

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

House Bill 431 (Chair, Economic Matters Committee)
 (By Request – Departmental – Labor, Licensing, and Regulation)
 Economic Matters

**State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration
 Contractors and State Board of Plumbing - Firm Permit**

This departmental bill requires a firm to hold a permit issued by the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors before providing services in the State, effective April 1, 2009.

The bill also requires a firm to hold a permit issued by the State Board of Plumbing before operating a business through which plumbing or gas services are provided, effective April 1, 2009.

Fiscal Summary

State Effect: General fund revenues could increase by \$87,500 in FY 2009 from application and permitting fees. General fund expenditures could increase by \$67,700 in FY 2009 for administrative and one-time programming costs related to new permitting procedures. Additional minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions. Out-year revenue and expenditure estimates reflect annualization and biennial permitting cycles.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	\$87,500	\$10,000	\$51,000	\$61,500	\$53,500
GF Expenditure	67,700	51,700	53,100	55,700	58,400
Net Effect	\$19,800	(\$41,700)	(\$2,100)	\$5,800	(\$4,900)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential minimal increase in revenues and expenditures due to the bill’s penalty provisions.

Small Business Effect: The Department of Labor, Licensing, and Regulation has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment as discussed below.

Analysis

Bill Summary: The bill separately establishes procedures for the regulation of firms that provide heating, ventilation, and air-conditioning services or plumbing and gas services. These provisions do not apply to specified licensees who have no employees and offer services under a trade name.

Heating, Ventilation, and Air-conditioning Services

Beginning on April 1, 2009, a firm must hold a permit issued by the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors before operating in the State. Otherwise, a person is guilty of a misdemeanor and, on conviction, subject to a fine of up to \$1,000 and/or imprisonment for up to six months. Subsequent convictions carry a fine of up to \$5,000 and/or imprisonment of up to two years. Any other violation of the bill is subject to a penalty of up to \$5,000, payable to the general fund.

To qualify for a permit, an applicant must submit the required application, pay an application fee of \$25, and furnish proof of insurance covering all licensees employed by the firm. On receipt of a \$25 permit fee, the board may issue a permit to the applicant. Permits are valid for a period of two years and expire on October 1 of odd-numbered years. The fee to renew a firm permit is \$50.

A permitted firm must designate one or more licensed individuals as responsible for the direction and control of services provided. The permit authorizes the holder to offer services only if those services are provided by a licensed employee. The firm must maintain a list of all licensed employees and notify the board of any changes within 10 working days.

The board is authorized to deny a permit or reprimand or suspend a permit holder for causes that include fraudulently obtaining or using a permit, engaging in deceptive trade practices, and misconduct of a firm's partner, member, or corporate officer. Permit holders are entitled to a hearing before the board prior to any final action. The board is authorized to reinstate a revoked or suspended license.

A permitted firm is required to display the firm's permit in the principal place of business and display the permit number on its vehicles. Advertisements must include the firm's

trade name and permit number as well as the license number of the individual designated for direction and control of services.

Plumbing and Gas Services

Beginning on April 1, 2009 a firm must hold a permit issued by the State Board of Plumbing before operating in the State. Otherwise, a person is guilty of a misdemeanor and, on conviction, subject to a fine of up to \$100 and/or imprisonment for up to six months for each day or part of each day that the violation continues. The board may also impose a penalty of up to \$5,000 for each violation.

To qualify for a permit, an applicant must submit the required application, pay an application fee of \$25, and furnish proof of insurance covering each licensee employed by the firm. On receipt of a \$25 permit fee, the board may issue a permit to the applicant. Permits are valid for a period of two years and expire on May 1 of odd-numbered years. The fee to renew a firm permit is \$50.

A permitted firm must designate one or more licensed individuals as responsible for the direction and control of services provided. The permit authorizes the holder to offer services only if those services are provided by a licensed employee. The firm must maintain a list of all licensed employees and notify the board of any changes within 10 working days.

The board is authorized to deny a permit or reprimand or suspend a permit holder for causes that include fraudulently obtaining or using a permit, engaging in deceptive trade practices, and misconduct of a firm's partner, member, or corporate officer. Permit holders are entitled to a hearing before the board prior to any final action. The board is authorized to reinstate a revoked or suspended license.

A permitted firm is required to display the firm's permit in the principal place of business and display the permit number on its vehicles. Advertisements must include the firm's trade name and permit number as well as the license number of the individual designated for direction and control of gas or plumbing services.

Current Law: DLLR's Division of Occupational and Professional Licensing includes 22 boards, offices, and commissions that regulate the provision of professional services in the State, including the two boards affected by this bill:

State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors

An individual who provides heating, ventilation, air-conditioning, or refrigeration services in the State is required to be licensed by the State Board of Heating, Ventilation,

Air-Conditioning, and Refrigeration Contractors. Applicants for licensure must meet certain experience requirements and pass an examination administered by the board, with the exception of applicants for licensure as an apprentice. The board may waive examination requirements for an individual licensed in another state.

The board may deny a license to any applicant, reprimand any licensee, or revoke a license after public hearing if the board finds that an individual has violated professional conduct standards established in law. The board may also deny a license to an applicant or licensee who is convicted of a felony or convicted of a misdemeanor directly related to the fitness of the individual in providing professional contracting services.

State Board of Plumbing

An individual who provides plumbing services in the State is required to be licensed by the State Board of Plumbing. Applicants for licensure must meet certain experience requirements and pass an examination administered by the board, with specified exceptions. The board may waive examination requirements for an individual licensed by another state or jurisdiction.

The board may deny a license to any applicant, reprimand any licensee, or revoke a license after public hearing if the board finds that an individual has violated professional conduct standards established in law. The board may also deny a license to an applicant or licensee who is convicted of a felony or convicted of a misdemeanor directly related to the fitness of the individual in providing professional contracting services.

Background: The bill extends the licensing boards' jurisdiction to owners and operators of plumbing and HVAC firms. The department advises that there have been instances in which firm owners consistently employ unlicensed or unprofessional contractors to provide services. Under current law the boards do not have jurisdiction to discipline these business owners, who themselves are not required to be licensed.

The reporting requirements in the bill are intended to allow the boards to be more responsive to consumer complaints. There is no current mechanism to determine the employer of a licensed practitioner. The bill requires the firm to report its licensed employees and promptly notify the appropriate board of any changes. This will help the boards to identify trends in consumer complaints and respond to public inquiries.

The department advises that State boards that regulate professions including accountants, architects, land surveyors, cosmetologists, and cemeteries have authority to regulate businesses as well as individual licensees.

State Revenues: The department estimates that a total of 1,750 firms would be subject to the new requirements, which go into effect on April 1, 2009. For purposes of this analysis, it is assumed that the boards issue permits to an equal number of firms. With application fees of \$25 and initial permitting fees of \$25, the bill could generate \$87,500 in general fund revenue in fiscal 2009. The department anticipates that approximately 10% of permitting activity will occur in the off-year of the licensing cycle, resulting in another 200 permits issued in fiscal 2010.

The bill specifies that plumbing firm permits expire on May 1 of odd-numbered years. Assuming that initial permits do not expire in 2009 and remain valid until May 1, 2011, an estimated 975 firms issued permits in fiscal 2009 and 2010 would renew their permits in fiscal 2011 at a fee of \$50. Renewal activity would generate an estimated \$48,750 in general funds in fiscal 2011, with an additional \$2,200 generated from growth in the industry. Growth is anticipated to continue at a rate of 5% per biennial licensing cycle.

The bill specifies that heating, ventilation, air-conditioning, and refrigeration firm permits expire on October 1 of odd-numbered years. Assuming that initial permits do not expire in 2009 and remain valid until October 1, 2011, an estimated 975 firms issued permits in fiscal 2009 and 2010 would renew their permits in fiscal 2012 at a fee of \$50. Renewal activity would generate an estimated \$48,750 in general funds in fiscal 2012, with an additional \$2,200 generated from growth in the industry. Growth is anticipated to continue at a rate of 5% per biennial licensing cycle.

State Expenditures: General fund expenditures could increase by an estimated \$67,663 in fiscal 2009, which accounts for the bill’s October 1, 2008 effective date. This estimate reflects the cost of hiring one shared office secretary to handle permitting inquiries and applications. It includes a salary, fringe benefits, one-time electronic licensing and start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

Position	1
Salary and Fringe Benefits	\$31,805
Electronic Licensing Programming Costs	25,000
Other Operating Expenses	<u>10,858</u>
Total FY 2009 State Expenditures	\$67,663

Future year expenditures reflect a full salary with 4.4% annual increases and 3% employee turnover; and 2% annual increases in ongoing operating expenses.

Small Business Effect: Many of the firms impacted by this bill qualify as small businesses. Although the bill should not create a financial hardship, these firms may experience minimal increases in workload associated with the bill's reporting requirements.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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ncs/ljm

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