An Act

ENROLLED HOUSE
BILL NO. 2858

By: Wallace of the House

and

Coleman of the Senate

An Act relating to the Construction Industries Board; amending 59 O.S. 2021, Section 1000.2, which relates to the recreation of the Board; amending regulated industries; amending 59 O.S. 2021, Section 1000.4, which relates to the powers of the Board; amending the scope of the Board; authorizing certain members to make specific changes to meetings; altering receipt of certain reports; modifying when certain votes must occur; amending 59 O.S. 2021, Section 1000.4a, which relates to additional powers of the Board; providing for sharing certain information related to workforce; modifying certain contracting ability; implementing reporting requirements for certain funds; creating processes for reclaiming lapsed funds; providing an effective date; and declaring an emergency.

SUBJECT: Construction Industries Board

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2021, Section 1000.2, is amended to read as follows:

Section 1000.2 A. The Construction Industries Board is hereby re-created to continue until July 1, 2023, in accordance with the provisions of the Oklahoma Sunset Law. The Board shall regulate the plumbing, electrical and mechanical trades, the building and construction inspectors, <u>the home inspectors,</u> and the roofing contractors through the powers and duties set forth in the

Construction Industries Board Act and in the respective licensing or registration acts for such trades, or as otherwise provided by law.

B. 1. Beginning July 1, 2013, the Board shall be composed of seven (7) members appointed by the Governor with the advice and consent of the Senate, as follows:

a. two members shall have at least ten (10) years' experience in the plumbing trade, of which one shall be a plumbing contractor and one shall be a journeyman plumber,

b. two members shall have at least ten (10) years' experience in the electrical trade, of which one shall be an electrical contractor and one shall be a journeyman electrician,

c. two members shall have at least ten (10) years' experience in the mechanical trade, of which one shall be a mechanical contractor and one shall be a mechanical journeyman, and

d. one member shall have at least ten (10) years' experience as a building and construction inspector.

2. Members shall be appointed for staggered terms of four (4) years, as designated by the Governor. Members shall continue in office until a successor is appointed by the Governor. The Governor shall fill all vacancies and unexpired terms in the same manner as the original appointment of the member whose position is to be filled. A member may be removed by the Governor at any time.

SECTION 2. AMENDATORY 59 O.S. 2021, Section 1000.4, is amended to read as follows:

Section 1000.4 A. 1. Pursuant to and in compliance with Article I of the Administrative Procedures Act, the Construction Industries Board shall have the power to adopt, amend, repeal, and promulgate rules as may be necessary to regulate the plumbing, electrical and mechanical trades, building and construction inspectors and home inspectors. All rules promulgated by the Board shall be reviewed and approved as provided in subsection F of Section 308 of Title 75 of the Oklahoma Statutes.

2. The Board shall have the power to enforce the provisions of the Construction Industries Board Act, The Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, the Mechanical Licensing Act, the Home Inspection Licensing Act, and the Roofing Contractor Registration Act, as provided in the respective acts.

B. The Board shall have the following powers:

1. Exercise all incidental powers and duties which are necessary to effectuate the provisions of The Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, the Mechanical Licensing Act, ~~and~~ the Home Inspection Licensing Act, and the Roofing Contractor Registration Act, including but not limited to authorizing the Board chair, vice-chair, administrator, or designee to determine good reason for and to cancel a scheduled meeting or reschedule meetings of a licensing or registration act advisory examining committee of the Board pursuant to state requirements. Such canceling or rescheduling meetings authority provided for in this section shall supersede all other meeting scheduling requirements for acts administered by the Board;

2. Serve as a code variance and appeals board for the trades and industries it regulates which do not have statutory code variance and appeals boards;

3. Order or subpoena the attendance of witnesses, the inspection of records and premises, and the production of relevant books and papers for the investigation of matters that may come before the Board;

4. Initiate disciplinary proceedings, request prosecution of and initiate injunctive proceedings against any person who violates any of the provisions of ~~the~~ The Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, the Mechanical Licensing Act, ~~and~~ the Home Inspection Licensing Act, and the Roofing Contractor Registration Act;

5. Maintain an administrative staff including, but not limited to, a Construction Industries Administrator whose appointment shall be made as provided in Section 1000.6 of this title;

6. Establish and levy administrative fines for violations of law or rule in the trades and industries the Board licenses or regulates or against any person or entity denying the Board or its

representatives access to a job site for purposes of enforcing any of the provisions of ~~the~~ The Plumbing License Law of 1955, the Oklahoma Inspectors Act, the Electrical License Act, ~~and~~ the Mechanical Licensing Act, the Home Inspection Licensing Act, or the Roofing Contractor Registration Act; provided, however, the Board is not authorized to inspect or issue administrative violations or fines for public utilities, public service corporations, intrastate gas pipeline companies, gas gathering pipeline companies, gas processing companies, rural electric associations, municipal utilities or their subsidiaries, chemical plants, gas processing plants or petroleum refineries where the entity uses their employees or contractors to work on their own facilities or equipment;

7. Direct such other expenditures as may be necessary in the performance of its duties including, but not limited to, expenditures for office space, equipment, furnishings and contracts for legal services. All expenditures shall be made pursuant to the Oklahoma Central Purchasing Act; and

8. Enforce provisions of the plumbing, electrical and mechanical codes as adopted by the Oklahoma Uniform Building Code Commission pursuant to the Oklahoma Uniform Building Code Commission Act.

C. The Board shall account for all receipts and expenditures of the monies of the Board, including annually preparing and publishing a statement of receipts and expenditures of the Board for each fiscal year. The Board's annual statement of receipts and expenditures shall be audited by the State Auditor and Inspector or an independent accounting firm in accordance with the provisions of subsection B of Section 212 of Title 74 of the Oklahoma Statutes, and the audit report shall be certified to the Governor of this state to be true and correct, under oath, by the chair and vice-chair of the Board. A copy of such certified report, if not already available online, shall be delivered to the chairs of the respective Senate and House of Representatives Committees having authority over matters relating to business, labor and construction industry licensing or regulation not later than February 1 each year.

D. The Board shall account for all fines, penalties and fees assessed and collected pursuant to the Administrative Procedures Act or any rule promulgated for regulation of any industry and trade under the authority of the Construction Industries Board. All fines, penalties and fees assessed for any violation of law or rule shall be automatically reviewed and brought before the entire Board

for consideration and vote not later than ~~the last day of the monthly quarter in~~ ninety (90) days from which it was imposed. The Construction Industries Administrator shall present to the Board a written recommendation and summary for each case in which an assessment of a fine, penalty or fee was imposed after administrative proceedings. The Board shall consider the recommendations for each case at the next meeting date and at such meeting shall either vote to affirm the recommendations or vote to deny the recommendations and remand the case for further administrative hearing, with or without instructions. No administrative case shall be delayed or continued by the Board after being placed on an agenda for final Board review, except with the consent of all parties. The licensee or persons affected by the imposition of an administrative fine, penalty or fee on final review by the Board shall have all rights of appeal preserved pursuant to the Administrative Procedures Act until final action by the Board.

E. The Construction Industries Board shall hear all appeals timely made from an administrative ruling relating to an industry and trade regulated by the Board; however, this appeal authority shall not be in addition to the appeal process authorized by the Administrative Procedures Act. Any ruling by the Board from an administrative hearing may be further appealed to the district court of Oklahoma County. The district court, upon conclusion of an appeal from a Board ruling, shall be authorized to award reasonable legal fees to the prevailing party.

SECTION 3. AMENDATORY 59 O.S. 2021, Section 1000.4a, is amended to read as follows:

Section 1000.4a A. The Construction Industries Board shall have the additional powers to:

1. Receive and convey information relating to the skilled trades regulated by the Construction Industries Board including, but not limited to, workforce development; and

2. Enter into contracts with the Oklahoma Department of Career and Technology Education ~~for~~ or any Oklahoma State Board of Career and Technology Education fully accredited vocational or technical school or system of education institution in the State of Oklahoma receiving state appropriations and offering programs in secondary and postsecondary instruction that provide electrical, mechanical, plumbing or roofing trade coursework for any of the following purposes, or combination thereof:

a. developing and implementing instructional courses on Oklahoma Statutes and rules that govern the electrical, mechanical, plumbing and roofing trades, which courses can be in conjunction with instruction in performing trade work or instruction on statewide-adopted trade codes, or both, for the advancement of the electrical, mechanical, plumbing and roofing trades, or

b. developing and implementing a workforce development program that will create interest in the pursuit of a skilled trade career. The workforce development program may consist of, but is not limited to, use of the Internet, community and school presentations, and research and instruction on the electrical, mechanical, plumbing and roofing trades.

B. All contracts ~~with the Oklahoma Department of Career and Technology Education~~ pursuant to this section shall be approved by the Construction Industries Board in accordance with the Oklahoma Open Meeting Act. Costs of the contracts ~~with the Oklahoma Department of Career and Technology Education~~ for education and workforce development programs shall be paid from the Skilled Trade Education and Workforce Development Fund established herein and funded by administrative fines or penalties as described in this section. Applications for proposals are to be submitted to the Board on forms provided requiring sufficient justification and information to evaluate costs, return on investment, value, and viability of the proposal. Any contracts will include the requirement that the recipient of the funds will, upon the completion of the contract, provide a written report to the Board providing an accounting of expenditures, describing an explanation of the funds used for the services provided and the success of outreach demonstrating a return on the investment including, but not limited to, an accounting of accomplishments.

C. Fines or penalties collected by the Board and deposited in the Oklahoma Mechanical Licensing Revolving Fund, the Electrical Revolving Fund, the Plumbing Licensing Revolving Fund and the Roofing Contractor Registration Revolving Fund may be transferred to the Skilled Trade Education and Workforce Development Fund created in subsection E of this section for the following purposes:

1. To develop instructional materials on Oklahoma laws, statutes and rules, as they relate to the plumbing, mechanical, electrical and roofing trades and state licensing standards;

2. To cover the cost of equipment, materials, personnel and any other costs of developing and implementing the trade curriculum; and

3. To cover the cost of equipment, materials, personnel and any other costs of developing and implementing the workforce development program used to promote the plumbing, mechanical, electrical and roofing trades as a career in Oklahoma.

D. The Skilled Trade Education and Workforce Development Fund monies shall be used only for the advancement of trade-related education and workforce development, and only if available based upon statutory limitations.

E. 1. There is hereby created in the State Treasury a revolving fund for the Construction Industries Board to be designated the "Skilled Trade Education and Workforce Development Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. The fund shall consist of an annual transfer of fully adjudicated fine revenue received in the Oklahoma Mechanical Licensing Revolving Fund, Electrical Revolving Fund, Plumbing Licensing Revolving Fund or Roofing Contractor Registration Revolving Fund as determined pursuant to this section. Funds may be transferred only from the prior fiscal year.

2. If actual receipts, not including fine receipts, exceed actual expenses and outstanding encumbrances, then one hundred percent (100%) of all fully adjudicated fine revenue received shall be transferred from each specific trade revolving fund: the Oklahoma Mechanical Licensing Revolving Fund, Electrical Revolving Fund, Plumbing Licensing Revolving Fund or Roofing Contractor Registration Revolving Fund.

3. If at any time the receipts in the Oklahoma Mechanical Licensing Revolving Fund, Electrical Revolving Fund, Plumbing Licensing Revolving Fund or Roofing Contractor Registration Revolving Fund, not including fine receipts, are less than actual expenses and outstanding encumbrances, then the difference of fine receipts over actual expenses and outstanding encumbrances, if any, shall be transferred.

4. If at any time the annual receipts in the Oklahoma Mechanical Licensing Revolving Fund, Electrical Revolving Fund, Plumbing Licensing Revolving Fund or Roofing Contractor Registration Revolving Fund, including fine receipts, are less than the actual expenses and outstanding encumbrances, there shall be no transfer of funds for that period.

5. All monies accruing to the credit of the Skilled Trade Education and Workforce Development Fund may be budgeted and expended by the Construction Industries Board for workforce development as it relates to the skilled trades and to contract for the services identified in ~~Section 1000.4 of Title 59 of the Oklahoma Statutes or~~ this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

6. All unexpended or outstanding Skilled Trade Education and Workforce Development Funds from any written agreement where work or services have not been previously approved by specific quote or cost estimate and have not been performed within eighteen (18) months of the date the agreement was signed are hereby released from the agreement and are available for future agreements approved by the Board pursuant to this act, except for specific quotes, estimates, or invoices that previously have been approved for payment, performance has been initiated, and completed within twenty-four (24) months of the signed agreement.

SECTION 4. This act shall become effective July 1, 2023.

SECTION 5. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 6th day of March, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 26th day of April, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 27th

day of April, 20 23, at 3:24 o'clock p. M.

By: Summer Curry

Approved by the Governor of the State of Oklahoma this 2nd

day of May, 20 23, at 10:57 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 2nd

day of May, 20 23, at 1:01 o'clock p M.

By: Brian Bingman