



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 442

PRINTERS NO. 1929

PRIME SPONSOR: Christiana

COST / (SAVINGS)

FUND	FY 2016/17	FY 2017/18
General Fund	\$0	\$85,000
Plumbing Contractors Licensure Account	\$0	See "Fiscal Impact"

SUMMARY: Creates a freestanding act known as the "Plumbing Contractors Licensure Act" to establish the State Board of Plumbing Contractors within the Department of Labor and Industry, and requires licensure for those who hold themselves out to the public as a "master plumber", "journeyman plumber", "apprentice plumber", or a "licensed plumbing contractor". The Board shall begin to promulgate regulations to carry out this act within 18 months of the effective date of this section (§2103). Section 501 (requiring licensure) shall take effect in one year and the remainder of this act shall take effect in 60 days.

ANALYSIS: This legislation creates the "Plumbing Contractors Licensure Act", which provides for the following:

Establishment of the State Board of Plumbing Contractors: The State Board of Plumbing Contractors shall be comprised of the Secretary of Labor and Industry (or a designee), two public members, and six professional members. The professional members shall have been actively engaged in providing plumbing services for at least 10 years, with the further proviso that: 1) two members, one union and one non-union, reside and be licensed in the county of the first class; 2) two members, one union and one non-union, reside in and be licensed as a plumber in the county of the second class; and 3) two members, one union and one non-union, reside in different counties of the third class. All professional members must be licensed as master plumbers.

The legislation requires that the Board meet within 30 days after the appointment of its first members and subsequently:

- Set up operating procedures and develop application forms for licensure.
- Circulate the forms and educate the public regarding the requirements of this act and providing plumbing services in the Commonwealth.

The Board shall annually select a chairman from its members. Both professional and public members shall be appointed by the Governor with the advice and consent of the Senate and shall serve a term length of four years or until a successor has been appointed. Members shall not, however, be eligible to serve longer than two consecutive terms. Members with three or more consecutive, unexcused absences shall forfeit their seat.

The Board shall then meet at least four times a year in the City of Harrisburg and at such additional times as may be necessary to conduct the business of the Board.

For professional and public members initially appointed to the Board, five members shall serve for a term of four years; two members shall serve for a term of three years; one member shall serve for a term of two years. A professional member initially appointed to the Board need not be licensed at the time of appointment but must have satisfied eligibility requirements for licensure provided later in this act. With the exception of the secretary, each member of the Board shall receive \$60 per diem when actually attending to the work of the Board, as well as the amount of reasonable traveling, lodging, and other necessary expenditures incurred by the member while serving the Board.

Powers and Duties of the Board: The Board shall have the following powers and duties:

1. To provide for and regulate the licensing of individuals engaged in providing plumbing services who hold themselves out as master plumbers, journeyman plumbers, apprentice plumbers, or licensed plumbing contractors.
2. To issue, renew, reinstate, decline to renew, suspend, and revoke licenses as provided for in this act.
3. To administer and enforce the provisions of this act.
4. To approve professional testing organizations to administer written, oral, or practical examinations to applicants for licensure as provided in this act.
5. To determine the eligibility of an individual applying for licensure.
6. To promulgate and enforce regulations, adopted in conformity with the provisions of both the Commonwealth Documents Law (Act 240 of 1968) and the Regulatory Review Act (Act 181 of 1982), including the setting of fees.
7. To keep minutes and records of all its proceedings.
8. To keep and maintain a public registry of individuals licensed by the Board, containing the home improvement contractor registration number required by the Home Improvement Consumer Protection Act (Act 132 of 2008) and all pertinent registration information.
9. To submit annually to the department an estimate of financial requirements of the Board for its administrative, legal, and other expenses.
10. To submit an annual report of complaints, the status of complaint cases, the action(s) being taken, and the final resolution of complaints to the Consumer Protection and Professional Licensure Committee of the Senate and the Professional Licensure Committee of the House of Representatives.
11. To submit a copy of the budget request for the upcoming fiscal year to the Appropriations Committees of the Senate and the House of Representatives, 15 days after the Governor has submitted a budget to the General Assembly.

Title Protection: An individual may not hold himself out as an apprentice plumber, journeyman plumber, or master plumber unless licensed by the Board. Moreover, no individual, corporation, partnership, firm, or other entity shall use the term "licensed plumbing contractor" unless at least one employee or the owner of the entity, is licensed as a master plumber.

Only individuals holding a license as a master plumber shall have the right to use the title "licensed plumbing contractor" and/or the abbreviation "L.P.C."

Licensed plumbing contractors assume full responsibility to ensure conformance with safety standards and applicable plumbing codes, including plumbing codes for First and Second Class counties as provided under the PA Construction Code Act (Act 45 of 1999).

Additional Licensure Requirements for First/Second Class Counties: Counties of the First Class and Second Class are not prohibited from imposing licensure requirements in addition to the requirements of the legislation.

License Qualifications: To be eligible for licensure as a master plumber, an applicant must:

1. Be at least 18 years of age.
2. Submit proof of five years' experience as a plumber with at least one year as a journeyman plumber and four years as an apprentice plumber, or proof satisfactory to the Board that the individual has sufficient training and experience to sit for the examination.
3. Pay the fee set by the Board.
4. Pass the examination provided by the Board.*
5. Provide a current certificate of liability insurance in the amount of \$500,000.

To be eligible for licensure as a journeyman plumber, an applicant must:

1. Be of good moral character.
2. Be at least 18 years of age.
3. Submit proof that the applicant has provided plumbing services for not less than four years as either a journeyman or an apprentice plumber or has served 8,000 hours as an apprentice plumber and has satisfactorily completed at least 576 hours of related technical education at an accredited school.
4. Pay the fee set by the Board.
5. Pass the examination provided by the Board.*

*Applicants for licensure as both a master plumber and as a journeyman plumber must also pass examinations on the plumbing codes of the first or second class counties if they are working or intend to work in those counties.

To be eligible for licensure as an apprentice plumber, an applicant must:

1. Be at least 16 years of age.
2. Register with the Department of Labor and Industry as set forth in the Apprenticeship and Training Act (Act 304 of 1961) and submit proof of current registration to the Board.
3. Pay the fee set by the Board.

Licensure without Examination (Grandfather Provision): Provided they apply within 24 months of the effective date, qualified applicants may obtain master plumber or journeyman plumber licenses without taking the examination.

An applicant for the master plumber license must satisfy one of the following:

- Five years of experience immediately preceding the application.
- Five consecutive years holding a business license as a plumber from a municipality or other agency recognized by the county.
- Passed the licensing test required in a county of the first, second or third class, or a city of the third class.

An applicant for the journeyman plumber license must satisfy one of the following:

- Four years of experience under the supervision of a licensed plumber immediately preceding the application.
- Passed the licensing test required in a country of the first, second or third class, or a city of the third class.

Convictions Prohibited: The Board shall not issue a license to an individual who has been convicted of a felony under the PA Controlled Substance, Drug, Device and Cosmetic Act (Act 64 of 1972) or a felony relating to a controlled substance in another jurisdiction unless:

1. Five years have elapsed from the date of conviction;
2. The individual has demonstrated to the Board personal rehabilitation since the conviction; and
3. The individual otherwise satisfies the qualifications in the act. If the individual declares on their application the absence of a conviction, such statement shall be deemed satisfactory unless the Board has evidence to the contrary.

Continuing Education: Individuals licensed as master or journeyman plumbers, or applying for renewal of a license, shall be required to obtain 10 hours of continuing education during the two calendar years immediately preceding the application for renewal. The Board shall adopt, promulgate and enforce rules/regulations, and to approve all fees, courses, materials, locations, and instructors for continuing education. The Board may waive some or all of the continuing education requirements for individuals who show evidence of illness, emergency, military service, or other hardship.

Plumbing Contractors in Other States: The Board may issue a license without examination to an individual who is licensed as a master or journeyman plumber in any other state if the individual: meets the requirements as to character and age; pays the required fee; demonstrates the appropriate experience requirement; has passed an examination in another jurisdiction demonstrating knowledge of a plumbing code. In addition, the other state must be one which provides a substantially similar opportunity for reciprocal licensure.

Duration of License: A license issued pursuant to this act shall be on a biennial basis. Application for renewal of a license shall be forwarded to an individual holding a current license prior to the established expiration date. Individuals applying for licensure as an apprentice plumber must indicate whether registration as an apprentice under the Apprenticeship and Training Act has expired before the biennial renewal cycle will expire.

Individuals licensed under this act may request an application for inactive status. Upon receipt of an application, the individual shall be maintained on inactive status without fee and can apply for licensure renewal at any time. To receive an active license, individuals must satisfy the requirements of the Board's regulations regarding continuing education and remit the required fee.

Reporting of Multiple Licensure: A licensee who is also licensed to perform plumbing services in any other state, municipality, territory, possession or county must report this information to the Board on the biennial registration application, noting additionally any disciplinary action taken. Multiple licensures shall be noted by the Board on the individual's record and the appropriate state, municipality, territory, possession or country shall be notified of any disciplinary action taken against the licensee in this Commonwealth.

Prohibition: This act shall not prohibit the installation, modification or replacement of propane-related systems or appliances by the owner, principal or employee of a propane distributor if the propane distributor is registered with the department under the Propane and Liquefied Petroleum Gas Act (Act 61 of 2002), and with the Attorney General under the Home Improvement Consumer Protection Act (Act 132 of 2008).

Fees, Fines, and Civil Penalties: All fees required under this act shall be fixed by the Board and shall be subject to the Regulatory Review Act (Act 181 of 1982). If the revenues raised by the fees, fines, and civil penalties imposed under this act are not sufficient to meet expenditures and minimum enforcement efforts over a two-year period, the Board shall increase those fees so that projected revenues will meet or exceed expenditures.

Beginning July 1, 2017 and thereafter, all moneys collected by the Board shall be paid into a restricted account, known as the Plumbing Contractors Licensure Account within State Treasury. Funds in this account will be appropriated upon approval of the Governor for the payment of the costs of processing licenses and renewals and for other general costs of Board operations.

The Board may charge a fee for renewing licensure and for other administrative actions by the Board.

Violations: An individual or the responsible officers or employees of a corporation, partnership, firm, or other entity violating a provision of this act or a regulation of the Board commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine no greater than \$1,000 or to imprisonment for not more than six months for the first violation. For the second and each subsequent violation, the person shall be sentenced to pay a fine no greater than \$2,000 and/or to imprisonment for not less than six months or more than one year.

After affording the accused party the opportunity for a hearing, the Board may levy (by majority vote) a civil penalty of up to \$10,000 in addition to any other civil remedy or criminal penalty provided for in this act. The civil penalty may be levied against:

- A licensee who violates a provision of this act.
- An individual or firm that holds themselves out as an apprentice plumber, journeyman plumber, master plumber, or licensed plumbing contractor without being properly licensed as provided in this act.

Suspensions and Revocations: A suspension or revocation shall be made only in accordance with the regulations of the Board and only by majority vote of the members of the Board after a full and fair hearing. The Board may also reissue a license which has been suspended by a majority vote.

Temporary and Automatic Suspensions: A license issued under this act may be temporarily suspended, without a hearing, under circumstances determined by the Board to be an immediate and clear danger to public health, safety, or property. Upon due notice, the licensee will receive a written statement of all allegations against him. Within 30 days following the issuance of an order temporarily suspending a license, the Board shall conduct or cause to be conducted a preliminary hearing where the individual may be represented by legal counsel, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings. If it is determined that there is not a prima facie case, the suspended license shall be immediately restored. The temporary suspension shall remain in effect until vacated by the board, but in no event longer than 180 days.

A license issued under this act shall automatically be suspended upon the legal commitment of a licensee to an institution because of mental incompetency from any cause upon filing with the board a certified copy of such commitment, conviction of a felony under the Controlled Substance Act, or conviction of a comparable offense under the laws of another jurisdiction.

Refusal, Suspension, or Revocation of a License: The Board may refuse to issue, suspend or revoke a license when the Board finds:

1. The licensee is or has been negligent or incompetent in the performance of plumbing services.
2. The licensee is or has been unable to perform plumbing services with reasonable skill and safety by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic drugs, or other drugs which tend to impair judgment or coordination, so long as dependence shall continue. The Board has the authority to compel a licensee to submit to a mental or physical examination, and failure to submit to such examination shall constitute an admission of guilt. Licensees affected shall at reasonable intervals be afforded the opportunity to demonstrate competency in order to return to work.
3. The licensee has violated any of the provisions of this act or a regulation of the Board.
4. The licensee has committed fraud or deceit in the performance of plumbing services or securing licensure.
5. Individuals convicted of a felony relating to a controlled substance in a court of law of the U.S. or any other state shall not be issued a license unless five years have elapsed from the date of conviction or the individual has demonstrated that he has made significant progress in rehabilitation.
6. The licensee has had their license suspended, revoked, or has received other disciplinary action by a proper licensing authority in another state.
7. A master plumber failed to properly direct and supervise a journeyman or apprentice plumber, or failed to ensure compliance with safety standards and applicable plumbing codes.
8. The licensee falsely advertised or made misleading, deceptive, untrue or fraudulent material representations regarding licensure or in the performance of plumbing services.
9. The licensee failed to satisfy the necessary continuing education requirements.

Reinstatement of License: Unless ordered to do so by the Commonwealth Court or an appeal therefrom, the Board shall not reinstate the license of an individual which has been revoked. An individual whose license has been revoked may reapply for a license, after a period of at least five years, but must meet all of the licensing requirements of this act.

Injunction: Whenever, in the judgment of the Board, an individual has engaged (or is about to engage) in an act or practice which constitutes or will constitute a violation of this act, the Board may make application to the appropriate court for an injunction or restraining order in addition to any other civil or criminal penalties.

Subpoenas and Oaths: The Board shall have the authority to issue subpoenas for the purpose of investigating alleged violations of the act or a regulation of the Board. The Board is authorized to apply to the Commonwealth Court to enforce its subpoenas, but the court may impose limitations in the scope of the subpoena to prevent unnecessary intrusion into confidential client information.

The Board shall maintain a current record of all reported alleged violations and periodically review the records for resolution.

Surrender of Suspended or Revoked License: The Board shall require an individual whose license has been suspended or revoked to return the license in such manner as the Board directs. Failure to do so, and upon conviction thereof, shall be a misdemeanor of the third degree.

Municipalities: Licensure under this act shall be acceptable to any municipality or public entity in the Commonwealth, except for Counties of the First Class and Second Class. First and Second Class Counties may require individuals licensed under the act to obtain an additional license to perform plumbing services.

Municipalities do, however, retain the authority to inspect plumbing services, regulate the manner in which plumbing services are performed in compliance with current Commonwealth/municipal plumbing codes, levy lawful taxes and fees, require the purchase of a business privilege license, and deny/revoke local permits for failure to comply with ordinances.

The legislation does not authorize the Board or a municipality to adopt new plumbing construction standards except as authorized by Uniform Construction Code (UCC), or adopt a standard regulation of propane, propane distributors or installation of propane-related systems or appliances.

Appropriation: The sum of \$85,000, or as much thereof as may be necessary, is appropriated to the Department of Labor and Industry for the payment of costs associated with processing licenses and renewing licenses, for the operation of the Board and for other costs associated with this act.

The appropriation shall be repaid by the department within three years of the beginning of issuance of licenses by the Board.

FISCAL IMPACT: Up to \$85,000 shall be appropriated to the Department of Labor and Industry for the payment of costs associated with processing licenses and renewing licenses, for the operation of the Board and for other costs associated with this act. It is presumed that this will occur during the latter months of FY 2017-18. Any allocated amount shall be repaid by the department within three years of the beginning of issuance of licenses by the Board.

The Department of Labor and Industry estimates program costs of \$475,000 for the first full year. This includes \$383,000 for 5 new positions including a clerk typist 3, 2 field investigators, an attorney 1 and a legal assistant. The remaining \$92,000 would be used for operating expenses. This estimate could increase in subsequent years if field staff is needed to investigate violations. The department estimates that there are 17,000 plumbers in Pennsylvania in 2014. If 17,000 plumbers seek licensure, this would require a biennial licensure fee of \$56 to cover the 2 years' worth of cost.

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: June 13, 2017

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.