS fee). The higher certificate of operation fee would increase revenue by up to \$462,000 annually, assuming that most of these handicap elevators have two landings ($(\$247.25 - \$82.25) \times 2,800$).¹

The additional inspections required under the bill would also increase workload and other costs related to elevator inspection. The Division of Industrial Compliance and Labor estimates that two additional elevator inspectors will be needed to perform the added inspections, with payroll, benefit, and overhead (including a vehicle, supplies, and tools) costs for each inspector being approximately \$90,000.²

¹ Please note that H.B. 1 of the 128th General Assembly, the main operating budget act for FY 2010-FY 2011, increased some of the inspection and certificate fees described above. This bill does not reflect the increased fee amounts in section 4105.17 of the Revised Code.

² In addition to those costs, the bill could minimally increase administrative assessments charged by the Division of Administration for centralized fiscal, human resources, and other overhead expenses provided to the Department of Commerce's various operating divisions. The assessments are based on appropriations and are deposited into the Division of Administration Fund (Fund 1630). If the appropriation for the Division of Industrial Compliance and Labor is increased to account for the additional elevator inspection costs and the expenses of the OCILB, the administrative assessment might also increase.

Additionally, under current law, the Superintendent must hire an assistant who has at least ten years of experience in the construction, installation, maintenance, and repair of elevators and their equipment. Under the bill, the Superintendent must hire a chief elevator inspector instead of an assistant. The chief elevator inspector is not required to have at least ten years of experience, but must have experience in the inspection of nonresidential elevators. According to the Division of Industrial Compliance and Labor, this is purely a title change. The position already exists, but under the title of Industrial Safety Administrator. Thus, there is no fiscal effect associated with this provision.

Regulation of elevator contractors and mechanics

Beginning eighteen months after the effective date of this bill, elevator mechanics or elevator contractors must obtain a license from the OCILB. The elevator mechanic license is for individuals involved with installing, servicing, and repairing elevators while the contractor license is for any sole proprietor, firm, or corporation that is engaged in the elevator business. The bill includes a grandfathering provision allowing elevator mechanics to receive a license without examination up to a year after the effective date of the bill if the person has (1) worked without supervision as an elevator mechanic for an elevator contractor and (2) has been an elevator mechanic within the three years prior to the bill's effective date.

Elevator mechanics and elevator contractors becoming licensed under the bill may pay initial license fees totaling \$50, which includes \$25 for the application for examination and \$25 for license issuance, and an annual renewal fee of \$60, the current fees established under OCILB rules. Under the new licensing program, the Department estimates that it will regulate approximately 400 to 600 elevator mechanics and approximately 50 to 60 elevator contractor licenses.

If most mechanics and contractors seek initial licensure via the grandfathering provision and pay initial license fees of \$25, the Labor Operating Fund (Fund 5560), which receives fee revenue from OCILB-licensed contractors, would receive approximately \$10,000 to \$15,000 in license fee revenue in FY 2011. Once license renewals begin in FY 2012, Fund 5560 would receive approximately \$27,000 to \$40,000 in annual renewal fee revenue. OCILB may also gain revenue from continuing education providers. This would include course approval fees (\$10 + \$1/credit hour) and an annual fee of \$25 from each training provider.

Temporary or emergency licenses

The bill allows the Elevator Section of OCILB to issue a temporary emergency elevator mechanic license to a qualified individual when the Governor declares the state of Ohio to be in a state of emergency due to a natural disaster or mass work stoppage that results in an insufficient number of licensed elevator mechanics required to safely maintain elevators in the state. A temporary emergency license is valid for not more than 45 days and may be renewed for an additional 30 days if the state of emergency is still in effect. No fees can be charged for the issuance or renewal of a temporary emergency elevator mechanic license.

In addition, the bill permits the Elevator Section to issue and establish fees for temporary elevator mechanic licenses valid for up to one year to qualified individuals if it is determined that there is a shortage of licensed elevator mechanics. These temporary licenses may be renewed annually if a shortage persists. Any revenue derived from this temporary license would depend on when or if a workforce shortage would incur and what the established fee would be.

Elevator Section of Ohio Construction Industry Licensing Board

The bill creates the Elevator Section of the OCILB to be represented by five members appointed responsible for elevator contractor and elevator mechanic licenses. This increases the size of the OCILB from 17 to 22 members. As of the end of FY 2009, the OCILB oversaw 18,600 commercial contractors with active licenses commercial contractors in the electrical, HVAC, hydronics, plumbing, and refrigeration trades.

Each member of OCILB, other than the Director or Superintendent or their designees, receives a per diem amount fixed by state law for conducting Board business and for the time spent in necessary travel, as well reimbursement for all actual and necessary expenses incurred in the discharge of their duties. According to OCILB, the per diem per board member is \$187.60 and OCILB sections meet bimonthly. Board members also receive travel reimbursement at 45 cents per mile. Because of the increase in board members, OCILB member per diems may increase by approximately \$4,500 per year ($\187.60×4 eligible members/meeting $\times 6$ meetings/year) plus any applicable travel reimbursements. According to OCILB, its current staff and computer software are adequate to handle the additional administrative work to process licenses, review continuing education courses, and so forth. OCILB currently employs seven full-time administrative staff and one investigator.

Criminal penalty

Current law prescribes certain penalties for persons acting as or claiming to be a type of contractor without the proper licensure required by OCILB. The bill extends this prohibition to elevator contractors and elevator mechanics and subjects violators to a minor misdemeanor on the first offense and a fourth-degree misdemeanor on subsequent offenses. The former penalty carries a \$150 fine while the latter carries a maximum sentence of 30 days and a maximum fine of \$250. If the penalties in the bill

lead to more prosecutions, there could be a minimal increase in county and municipal adjudication and prosecution expenses. Presumably, fine and court cost revenue would offset some or all of any increase in costs for these entities. Fines collected remain in the county of prosecution. It is also possible that the state may gain a negligible amount of state court cost revenue. For misdemeanors, the Indigent Defense Support Fund (Fund 5DY0) receives \$20 per case and the Victims of Crime/Reparations Fund (Fund 4020) receives \$9 per case.

HB0385IN.docx / th