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ELECTRICAL LICENSING ACT

House Bill 5168 as enrolled
Second Analysis (10-30-90)

Sponsor: Rep. Joseph Young, Jr.
House Committee: State Affairs
Senate Committee: Human Resources and Senior
Citizens

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 electrical journeymen. Further, electrical journeymen may not supervise more than one apprentice electrician at a time. However, in 1973 a Kent County court ruled that the ratio of one apprentice electrician to one electrical journeyman 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 apprentice electricians to electrical journeymen can result in situations where, for example, an apprentice electrician may be at work on the first floor of a building while the journeyman supervisor is at work on the seventh floor. There is, therefore, no direct supervision of the apprentice electrician or of the work being done, with the result that the safety of the apprentice electrician 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 apprentice electricians. It is claimed that over 80 percent of those who take the electrical journeyman's examination fail. Critics of the act claim that it should be amended to include BAT criteria for classroom training for apprentice electricians, 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.

Under Public Act 230 of 1972, certain provisions of the act regarding construction code requirements, together with provisions that exempt certain municipalities and license

applicants from the act's licensing requirements, were superseded to the extent that they were inconsistent with the State Construction Code. Some feel that this has caused confusion as to whether the code or the Electrical Licensing Act's requirements should be followed. It is proposed that the act be amended to delete these provisions.

THE CONTENT OF THE BILL:

The bill would amend the Electrical Administrative Act to require the registration of apprentice electricians and to require that applicants participate in an apprenticeship training program equal to the requirements imposed by the U. S. Department of Labor Bureau of Apprenticeship and Training (BAT); to require that the Electrical Administrative Board provide an examination for licensure applicants; to require that there be one electrical journeyman or master electrician for each registered apprentice electrician; and to require license applicants to complete successfully courses on changes or updates in the State Construction Code or any nationally recognized model electrical code adopted by a governmental subdivision (this requirement would apply only during or after those years that the code was updated or changed). The bill would require local governments to appoint inspectors; require licensees to carry identification cards; would establish penalties for violations; and would delete the provision that requires the state to reimburse municipalities that provide their own inspection services. The bill would also repeal provisions of the act that were outdated.

The major new provisions of the act are summarized as follows:

Definitions. The bill would provide definitions for "apprentice electrician" (an individual — other than an electrical contractor, master electrician, or electrical journeyman — engaged in learning about and assisting in the installation or alteration of electrical equipment under the direct supervision of an electrical journeyman or master electrician); "code" (the State Construction Code, or a part of that code that was of limited application and that included a modification of it, or a nationally recognized model electrical code adopted by a governmental subdivision); "jobsite" (the immediate work area within the property lines of a single construction, maintenance, or alteration project where electrical construction or alteration is

in progress); and "enforcing agency" (the enforcing agency responsible for the administration and enforcement of the electrical code, pursuant to the State Construction Code Act).

Electrical Administrative Board. The board would be required to provide examinations 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 examinations would have to follow guidelines outlined in the bill, and would be offered at locations throughout the state. Copies of examinations developed by a governmental subdivision presented for board approval would remain the property of the subdivision and would have to be returned without having been copied or reproduced.

Within 12 months of the effective date of the bill, the board would be required to outline a fine schedule and establish a citation system for "minor violations" of the act.

Joint Legislative Committee. The bill would create a Joint Legislative Committee, consisting of the chairs of the Labor and State Affairs committees in the House, and the chairs of the committees dealing with labor and state affairs in the Senate. The committee would examine the scope of the act, and any code involving electrical applications, including, but not limited to, low voltage applications. The committee would also be required to publish and present a written report to the legislature by June 1, 1991.

License and Examination Fees. Examination, license, and registration fees would remain unchanged under the bill. However, the bill would establish a \$5 fee for an apprentice electrician registration, renewable on August 31 of each year upon payment of a \$10 fee. Proof of a sponsoring employer would be required for initial or renewal registration. 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.

License and Registration Requirements. Under the bill the licensing and registration provisions of the act would be enforced by the board, an enforcing agency, and the Department of Labor. The board would issue licenses and registrations as follows:

- 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 in his or her full-time employ who resided in the state and who was actively in charge of and responsible for code compliance of all installations of electrical equipment. The applicant would also have to pay up to \$50 per assessment period 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 12,000 hours of experience in electrical construction, or building or electrical equipment maintenance under the supervision of a master electrician, and had held a electrical journeyman's license for not less than two years. A master electrician could not qualify for more than one electrical contractor's license.
- An electrical journeyman'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 electrician or electrical journeyman who failed to pass the master electrician examination twice in two years would be ineligible to take another examination for another 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 electrician or electrical journeyman 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.

While engaged in activities that were licensed or registered under the act, individuals would be required to carry one piece of photo identification and an identification card that was issued by the Department of Labor, and to produce these when requested to do so by an inspector. Failure to do so within 24 hours would be considered a violation of the act by the electrical contractor supervising the job site.

Apprentice Electrician Requirements. Apprentice electricians 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 that was the equivalent of the requirements imposed by the United States Department of Labor Bureau of Apprenticeship and Training. Under the bill, the ratio of electrical journeymen or master electricians to registered apprentice electricians would be 1:1. The Department of Labor would be required to enforce the ratio on a jobsite basis.

Exemptions. In the case of a residential single family dwelling, or a multifamily dwelling of up to eight units per building, the Department of Labor or an enforcing agency would be required to enforce the apprentice electrician ratio on the basis of one electrical journeyman or master electrician to two registered apprentice electricians on a jobsite basis.

Inspectors. Each governmental subdivision would be required to appoint as an inspector a licensed electrical journeyman or master electrician. The inspector 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 identification cards.

Penalties. The Department of Labor would investigate all violations of the act, hold hearings, and report its findings to the board. 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.

Under the bill, a 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 (one or more violations occurring or reported on the same day on the same jobsite would be considered one violation of the act). The board could double the fine if two violations of the act occurred within a period of two years, and could revoke an individual's license or registration and permanently deny a renewal if three violations of the act occurred within a period of three years. In addition, the board could also suspend, deny, or revoke licenses, and demand restitution. If restitution were required, the board could suspend or revoke a license or registration until restitution was made.

The board would also, upon recommendation of the department, suspend or revoke the license of a person whose failure to pay a lien claimant resulted in a payment being made from the Homeowner Construction Lien Recovery Fund. The license would not be renewed until full restitution to the fund had been made. The board could also recommend revocation or suspension of a license or registration to a governmental subdivision.

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. Certain provisions of the act regarding construction code requirements and provisions that exempt certain municipalities and license applicants from the act's licensing requirements that were superseded by Public Act 230 of 1972 would be repealed.

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. The bill would indirectly affect the total cost of state construction projects, but the amount cannot be easily estimated. In addition, two municipalities have received reimbursements through a provision of the act that provides for state reimbursement of half of the license fees issued to a municipality that provides its own inspection service. The total amount disbursed in 1990 was approximately \$3,000. (10-23-90)

ARGUMENTS:

For:

The 1973 court case that permitted the ratio of apprentice electricians to electrical journeymen 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 apprentice electricians and one electrical journeymen, but when the job is inspected for ratio compliance, the contractor can then cheat by claiming that another jobsite has one apprentice electrician and ten electrical journeymen. The bill would clarify the intent of the law by requiring that apprentice electrician 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 electricians to electrical journeymen be determined on a jobsite basis would raise construction costs: many apprentice electricians who are now allowed to work on a project would lose their jobs; on the other hand, the demand for electrical journeymen would rise, increasing wage rates and therefore the overall cost of construction. Small businesses that could not afford to hire more electrical journeymen, nor to adhere to the insurance requirements of the bill, would also be adversely affected.

Against:

The act currently requires that licenses be issued by the Electrical Administrative Board. As written, the bill is confusing, since it, in addition, refers to the Department of Labor as the licensing authority. Presumably, the intent of the bill is that the department would have the authority to carry out the licensing function during periods that the board is in recess. The bill should be amended to permit the board to promulgate a rule that would delegate this function to the department when necessary.