



**House
Legislative
Analysis
Section**

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ELECTRICAL LICENSING ACT

RECEIVED

House Bill 5168 (Substitute H-3)

First Analysis (12-5-89)

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Sponsor: Rep. Joseph Young, Jr.
Committee: State Affairs

Mich. State Law Library

THE APPARENT PROBLEM:

According to rules promulgated by the Electrical Administrative Board under the Electrical Administrative Act, apprentice electricians are required to work under the direct supervision of journey electricians. Further, journey electricians may not supervise more than one apprentice at a time. However, in 1973 a Kent County court ruled that the ratio of one apprentice to one journey electrician could only be enforced on a company-wide — and not a job-by-job — basis. The court's interpretation, according to some, has been instrumental in dramatically altering the initial intent of the act, with the result that — at a time when electrical work is becoming more and more sophisticated — apprentice electricians are not receiving adequate supervision and training. Under the court's interpretation of the law, they point out, the ratio of apprentices to journey electricians can result in situations where, for example, an apprentice may be at work on the first floor of a building while his or her journey electrician supervisor is at work on the seventh floor. There is, therefore, no direct supervision of the apprentice or of the work being done, with the result that the safety of the apprentice is placed in jeopardy, and also the safety of the public. Critics of the court's interpretation of the act also claim that it has been used by some contractors as a means of hiring "cheap labor," in order to obtain low bids on construction contracts.

While the United States Department of Labor's Bureau of Apprenticeship and Training (BAT) has developed standards for apprenticeship programs which are utilized by various community colleges, technical institutes, and work groups who seek accreditation, as well as contractors who bid on federally funded projects, the Electrical Administrative Act is silent on education requirements for apprentices. It is claimed that over 80 percent of those who take the journey electrician's examination fail. Critics of the act claim that it should be amended to include BAT criteria for classroom training for apprentices, as well as requiring continuing examinations for electrical contractors on the rules of the State Construction Code, to ensure that they keep up to date on changes in the law.

THE CONTENT OF THE BILL:

The bill would repeal the Electrical Administrative Act and create a new act to provide for the licensing of electricians. The bill would retain many of the provisions of the current act; major new provisions are summarized as follows:

Definitions. The bill would provide definitions for "apprentice electrician" (an individual other than an electrical contractor, master electrician, or journey electrician, engaged in learning about and assisting in the installation or alteration of electrical equipment under the direct supervision of a journey electrician or master electrician); "enforcing agency" (the agency responsible for the administration and enforcement of the electrical code, pursuant to the State Construction Code Act); "code" (the State Construction Code, or a part of that code that

included a modification of it, or a nationally recognized model electrical code adopted by a governmental subdivision); "communication utility" (a communication company or corporation regulated by the Public Service Commission or the Federal Communications Commission); "electrical utility" (a person regulated by the Public Service Commission, or a governmental subdivision which provides generation and distribution of electrical service); and "jobsite" (the immediate work area within the property lines of a single construction or alteration project where electrical construction or alteration is in progress). The bill would also provide a definition of "master electrician" that would exclude the current provision that permits a master electrician to purchase an electrical contractor's license in order to enter into the contracting business as his or her own supervisor.

Electrical Licensing Board. The present members of the Electrical Administrative Board would be required to serve out the remainder of their terms until the establishment of a new Electrical Licensing Board. Under the bill, the 11-member board would include one representative of a Michigan fire insurance company and one representative of a state postsecondary school that offered electrical engineering courses. The board would be required to provide an examination for applicants seeking licensure under the act, or the board and the Department of Labor could jointly develop or contract for an examination developed by another entity. The board could also recommend to the State Construction Code Commission the promulgation of rules for the safe design, construction, installation, alteration, servicing, and inspection of electrical equipment. After testing and evaluation, the board could also recommend to the commission that it issue certificates of acceptability under the code for a material or product, or for a method of manufacturing, construction, or installation of electrical equipment. The bill would also require board members with a pecuniary interest in a matter to disclose that interest before the board took action on the matter.

License and Examination Fees. License fees would remain unchanged under the bill. However, the bill would establish examination fees of \$25 for each license category and license renewal fees equal to twice the amount of current license fees. Those already licensed by the electrical administrative board or a governmental subdivision would be eligible for licensure without examination, provided that they applied not more than one year after the effective date of the bill and paid the prescribed fee. Other applicants would be required to pay the appropriate license and examination fees, pass an examination, and produce notarized statements from employers to establish that they had the experience requirements necessary for the particular class of licensure they sought.

An electrical contractor's license would be granted to a person who held a master electrician's license or had not less than one master electrician residing in the state in his or her full-time employ. The master electrician would be

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required to be actively in charge of and responsible for code compliance of all installations of electrical equipment, and to present proof of automobile fleet liability, comprehensive business liability, and worker compensation insurance coverage. He or she would also be required to pay up to \$50 into the Homeowner Construction Lien Recovery Fund, as required under the Construction Lien Act.

A master electrician's license would be granted to a person of at least 22 years of age who had obtained within six years not less than 10,000 hours of experience in electrical construction, or building or electrical equipment maintenance under the supervision of a master electrician, and had held a journey electrician's license for not less than two years. A master electrician could not qualify for more than one electrical contractor's license.

A journey electrician's license would be granted to a person of at least 20 years of age who had obtained at least 8,000 hours of experience over a period of not less than four years related to electrical construction, maintenance of buildings, or electrical equipment, under the direct supervision of a person licensed under the act.

Under the bill, a master or journey electrician who failed to pass the master electrician examination twice in two years would be ineligible to take another examination for one year, at which time he or she would have to present proof of the successful completion of a course on code, electrical fundamentals, or electrical theory in order to become eligible to take the exam again. As a condition of license renewal, the master or journey electrician would be required to demonstrate the successful completion of a course on any update or change in the code within 12 months after the update or change.

The bill would require that an individual licensed under the act carry his or her identification card at all times while engaged in work activities, and, in addition, not less than one piece of photo identification. The individual would also be required to produce the above identification upon the request of an inspector; if not produced, he or she would have 24 hours to present it to the appropriate enforcing agency. The bill would also require that a vehicle used for licensed activities display the company name, address, and telephone number in letters not less than one inch high, and a contractor number, with contrasting letters, not less than three inches high.

Apprentice Requirements. Apprentices would be required to register with the board within 30 days after employment, and to prove participation in a bona fide apprenticeship training program approved by the board and the United States Department of Labor Bureau of Apprenticeship and Training. Under the bill, the ratio of journey electricians to registered apprentice electricians would be 1:1 for the first journey electrician, and thereafter on the basis of 3 journey electricians to 1 registered apprentice electrician. The department would be required to enforce the ratio on a jobsite basis.

Exemptions. Under the bill, the installation, alteration, servicing or inspection of electrical equipment within a building could not be performed unless the electrician involved held at least a valid journey electrician's license, and the electrical contractor involved had secured the appropriate permit. The exceptions to this requirement would be:

- The owner of a single family residence who personally installed electrical equipment in the dwelling and

adjacent outbuildings and who had the required permits and inspections.

- Minor repair work.
- The installation, alteration, repair, rebuilding, or remodeling of elevators, dumbwaiters, escalators, or man lifts if done under the appropriate permit.
- The installation, alteration, or repair of electrical equipment or wiring for the generation, transmission, or distribution of electric current up to and including the meters, if the work was an integral part of the system owned and operated by an electrical utility.
- The operation of signals or transmission of intelligence and associated wiring installed to the premises of consumers or subscribers by or for electrical energy supply, if an integral part of the system owned and operated by an electrical utility.
- The use, maintenance, operation, dismantling, or reassembling of motion picture and theatrical equipment used in a building with approved facilities for entertainment or educational use and with the necessary permanent wiring, floor and wall receptacle outlets designed for the use of theatrical equipment, but not including permanent wiring.
- The testing or repair of electrical equipment if done in a repair shop.
- The manufacture of electrical equipment requiring a certification of a testing laboratory.
- Installations in ships, watercraft other than those defined as buildings, or structures, railway rolling stock, aircraft, automotive vehicles, or mobile homes during manufacture.
- Underground mine installations.
- The installations of railways used exclusively for the operation of rolling stock or installations used exclusively for signaling and communication purposes.
- The installation, construction, maintenance, and repair of communication circuits or equipment for the transmission of intelligence by communication utilities.
- The installation, alteration, repair, maintenance, or rebuilding of a municipally franchised cable television system performed in compliance with the applicable codes and regulations.
- The installation, alteration or repair of electrical equipment for the metering, control, and utilization of natural gas by a natural gas utility.

Inspectors. Each governmental subdivision would be required to appoint as an inspector a licensed master electrician. The inspector could not engage in the electrical contracting business during his or her term of employment, and would be required to register under the Building Officials and Inspectors Registration Act. Electrical inspectors would have the authority to require that a licensee produce an identification card and at least one piece of identification containing a photograph.

Penalties. The Electrical Licensing Board could bring action against those whom the Department of Labor found to be in violation of the bill, or who were found performing activities without a license. One or more of the following would be grounds for board action:

- Fraud or deceit in obtaining a license.
- Willful violation of a code.
- False advertising.
- An act which demonstrated incompetence.
- Failure by an electrical contractor to maintain the required insurance coverage.
- A violation of the act.

Within 12 months of the effective date of the bill, the board would be required to define, outline a fine schedule, and establish a citation system for "minor violations" of the act. Violation of the act, with the exception of "minor violations," would be considered a civil infraction, punishable by a fine of not less than \$1,000 per day for each day the violation occurred, up to \$5,000 in total per violation, and \$2,000 per day for each day a second or subsequent violation occurred, up to \$10,000 in total per violation. In addition, the board could also suspend, deny, or revoke licenses, and demand restitution.

The attorney general or local prosecuting attorney could also initiate an action to enforce the bill, or to enforce rules promulgated under the bill.

Repeal Provisions. The bill would repeal the existing Electrical Administrative Act, Public Act 217 of 1956.

Proceedings pending before the existing Electrical Administrative Board would be continued, and would be conducted and determined under the previous Electrical Administrative Act.

Persons licensed under the previous act would be considered licensed or registered until the license or registration expired.

Provisions of the bill that were inconsistent or in conflict with the State Construction Code Act would be superseded to the extent of the inconsistency or conflict.

MCL 338.881 et al.

FISCAL IMPLICATIONS:

According to the Bureau of Construction Codes in the Department of Labor, the bill would have no impact on state funds. (12-1-89)

ARGUMENTS:

For:

The 1973 court case that permitted the ratio of apprentices to journey electricians to be determined on a company-wide basis created a loophole in the enforcement of the law. It is claimed that a contractor may have a jobsite with ten apprentices and one journey electrician, but when the job is inspected for ratio compliance, the contractor can then cheat by claiming that another jobsite has one apprentice and ten journey electricians. The bill would clarify the intent of the law by requiring that apprentice ratios be enforced on a jobsite basis. The bill would also require United States Department of Labor, Bureau of Apprenticeship and Training (BAT) approval of apprenticeship training programs. In addition, the bill would require applicants who failed an exam twice in two years to take an approved course on the State Construction Code, or on electrical fundamentals or theory, before they could take the exam again. The first two requirements should resolve current problems concerning the safety and education of apprentice electricians by assuring that electrical work isn't performed by unskilled and unqualified people. The latter requirement would ensure that unqualified applicants would not be licensed.

Against:

At a period in Michigan's history when it is striving to attract new industry, the bill would only make the state less attractive to new developers. The bill's proposed requirement that the ratio of apprentice to journey electricians be determined on a jobsite basis would raise

construction costs: many apprentices who are now allowed to work on a project would lose their jobs; on the other hand, the demand for journey electricians would rise, increasing wage rates and therefore the overall cost of construction. Small businesses that could not afford to hire more journey electricians, nor to adhere to the insurance requirements of the bill, would also be adversely affected.

POSITIONS:

The United States Department of Labor, Bureau of Apprenticeship and Training, supports the bill. (12-4-89)

The Michigan State Building and Construction Trades Council supports the bill. (12-4-89)

The Southeast Michigan Building and Trades Council supports the bill. (12-4-89)

The Grand River Valley Labor Council supports the bill. (12-4-89)

The National Electrical Contractors Association supports the bill. (12-4-89)

Contractors Legislative Services supports the bill. (12-4-89)

The Michigan Air Conditioning Contractors Association supports the bill. (12-1-89)

American Telephone and Telegraph supports the bill. (12-4-89)

The Michigan Chapter of the International Brotherhood of Electrical Workers supports the bill. (12-4-89)

The Washtenaw County Electrical Contractors Association supports the bill. (12-4-89)

The Metro Detroit Air Conditioning Contractors of America supports the bill. (12-1-89)

The National Electrical Contractors Association, Southeastern Michigan Chapter, supports the bill. (12-1-89)

The Department of Labor has no position on the bill. (12-1-89)

The Department of Public Health has no position on the bill. (12-4-89)

The Small Business Association of Michigan has no position on the bill. (12-1-89)

Consumers Power Company has no position on the bill. (12-1-89)

The Michigan Manufacturing Association has no position on the bill. (12-1-89)

Associated Builders and Contractors, Inc. is strongly opposed to the bill. (12-1-89)

The Michigan Association of Home Builders is strongly opposed to the bill. (12-1-89)