

RULE IMPACT STATEMENT

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS

1. **BRIEF DESCRIPTION OF PURPOSE OF PROPOSED RULE:** The proposed amendment to 158:40-1-2 is to clean up definitions and provide the public better clarity. The proposed addition of 158:40-5-3.1 is due to statutory changes regarding the Criminal Justice Reform Act (HB 1373) to bridge current language with that statutory language; the amendment to 158:40-7-4 is to clarify a limited electrical contractor is not able to work in the field or supervise in the field; amendments to 158:40-9-2.1 are due to legislation (SB 670) providing a fee waiver for active duty military and their spouses; the amendment to 158:40-9-3 is due to legislation (HB 2933) which provides a one-time low income fee waiver; the amendments to 158:40-11-2 clarify existing language.
2. **DESCRIPTION OF THE CLASSES OF PERSONS AFFECTED:** The agency, members of industry and the public who are involved in or wish to be involved in the electrical industry/trade licensed and regulated by the Construction Industries Board ("CIB"), continuing education providers, and citizens of Oklahoma.
3. **CLASSES OF PERSONS BENEFITTED:** The agency, members of industry and the public who are involved in or wish to be involved in the electrical industry/trade licensed and regulated by the Construction Industries Board ("CIB"), continuing education providers, and citizens of Oklahoma.
4. **ECONOMIC IMPACT UPON AFFECTED CLASSES OF PERSONS:** Having clear and unambiguous rules should have a positive economic impact in that it should help to keep an individual from unknowingly committing a violation that could result in a fine or penalty. No fees are established only fee waivers provided in certain circumstances by the proposed rules, thus having a positive economic impact on the classes of persons affected.
5. **COSTS AND BENEFITS TO THE AGENCY:** Although there could be a loss of revenue received by the agency associated with SB 670 and HB 2933, the proposed amendments create a minimal initial cost for software changes to account for licenses issued without the associated fee. The benefit is to have clear, unambiguous rules in place to assist those impacted by the rules.
6. **ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** No economic impact on any political subdivision is anticipated by the proposed rules.
7. **ECONOMIC IMPACT ON SMALL BUSINESS:** Any economic impact on small business is not measurable.
8. **MEASURES TAKEN TO MINIMIZE COMPLIANCE COSTS:** The proposed rule changes are the least costly or least intrusive method of achieving the purpose of the proposed rules. There are no non-regulatory methods for achieving the purpose of the proposed rule changes.

9. **EFFECT OF THE PROPOSED RULE ON PUBLIC HEALTH:** Licensing helps to protect the health, safety and welfare of the public. Having clear and unambiguous rules regarding licensing requirements should have a positive effect on public health.
10. **DETRIMENTS TO PUBLIC HEALTH IF THE RULE IS NOT ADOPTED:** There are no known detriments to public health if the rule is not adopted.
11. **DATE IMPACT STATEMENT PREPARED:** December 18, 2019.

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS**

SUBCHAPTER 1. GENERAL PROVISIONS

158:40-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Electrical License Act as found at 59 O.S. § 1680, *et seq.*

"Administrator" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1, *et seq.*

"Alarm Endorsement" ~~or "Alarm Endorsement registration"~~ means a licensed electrician or registered electrical apprentice who has met the endorsement ~~registration~~ requirements and holds a current valid electrical license or registration may install, service, or repair alarm or security systems or electronic security devices such as residential or commercial burglar alarms or security systems, electronic access control, closed circuit television, nurse call systems and the like pursuant to the regulations governing that electrical license or registration.

"Applicant" means any person applying for an examination, for a license or registration, for continuing education approval, for review of plans and specifications, or for an electrical code variance from the standard of installation as described in OAC 158:40-1-4 by the Board under the Act.

"Apprentice" means an electrical worker registered pursuant to OAC 158:40-5-1 who is limited to working for a contractor and is directly supervised by a licensed contractor or journeyman with the appropriate license classification for the work being performed.

"Associated with and responsible for" means the relationship between an electrical contractor and electrical firm based on the electrical contractor being a permanent employee, owner, partner, or officer in a corporate firm, and whereby the electrical contractor shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Electrical License Act and this Chapter.

"Board" means the Oklahoma Construction Industries Board.

"Bonds and Insurance Unit" means the consolidated unit that processes bonds and insurance under the direction of the Construction Industries Board.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a license examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Committee" means the Committee of Electrical Examiners.

"Contracting" means engaging or offering to engage in, on behalf of oneself or on behalf of another, any electrical work which requires a valid and appropriate license from the Construction Industries Board as required by the Electrical License Act, regardless if said work is in exchange for monetary payment or otherwise.

"Contractor" means a person who meets the definition of 59 O.S. § 1682(5) and is licensed in the appropriate category for any electrical work performed.

"Continuing Education Credit Hour" means at least sixty (60) minutes of classroom instruction.

"Direct supervision" means the on-the-job physical presence by the supervisor who

DRAFT of Proposed Amendments to Permanent Rules – 2020 Rulemaking

must be in the work area where the electrical work is being performed and who also must be a licensed electrical contractor or electrical journeyman in the appropriate category for any electrical work supervised.

"Electrical facility" means wiring, fixtures, appurtenances and appliances used for and in connection with a supply of electricity, but excludes the connection with a power meter or other utility supply source or other statutory exclusions such as alarm system work (59 O.S. §1800.3(4)), and data, voice and home theater audio/visual communications except for fire alarm systems, security systems and environmental control systems that are not an integral part of a telecommunications system.

"Electrical firm" means any firm, corporation, partnership, sole proprietorship, joint venture or any other business entity engaged in the business of planning, contracting, supervising or furnishing labor or labor and materials for the installation, repair, maintenance or renovation of electrical facilities according to the Act.

"Electrical License Unit" means the staff and administrative support unit to the Committee of Electrical Examiners and the Electrical Hearing Board.

"Electrical maintenance" means electrical work limited to maintaining existing electrical systems, facilities or equipment by an employee of a person, company, corporation or entity owning the electrical systems, facilities or equipment. Maintenance shall not include any alterations or additions to existing systems, facilities or equipment.

"Electrical work" means work as that term is defined in 59 O.S. § 1682.

"Hearing Board" means the Electrical Hearing Board created by the Act.

"Inactive contractor" means any class of licensed electrical contractor who does not have current bond and insurance to be able to be contracting for electrical work pursuant to the act. An inactive contractor works as a journeyman electrician.

"Journeyman electrician" or **"journeyman"** means any person, other than a contractor or apprentice, who engages in the installation, repair, maintenance or renovation of electrical facilities according to the Act, in the category in which the person is licensed.

"Limited electrical contractor" means any person who has qualified and become licensed in accordance with OAC 158:40-7-4. Such person is prohibited from engaging in the work of a journeyman electrician.

"Military electrical experience" means verifiable military experience in electrical work which is the same as or similar to electrical construction work as defined in the Act.

"Oklahoma Uniform Building Code Commission" or **"OUBCC"** means the state agency created under 59 O.S. § 1000.20, *et. seq.*, and authorized to adopt all building codes and standards for residential and commercial construction to be used as minimum standards by all entities within this State.

"Reciprocity agreement" means an agreement whereby a person holding an electrical license or registration who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Refinery Electrical Journeyman" means an electrician licensed as a refinery electrical journeyman electrician pursuant to OAC 158:40-7-6 and is limited to performing electrical work only in refinery facilities.

"Residential contractor" means an electrician licensed as a residential contractor pursuant to OAC 158:40-7-2 and is limited to performing residential electrical construction work.

"Residential journeyman" means an electrician licensed as residential journeyman electrician pursuant to OAC 158:40-7-2 and limited to performing residential electrical construction work.

"Temporary electrical journeyman" means an electrician temporarily licensed by the Oklahoma Construction Industries Board as a journeyman electrician and is limited to electrical construction per the equivalent temporary journeyman classification determined by the Board.

"Variance" means the use of an alternative material or method of construction from that prescribed in the standard of installation as described in OAC 158:40-1-4 for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Electrical Installation Code Variance and Appeals Board.

SUBCHAPTER 5. LICENSING REQUIREMENTS, DISPLAY OF LICENSE, AND FIRM NAME, AND BOND REQUIREMENTS

158:40-5-3.1. Eligibility for Alarm endorsement for Apprentice, Journeyman, or Contractor.

(a) A person with a criminal history record may request an initial determination of whether his or her criminal history record would potentially disqualify him or her from obtaining the desired alarm endorsement at any time, including before obtaining any required education or training.

(b) The request shall be in writing and shall include either a copy of the person's criminal history record with explanation of each conviction mentioned in the criminal history record or a statement describing each criminal conviction including the date of each conviction, the court of jurisdiction and the sentence imposed. The person may include a statement with his or her request describing additional information for consideration by the licensing authority including, but not limited to, information about his or her current circumstances, the length of time since conviction and what has changed since the conviction, evidence of rehabilitation, testimonials or personal reference statements and his or her employment aspirations.

(c) Disqualifying offenses are provided to applicants as contained in OAC 158:40.

(d) Upon receipt of a written request for consideration of a criminal history record for alarm endorsement, the CIB shall evaluate the request and make an initial determination based upon the information provided in such request whether the stated conviction is a disqualifying offense for the occupation.

(1) A notice of initial determination shall be issued to the petitioner within sixty (60) days from the date such request was received by the licensing authority, except however, a licensing authority regulating fifty thousand or more members in its occupation shall be allowed ninety (90) days to make its initial determination and issue notice to the requestor.

(2) The notice of initial determination shall be in writing and mailed to the requestor at the address provided in his or her request, and shall contain the following statements:

(A) Whether the person appears eligible for electrical endorsement at the current time based upon the information submitted by the requestor;

(B) Whether there is a disqualifying offense prohibiting the person's engagement in the occupation at any time and a statement identifying such offense in the criminal history record or information submitted for consideration;

(C) Any actions the person may take to remedy what appears to be a temporary disqualification, if any;

(D) The earliest date the person may submit another request for consideration, if any; and

(E) A statement that the notice of initial determination is only an initial determination for eligibility for endorsement based upon the information provided by the requestor and any approval is subject to meeting all application and endorsement requirements.

(e) Written requests must be provided upon CIB forms for initial determination and the non-refundable Ninety-five Dollars (\$95.00) initial determination of eligibility fee paid.

SUBCHAPTER 7. LICENSE CLASSIFICATIONS

158:40-7-4. Limited electrical contractor

A limited electrical contractor is prohibited from engaging in the work of a journeyman electrician, performing or supervising field work, and has met the following requirements:

~~(a)~~ (1) Applicants for Limited Electrical Contractor examination must be eighteen (18) years of age or older and must have a degree in Electrical Engineering from an accredited college or university. Additionally, an applicant must have eight thousand (8,000) hours (4 years) of electrical experience in field construction, electrical estimating, electrical project management in commercial and industrial electrical work; or

~~(b)~~ (2) Applicants for a Limited Electrical Contractor examination must be eighteen (18) years of age or older and must verify sixteen thousand (16,000) hours (8 years) experience in the electrical trade performing electrical work, estimating or project management. The experience must be verified in commercial and/or industrial work.

SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS AND LICENSE AND REGISTRATION FEES AND RENEWALS

158:40-9-2.1. Acceptance of Military education, training and experience toward qualification for licensure examination

(a) **Licensure – post-military service.** See OAC 158:1-3-10 for provisions related to the application of substantially equivalent education, training, and experience completed as a member of the Armed Forces or Reserves of the United States, National Guard of any jurisdiction, the Military Reserves of any jurisdiction, or the Naval Militias of any jurisdiction toward satisfying the qualifications for examination and license or registration issuance.

(b) **Military spouse applicant—equivalency.** See OAC 158:1-3-10 for provisions related to issuance of ~~an~~ an equivalent a license or registration in an equivalent category for the spouse of an

active-duty member of the Armed Forces or Reserves of the United States.

158:40-9-3. License and registration fees and renewals

(a) **Examination fees for contractors and journeyman.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by this Chapter. The cost for each such examination referenced in OAC 158:40-9-2 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to setting for the examination. The unit testing fee shall be the amount negotiated by the Administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee provided in 59 O.S. § 1000.5(A)(2). Documentation confirming the contractual fee shall be available upon request.

(b) **Licensing, registration and application fee schedule for contractors, journeyman, and apprentices.** The licensure, application, and registration and annual renewal fees shall be as follows:

- (1) contractors application - \$30.00
- (2) initial contractor license - \$300.00
- (3) renewal contractor license - \$200.00
- (4) renewal contractor license with late fee - \$300.00
- (5) journeyman application - \$25.00
- (6) initial journeyman license - \$50.00
- (7) renewal journeyman license - \$75.00
- (8) renewal journeyman license with late fee - \$100.00
- (9) apprentice application - \$5.00
- (10) apprentice registration - \$20.00
- (11) initial alarm endorsement - \$75.00
- (12) renewal alarm endorsement - \$25.00

(c) **License renewal penalties.** Thirty (30) days after the expiration of a license for contractors and journeyman a late license renewal fee is effective, as provided in the Act and as listed in (b) of this Section. Upon meeting the continuing education requirements listed in OAC 158:40-9-4, a license may be renewed up to a year from the original renewal date. Any license which remains expired for longer than one (1) year shall not be renewed. The former license holder shall be required to make an initial application and retest to obtain the license formerly held.

(d) **Outstanding fines.** A license cannot be issued or renewed until the applicant has paid any and all outstanding fines due and owing to any division of the Construction Industries Board.

(e) **Duration of licenses.** All licenses and alarm endorsements shall have a duration of no longer than one year, and shall expire on the last day of the birth month of the licensee each year. The alarm endorsement for apprentices shall expire on the expiration date of each apprentice registration.

(f) **One time low-income fee waiver.** See OAC 158:1-3-13(c) regarding eligibility on a one-time, one-year fee waiver.

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:40-11-2. Prohibited acts

- (a) The following acts are prohibited:
- (1) No person, entity, or firm may engage in electrical contracting or perform work without first obtaining the appropriate license or registration pursuant to this Chapter.
 - (2) No ~~licensee~~ person shall perform work contrary to any provision of the standard of installation in OAC 158:40-1-4, except as otherwise provided by law or rule. Each violation of the standard of installation in OAC 158:40-1-4 can be treated as a separate violation of this Chapter.
 - (3) No person shall offer to engage in work during the period his or her license is suspended or revoked.
 - (4) No employing firm shall employ or use an unlicensed or unregistered individual or entity to perform work.
 - (5) No person, entity, or firm may transfer a license or registration.
 - (6) No individual or entity, licensed pursuant to this Chapter, shall enter into an agreement for the use of his or her license with any firm or person which is, or has been adjudicated to be, in violation of any provision of the Act, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Board.
 - (7) No person shall make a materially false or fraudulent statement in an application for license.
 - (8) No person may alter a license.
 - (9) No licensee shall perform work without keeping their license on their person or in close proximity while performing work.
 - (10) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.
 - (11) No person or entity shall deny access to the Construction Industries Board or its representative on a job site.
- (b) The following prohibited acts apply to persons issued a contractor license:
- (1) No licensee shall allow more than three (3) apprentices per journeyman at a job site.
 - (2) No licensee shall fail to maintain a bond and insurance as provided for in OAC 158:40-5-5.
 - (3) No licensee shall be associated with and responsible for more than one firm.
- (c) The following prohibited acts apply to persons issued a journeyman license:
- (1) No licensee shall perform work except under the employment ~~or supervision~~ of a contractor.
 - (2) No licensee shall engage in the planning, contracting, or furnishing of labor and/or materials used for work.

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

158:40-1-2 [AMENDED]

Subchapter 5. Licensing Requirements, Display of License, and Firm Name, and Bond Requirements

158:40-5-3.1 [NEW]

Subchapter 7. License Classifications

158:40-7-4 [AMENDED]

Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals

158:40-9-2.1 [AMENDED]

158:40-9-3 [AMENDED]

Subchapter 11. License Revocation or Suspension and Prohibited Acts

158:40-11-2 [AMENDED]

SUMMARY:

The proposed amendments to 158:40-1-2 are to clean up definitions and provide the public better clarity. The addition of 158:40-5-3.1 is due to HB1373. The proposed amendments to 158:40-7-4 are to clarify qualifications of a limited electrical contractor. The proposed amendments to 158:40-9-2.1 are related to SB670 and provide a fee waiver for active military and their spouses and the proposed amendment to 158:40-9-3 provides a one-time low income fee waiver related to HB2933. The proposed amendments to 158:40-11-2 provides further clarification to the public

AUTHORITY:

Construction Industries Board; 59 O.S. §§ 1000.4(A)(1), 1000.5, and 1681

COMMENT PERIOD:

Written and oral comments will be accepted until 4:30 p.m. on January 17, 2020, at the following address: Construction Industries Board, ATTN: Administrative Rules Division, 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107. During the open public comment period, comments may be delivered during regular business hours or submitted via regular mail.

PUBLIC HEARING:

A Public Hearing is scheduled for 1:30 p.m. on Wednesday, January 29, 2020, at the monthly meeting of the Construction Industries Board which will be held in the Construction Industries Board Conference Room at 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107. Anyone who wishes to make comments regarding the proposed rules at the public hearing must sign in by 1:30 p.m. See "Additional Information" section below.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to the Administrative Rules Division through the close of the comment period on January 17, 2020, at the address shown below for obtaining copies of the proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rules are available at the Construction Industries Board, 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107, or online at www.cib.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available beginning December 31, 2019, at the address listed above for obtaining copies of the proposed rules.

CONTACT PERSON:

Stephanie Brown, Board Secretary/Executive Assistant, 405-521-6550

ADDITIONAL INFORMATION:

If the monthly meeting of the Construction Industries Board scheduled for Wednesday, January 29, 2020, cannot be held due to inclement weather or lack of a quorum, the Public Hearing that would have occurred January 29, 2020, at that monthly meeting of the Construction Industries Board will be held instead at the monthly meeting scheduled for Wednesday, February 12, 2020, at 1:30 p.m., in the Construction Industries Board Conference Room at 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107. Anyone who wishes to make comments regarding the proposed rules at the public hearing must sign in by 1:30 p.m.