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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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S.B. 176
133rd General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsor: Sen. Schaffer

Local Impact Statement Procedure Required: No

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Highlights

- The bill will increase costs for the Department of Commerce's Ohio Construction Industry Licensing Board (OCILB) to license individuals that perform residential construction with respect to heating, ventilating, and air conditioning (HVAC); electrical; plumbing; or hydronics. Currently, OCILB only licenses individuals that perform these trades on commercial construction projects. Ultimately, the cost of the new regulation is unknown, as it depends on the number of new licenses it issues.
- The Department anticipates it would need to hire at least one administrative professional to process licenses and may need to hire additional investigators and inspectors depending on the number of new licenses it issues for each trade. These costs would at least be partially offset by an increase in revenue received from license application and annual license fees.
- Under current law, the Industrial Compliance Operating Fund (Fund 5560) is used by OCILB for all operating and enforcement expenses. Under the bill, OCILB expenses will be shared between Fund 5560 and a new fund, the Construction Industry Licensing Enforcement Fund, which the bill creates to pay for enforcement of OCILB Law. The new fund will receive 20% of all revenue to OCILB.
- The bill applies the same enforcement actions and penalties that are currently applied to unlicensed commercial contractors to unlicensed residential contractors. These actions include (1) a minor misdemeanor on first offense and a fourth degree misdemeanor on subsequent offenses, (2) litigation by the Attorney General, and (3) an administrative penalty assessed by OCILB up to \$1,000 per violation per day.

Detailed Analysis

Residential contractor licensing

The bill will increase costs for the Department of Commerce's Ohio Construction Industry Licensing Board (OCILB) to license individuals that perform residential construction with respect to heating, ventilating, and air conditioning (HVAC); electrical; plumbing; or hydronics under a "residential only license." The costs that OCILB incurs will ultimately depend on how many individuals are licensed under the bill. Currently, a person is only required to be licensed by OCILB if the person is performing these trades on a commercial construction project or is employing tradespersons who are performing the licensed trade on the commercial project. As of February 2020, OCILB licenses 11,690 tradespersons. Among these, there are 3,711 electrical, 2,921 HVAC, 1,195 hydronics, 2,965 plumbing, and 898 refrigeration contractors.

While these trades are regulated by some local governments in Ohio, the number of tradespeople who would be required to obtain state licensure under the bill is unknown. However, as a starting point, LBO looked to statistics collected by the Bureau of Labor Statistics. According to that source, in 2018 there were 11,130 heating, air conditioning, and refrigeration mechanics and installers; 13,700 plumbers, pipefitters, and steamfitters; and 24,850 electricians in Ohio. Of the surrounding states, LBO was able to obtain statistics from West Virginia, Kentucky, and Michigan that require all individuals in these various trades to obtain state license or certification. In West Virginia, there are currently 6,100 certified plumbers and 6,300 certified HVAC contractors. There are nearly 15,000 electricians, over 12,000 HVAC contractors, and 5,000 plumbers licensed in Kentucky. Michigan licensed nearly 16,000 plumbers and 28,000 electricians.

Additionally, it is possible that a person currently licensed by OCILB to do commercial work may do residential construction in these trades as well and would not be required to get a "residential only license" under the bill. This is because the "universal license," also created by the bill, covers tradespeople doing both commercial and residential construction.

OCILB payroll costs

While the volume of additional licensing work OCILB would face under the bill is uncertain, OCILB anticipates it would need to hire at least one additional Administrative Professional 2 to process licenses. Based on the state's employee classification plan, if the Administrative Professional 2 is hired at the starting annual salary of approximately \$39,000, it will bring the Department's potential payroll costs to between approximately \$52,000 and \$66,000. This includes \$5,460 (14% of annual salary) to cover the employer's share of retirement and the employer's share of health insurance (\$7,830 for single coverage or \$21,494 for family coverage under the state's traditional health plan).

Additionally, the Department may have to hire additional investigators and inspectors. The number of additional investigators and inspectors needed to be hired will depend on the number of new licenses issued under each of the three OCILB sections: (1) plumbing and hydronics, (2) electrical, and (3) HVAC and refrigeration. According to the state's employee classification plan, the starting salary for an Investigator, Electrical Safety Inspector, and Plumbing Inspector 2 is about \$47,000. Hiring any of these positions would bring the Department's potential payroll costs between \$61,000 and \$75,000 per employee. This includes

\$6,580 to cover the employer's share of retirement and the employer's share of health care as described above.

Payroll costs for these positions would be paid from the Industrial Compliance Operating Fund (Fund 5560) and presumably the new Construction Industry Licensing Enforcement Fund created by the bill (described in more detail below). Licensees pay a \$25 application fee and an annual \$60 license fee which is deposited into Fund 5560. These fees would at least partially offset the potential payroll costs as described above.

Construction Industry Licensing Enforcement Fund

The bill creates the Construction Industry Licensing Enforcement Fund to be used to enforce the law. The bill does not explicitly specify the use of the fund beyond "enforce the law" but presumably it could be used for payroll costs such as OCILB investigators and inspectors and adjudication/hearing costs. This fund will consist of 20% of all receipts and fines collected under the OCILB Law. The bill requires the remaining 80% of receipts and fines collected under the OCILB Law to be deposited into Fund 5560 and used for operating costs. In addition to operating costs, current law specifies that Fund 5560 may also be used by OCILB for (1) providing services, including educational programs, for the building departments that are certified by OCILB, and (2) paying the expenses of the residential construction advisory committee, including the expenses of committee members. Currently, all receipts collected under the OCILB Law are deposited into Fund 5560. In FY 2019, receipts and fines collected under the OCILB Law amounted to approximately \$2.2 million.

Enforcement actions against unlicensed residential contractors

Generally, the bill applies the same enforcement actions under continuing law applied to unlicensed commercial contractors to unlicensed residential contractors. Enforcement actions for a person who acts as a residential contractor without a license include: (1) a minor misdemeanor for the first violation and a fourth degree misdemeanor for each subsequent violation, (2) litigation by the Attorney General, and (3) administrative penalties assessed by OCILB. Since more individuals will be licensed under the bill, it could result in more enforcement actions being taken. A person guilty of a minor misdemeanor can be fined up to \$150 and a person guilty of a fourth degree misdemeanor can be fined up to \$250 and sentenced to not more than 30 days in jail. Penalties assessed by OCILB may be up to \$1,000 per violation per day and deposited into Fund 5560.