

1 HB338
2 114821-3
3 By Representatives Harper and Hammon
4 RFD: Boards and Commissions
5 First Read: 19-JAN-10

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8 SYNOPSIS: Under existing law, the Alabama Board of
9 Electrical Contractors regulates electrical
10 contractors.

11 This bill would provide for additional
12 definitions. The bill would allow the board to
13 impose a restoration fee for the issuance of
14 licenses to those electrical contractors whose
15 licenses have expired. The bill would allow the
16 board to hire investigators. The bill would allow
17 the board to investigate unlicensed contractors.
18 The bill would allow appeal to the Circuit Court of
19 Montgomery County by any person aggrieved by the
20 actions of the board. The bill would require
21 electrical contractors to earn continuing education
22 hours. The bill would subject the board to the
23 Alabama Sunset Law. The bill would increase the
24 compensation of the board. The bill would allow the
25 board to promulgate rules in regulating electrical
26 contractors. The bill would provide for penalties.

1 The bill would repeal Section 34-36-14 of
2 the Code of Alabama 1975, relating to the
3 Electrical Appeals and Advisory Board.

4
5 A BILL
6 TO BE ENTITLED
7 AN ACT

8
9 To amend Sections 34-36-1, 34-36-3, 34-36-4,
10 34-36-5, 34-36-6, 34-36-7, 34-36-8, 34-36-9, 34-36-13,
11 34-36-15, 34-36-16, and 34-36-17 of the Code of Alabama 1975,
12 relating to the Alabama Board of Electrical Contractors; to
13 provide additional definitions; to increase the compensation
14 of the board; to allow the board to impose a restoration fee
15 for the issuance of licenses to those electrical contractors
16 whose licenses have expired; to allow the board to hire
17 investigators; to allow the board to investigate the
18 activities of unlicensed contractors; to allow appeal to the
19 Circuit Court of Montgomery County by any person aggrieved by
20 the actions of the board; to require electrical contractors to
21 earn continuing education hours; to allow the board to
22 promulgate rules in regulating electrical contractors and to
23 provide for penalties; to subject the board to the Alabama
24 Sunset Law; and to repeal Section 34-36-14 of the Code of
25 Alabama 1975, relating to the Electrical Appeals and Advisory
26 Board.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 34-36-1, 34-36-3, 34-36-4,
2 34-36-5, 34-36-6, 34-36-7, 34-36-8, 34-36-9, 34-36-13,
3 34-36-15, 34-36-16, and 34-36-17 of the Code of Alabama 1975,
4 are amended to read as follows:

5 "§34-36-1.

6 "This chapter shall be known and may be cited as the
7 "Alabama Electrical Contractors Act." and shall be liberally
8 construed and implemented to promote the purposes and policies
9 set forth in this chapter.

10 "§34-36-3.

11 "The following terms shall have the meanings
12 respectively ascribed to them used in this chapter, for the
13 purposes of this chapter, unless the context clearly requires
14 a different meaning:

15 "(1) BOARD. The Alabama Board of Electrical
16 Contractors.

17 "(2) CHARACTER. Satisfaction of the board that the
18 applicant possesses such good character and willingness to
19 serve the public and conserve the public health and safety as
20 to be entitled to a license as an electrical contractor or
21 journeyman electrician.

22 "(3) DIRECTOR. The Executive Director of the State
23 Board of Electrical Contractors.

24 "~~(2)~~(4) ELECTRICAL CONTRACTING. Any job or project
25 in the State of Alabama wherein the electrical contractor
26 proposes to bid, install, maintain, alter, or repair any
27 electric wiring devices, or equipment.

1 "~~(3)~~(5) ELECTRICAL CONTRACTOR. Any person, firm, or
2 corporation who is engaged in the business of soliciting and
3 installing electrical power or control systems; maintaining,
4 altering, or repairing electrical power or control systems,
5 any electrical wiring devices, equipment, or any other
6 electrical apparatus. A person who possesses the necessary
7 qualifications, training, and technical knowledge to plan, lay
8 out, and supervise the installation of electrical wiring,
9 apparatus, or equipment for lighting, heating, power, or
10 controls and who possesses any of the following
11 qualifications:

12 "a. Four years of practical experience as a
13 journeyman electrician in charge of jobs.

14 "b. Four years of experience in the design and
15 construction of electrical systems.

16 "~~(4)~~(6) JOURNEYMAN ELECTRICIAN. A person who
17 possesses necessary qualifications, training, and technical
18 knowledge to install electrical wiring, apparatus, or
19 equipment ~~light, heat~~ lighting, heating, or power or control,
20 ~~as covered by the terms and provisions of this chapter, must.~~
21 He or she shall work under master or state certified
22 electrical contractor, ~~also he~~ and shall be capable of doing
23 ~~said~~ work according to plans and specifications furnished to
24 him or her and in accordance with standard rules and
25 regulations governing such work.

26 "~~(5)~~ MASTER ELECTRICIAN. A person who possesses the
27 necessary qualifications, training and technical knowledge to

1 ~~plan, lay out and supervise the installation of electrical~~
2 ~~wiring, apparatus or equipment for lighting, heating, power or~~
3 ~~controls, and who possesses any of the following:~~

4 ~~"a. Has obtained four years of practical experience~~
5 ~~as a journeyman electrician in charge of jobs;~~

6 ~~"b. Has a professional electrical engineering~~
7 ~~degree; or~~

8 ~~"c. Has five years experience in the design and~~
9 ~~construction of electrical systems.~~

10 ~~"(6) SECRETARY. The Executive Secretary of the State~~
11 ~~Board of Electrical Contractors.~~

12 "(7) LICENSE. A valid and current certificate of
13 registration issued by the ~~secretary~~ director on behalf of the
14 board which shall give the named person to whom it is issued
15 authority to engage in the activity prescribed thereon.

16 "(8) LICENSEE. Any person holding a license.

17 "(9) PERSON. A human person, not a legal entity.

18 "§34-36-4.

19 "(a) The Alabama Board of Electrical Contractors is
20 created.

21 "(b) A person to be eligible for appointment to
22 serve on the board shall be a citizen and resident of Alabama.
23 Each person appointed to the board from each congressional
24 district, shall be actively engaged in the electrical
25 construction business as a qualified person with electrical
26 construction background of not less than five consecutive
27 years, and shall hold certificates to validate his or her

1 competence as ~~a master electrician~~ an electrical contractor in
2 the electrical construction field. The two persons shall be
3 appointed to the board as at-large members and shall be
4 members of the Alabama State Electrical Workers Association.
5 The membership of the board should be inclusive and should
6 reflect the racial, gender, geographic, urban/rural, and
7 economic diversity of the state.

8 "(c) The board shall consist of nine members to be
9 appointed by the Governor. One member shall be appointed from
10 each congressional district, and there shall be two at-large
11 members who shall be appointed from within the state. The
12 board members from the First, Second, and Third Congressional
13 Districts shall be appointed for terms of one year; the board
14 members from the Fourth, Fifth, and Sixth Congressional
15 Districts shall be appointed for terms of two years; and the
16 board member from the Seventh Congressional District as well
17 as the at-large members shall be appointed for terms of three
18 years. Thereafter, all board members shall be appointed for
19 terms of three years. Each term shall expire on June 30 of the
20 last year of the term, and no member shall ~~succeed himself or~~
21 ~~herself~~ serve more than two consecutive three-year terms.

22 Vacancies on the board for any cause shall be filled by
23 appointment by the Governor for the remainder of the unexpired
24 term. Members shall serve until their successors are
25 appointed.

26 "(d) The board shall meet at least semiannually and
27 as often as necessary. The board shall meet annually to elect

1 officers from its membership, whose initial terms shall expire
2 on June 30 next following their election. Special meetings of
3 the board may be held as the board provides in its rules and
4 regulations. The board shall meet at least once in the first
5 quarter and once in the third quarter of the year. Five
6 members of the board shall constitute a quorum.

7 "(e) The board may adopt rules and regulations to
8 carry out this chapter.

9 "(f) Any member of the board or duly appointed
10 hearing officer designated by the board may administer oaths
11 and take testimony concerning all matters within the
12 jurisdiction of the board.

13 "(g) The board may sue and be sued in its official
14 name. Absent negligence, wantonness, recklessness, or
15 deliberate misconduct, members of the board are immune from
16 liability for all good faith acts performed in the execution
17 of their duties of the board.

18 "(h) The board shall adopt a seal for its use
19 containing the words: "Alabama Electrical Contractors'
20 Licensing Board."

21 ~~"(i) The board shall employ or contract for an~~
22 ~~executive secretary whose pay shall be determined by the~~
23 ~~board. The board may employ, and at its pleasure discharge, an~~
24 ~~executive director and other officers and administrative~~
25 ~~employees which may be necessary, including an executive~~
26 ~~director, to implement this chapter. The board may employ, on~~
27 ~~an as needed basis, an investigator to investigate complaints.~~

1 The board shall not employ electrical inspectors nor provide
2 for any electrical inspections. The board shall outline the
3 duties and fix the compensation and expense allowances of all
4 employees.

5 "(j) The board is subject to the Alabama Sunset Law
6 and is classified as an enumerated agency pursuant to Section
7 41-20-3. The board shall automatically terminate on October 1,
8 2012, and every four years thereafter, unless a bill is
9 enacted that the board be continued, modified, or
10 reestablished.

11 "(k) Each board member shall be accountable to the
12 Governor for the proper performance of his or her duties as a
13 member of the board. The Governor shall investigate any
14 complaints or unfavorable reports concerning the actions of
15 the board and shall take appropriate action thereon, including
16 removal of any board member for misfeasance, malfeasance,
17 neglect of duty, commission of a felony, incompetence, or
18 permanent inability to perform official duties. A board member
19 may be removed at the request of the board after failing to
20 attend three consecutive properly noticed meetings.

21 "§34-36-5.

22 "The members of the board shall receive ~~\$25.00~~ up to
23 three hundred dollars (\$300) per day with a limit of 15 days
24 per year while performing their official duties, in addition
25 to ~~other expenses which may be provided by law~~ the same per
26 diem and mileage as provided to state employees.

27 "§34-36-6.

1 ~~The~~ (a) By rule, the board shall make provisions to
2 do all of the following:

3 "(1) Prepare or approve all examinations of
4 applicants for licenses for electrical contractors, ~~master~~
5 ~~electricians~~ and journeymen journeyman electricians~~;~~.

6 "(2) Determine the qualifications of electrical
7 contractors to engage in the business of electrical
8 contracting~~;~~.

9 "(3) Determine the qualifications of ~~master and~~
10 ~~journeymen~~ journeyman electricians to engage in electrical
11 work~~;~~.

12 ~~Investigate~~ Provide for the investigation of
13 written complaints filed with the board concerning alleged
14 violations of the provisions of this chapter and any other law
15 of this state pertaining to electrical contracting and any
16 rules and regulations adopted by the board.

17 "(b) The board may suspend, revoke, or refuse to
18 issue or renew a license and impose a civil penalty in an
19 amount not to exceed five thousand dollars (\$5,000), after
20 notice and opportunity for a hearing pursuant to the
21 Administrative Procedure Act, upon proof of any of the
22 following actions by a licensee or applicant:

23 "(1) Violation of any provision of Act 85-921.

24 "(2) Attempting to procure a license to practice
25 electrical contracting or to work as a master electrician or
26 journeyman electrician by bribery or fraudulent
27 misrepresentations.

1 "(3) Being convicted or found guilty, regardless of
2 adjudication, of a crime in any jurisdiction which directly
3 relates to the practice of electrical contracting, working as
4 a journeyman electrician, or the ability to practice
5 electrical contracting or to work as a master electrician or
6 journeyman electrician.

7 "(4) Making or filing a report or record which the
8 licensee knows to be false, willfully failing to file a report
9 or record required by state or federal law, willfully impeding
10 or obstructing such filing, or inducing another person to
11 impede or obstruct such filing. Such reports or records shall
12 include only those which are signed in the capacity of a
13 licensed electrical contractor, master electrician, or
14 journeyman electrician.

15 "(5) Being found guilty of fraud or deceit or of
16 negligence, incompetency, or misconduct in the practice of
17 electrical contracting or working as a master electrician or
18 journeyman electrician.

19 "(6) Practicing on a revoked, suspended, or inactive
20 license.

21 "(7) Aiding or abetting any person to evade any
22 provision of this chapter.

23 "(8) Knowingly combining or conspiring with any
24 person by allowing one's license to be used by any unlicensed
25 person with the intent to evade this chapter. When a licensee
26 allows his or her license to be used by any firm, partnership,
27 association, or corporation without having any active

1 participation in the operations or management of the firm,
2 partnership, association, or corporation, such act constitutes
3 prima facie evidence of an intent to evade this chapter.

4 "(9) Acting in the capacity of a contractor under
5 any license issued under this act except in the name of the
6 licensee as set forth on the issued license.

7 "(c) Upon finding a person, corporation, or business
8 entity, engaged in electrical contracting as defined in this
9 chapter, to be in violation of any of the provisions contained
10 herein, the board may investigate the activities of licensed
11 and unlicensed contractors. If the board finds that a person,
12 corporation, or business entity is engaged in performing
13 electrical contracting covered by this chapter without having
14 obtained a proper license, the board may do any of the
15 following:

16 "a. Deny an application for licensure.

17 "b. Impose an administrative fine of not more than
18 five thousand dollars (\$5,000).

19 "c. Issue a cease and desist order.

20 "d. Petition the circuit court of the county where
21 the act occurred to enforce the cease and desist order or
22 collect the assessed fine, or both.

23 "(d) Any person aggrieved by any adverse action
24 taken by the board may appeal the adverse action to the
25 Circuit Court of Montgomery County in accordance with the
26 Alabama Administrative Procedure Act.

27 "§34-36-7.

1 "(a) All applicants for licensure must submit a
2 completed application, application fee, and supportive
3 documentation of qualifications before taking an examination
4 approved by the board. The board shall examine applicants at
5 least once every three months according to the method deemed
6 by it to be the most appropriate to test the qualifications of
7 applicants. Any national standardized or written examination
8 proctored by an independent third party which the board shall
9 approve as substantially similar to the examination required
10 to be licensed under this chapter may be administered to all
11 applicants in lieu of or in conjunction with any other
12 examination which the board shall give to test the
13 qualifications of applicants. The board shall also have the
14 right to establish such norms of achievement as shall be
15 required for a passing grade. The board may, by rule, adopt
16 the National Electrical Code for the purpose of examinations.

17 "(b) The board may recognize a license issued by any
18 other state that, in the opinion of the board, has standards
19 of practice or licensure equal to or higher than those
20 required by ~~the board~~ this state. The board shall actively
21 seek to reciprocate with those states meeting such standards.
22 The board shall actively seek to maintain those states
23 currently under agreement.

24 "(c) No license shall be issued except in compliance
25 with this chapter and none shall be issued except to ~~a person~~
26 ~~or~~ a person in a firm, partnership, association, or

1 corporation. A firm, partnership, association, or corporation,
2 as such, shall not be licensed.

3 "(d) An individual who has successfully passed, on
4 or before January 1, 2010, with a minimum score of 70 percent,
5 a nationally standardized proctored electrical examination
6 administered in the State of Alabama, by Block and Associates,
7 International Code Council, Experior, Promissor, Thomson
8 Prometric, PROV, or any other exam approved by the board,
9 shall be deemed to be in compliance with the testing
10 requirement set forth by the board for licensure as an
11 electrical contractor. Individuals meeting this qualification
12 shall also be required to complete all other qualifications
13 set forth by this chapter and the board prior to issuance of
14 an electrical contractor license. Electrical contractor
15 applicants affected by this provision shall have one year
16 after the effective date of the act adding this subsection to
17 apply for licensure without any further examination
18 requirements.

19 "§34-36-8.

20 "(a) All licenses shall expire annually or at such
21 other times as may be designated by the board. All
22 applications for renewal of licenses shall be filed with the
23 secretary director prior to the expiration date, accompanied
24 by the annual renewal fee prescribed by the board.

25 "(b) The board is authorized to establish or adopt,
26 or both, education requirements and may approve the program or
27 programs providing education to fulfill the requirements. The

1 board shall set the minimum standards of education. All
2 persons holding an electrical contractor license shall be
3 required to complete 14 hours of continuing education every
4 two years.

5 "(c) The board may promulgate rules regarding the
6 approval of continuing education courses and the accounting
7 for continuing education hours.

8 "(d) Any person licensed by the board may elect an
9 inactive status certificate by notifying the board in writing.
10 The fee for the issuance and renewal of an inactive status
11 certificate shall be established by the board. The board shall
12 provide by rule those activities which an inactive status
13 certificate holder may engage in and for a procedure for the
14 reinstatement as an active status certificate holder.

15 "§34-36-9.

16 "A An expired license for an electrical contractor
17 which has expired for failure to renew may only be restored
18 within two years from the date of expiration after application
19 and payment of the prescribed restoration fee and satisfaction
20 of all continuing education requirements. The restoration fee
21 shall be established by the board and shall be due upon
22 application for restoration. The restoration fee shall be in
23 addition to all accrued renewal fees. Any license which has
24 not been restored within two years following its expiration
25 may not be renewed, restored or reissued thereafter. The
26 holder of such a cancelled license may apply for and obtain a
27 valid license only upon compliance with all relevant

1 requirements as prescribed by this chapter or by rule for
2 issuance of a new license.

3 "§34-36-13.

4 "(a) No person shall engage in the electrical
5 contracting business or perform work as a master or journeyman
6 electrician unless such person shall have received a license
7 from the board or from the county or municipality where the
8 ~~contract~~ electrical contracting work is being performed;
9 provided, however, the provisions of this chapter shall not
10 apply:

11 "(1) To the installation, construction or
12 maintenance of power systems for the generation and secondary
13 distribution of electric current constructed under the
14 provisions of the ~~national electrical safety code~~ National
15 Electrical Safety Code which regulates the safety requirements
16 of utilities~~;~~.

17 "(2) To the installation, construction, maintenance
18 or repair of telephone or signal systems by or for public
19 utilities or their corporate affiliates, when such work
20 pertains to the services furnished by such utilities~~;~~.

21 "(3) To any technician employed by a municipal
22 franchised CATV system~~;~~.

23 "(4) To any master or journeyman electrician
24 employed by a state licensee of the board or a licensee of a
25 county or municipality where the contract work is being
26 performed~~;~~.

1 "~~(5)~~ To persons engaging in the electrical
2 contracting business or performing work as a master or
3 journeyman electrician where there is no governing ordinance
4 or laws requiring a license;

5 "~~(6)~~ (5) To the owner of any premises or an employee
6 of any such owner when performing electrical work or
7 installing, constructing, maintaining, altering or repairing
8 electrical wiring, equipment or apparatus on such premises~~7.~~

9 "~~(7)~~ (6) To an employee of an electric utility when
10 installing or repairing cord connected electric appliances and
11 equipment for a customer~~7.~~

12 "~~(8)~~ (7) To any retail merchant, or its employees
13 making the installation of or the repair or maintenance on any
14 appliance that the merchant has sold; or to any modular or
15 manufacturer of the housing industry within the state which is
16 regulated by state and federal governments~~7.~~

17 "~~(9)~~ (8) To the installation, construction or
18 maintenance of systems that operate on 25 volts or less.

19 "(b) (1) No license shall be issued by the board
20 without an examination of the applicant for the purpose of
21 ascertaining his or her qualifications for such work, but no
22 such examination shall be required for the annual renewal of
23 such license.

24 "(2) This ~~provision~~ section shall in no way prohibit
25 the governing authorities of each county and municipality in
26 the State of Alabama from exercising ~~the~~ their authority to
27 require any person engaging in the electrical contracting

1 business or performing work as a master or journeyman
2 electrician to stand and attain a passing grade on an
3 examination administered by such county or municipality to
4 evidence their ability and proficiency to engage in the
5 electrical contracting business or to perform work as a master
6 or journeyman electrician within their jurisdiction; provided,
7 however, that any person who holds a valid statewide license
8 issued by the board shall be deemed qualified and, upon
9 satisfactory proof of said license, shall be allowed to
10 perform forthwith electrical work in any county or
11 municipality under the terms and conditions set forth in this
12 chapter, if such person has the proper county or municipal
13 building permit and business license.

14 "(c) All persons performing work under a license
15 issued by the board must abide by all state and local laws and
16 ordinances.

17 "§34-36-15.

18 "Electrical contracting ~~is hereby declared to~~
19 ~~involve~~ involves activities affecting the public interest and
20 ~~involving~~ the health, and safety, and welfare of the public.
21 Such activities, when engaged in by a person who is not
22 licensed, are ~~declared to be~~ a public nuisance, and harmful to
23 the public health, safety, and welfare. The board or the
24 district attorney of the circuit where such nuisance exists
25 may bring a petition to restrain and enjoin such unlicensed
26 practice in the district court of the county where such
27 unlicensed person resides. It shall not be necessary in order

1 to obtain the equitable relief provided herein to allege or
2 prove that there is no adequate remedy at law.

3 "§34-36-16.

4 "(a) It shall be unlawful for any person to violate
5 any provision of this chapter regulating electrical
6 contracting, and any person convicted of such violation shall
7 be punished as prescribed for a Class B A misdemeanor.

8 "(b) It shall be unlawful, except as otherwise
9 provided, on or after December 31, 2011, for a person not
10 licensed as an electrical contractor to solicit, represent,
11 seek to perform, or perform those tasks and functions that can
12 only be performed by a licensed electrical contractor in
13 accordance with this chapter.

14 "(c) Subsection (b) shall not apply to an electrical
15 contractor who has taken an examination offered by the board
16 within the preceding 12 months, who holds a license or permit
17 issued by a county or municipal government to perform the
18 tasks and functions that can only be performed by a licensed
19 electrical contractor, and who performs those tasks and
20 functions within the boundaries of the county or municipality
21 that issued the license or permit.

22 "§34-36-17.

23 "There is hereby established a separate fund in the
24 State Treasury to be known as the "Alabama Board of Electrical
25 Contractors Fund." All money derived under the provisions of
26 this chapter shall be deposited in this fund and used only to
27 carry out the provisions of this chapter. Such fund shall be

1 paid out only by warrant of the Comptroller upon the
2 Treasurer, upon itemized vouchers, approved by the executive
3 ~~secretary~~ director of the board; provided, that no funds shall
4 be withdrawn or expended except as budgeted and allotted
5 according to the provisions of Sections 41-4-80 through
6 41-4-96 and Sections 41-19-1 through 41-19-12, and only in
7 amounts as stipulated in the general appropriation or other
8 appropriation bills. ~~Notwithstanding the foregoing provisions~~
9 ~~of this section, there is hereby appropriated from the State~~
10 ~~General Fund to the Alabama Board of Electrical Contractors~~
11 ~~for the fiscal year ending September 30, 1986, the sum of~~
12 ~~\$100,000.00 or so much thereof as may be necessary to~~
13 ~~implement the provisions of this chapter. Provided further,~~
14 ~~that any~~ Any funds unspent and unencumbered at the end of any
15 state fiscal year in excess of ~~\$50,000.00~~ one hundred thousand
16 dollars (\$100,000) shall be transferred into the State General
17 Fund on or before January 15 of the succeeding year. In
18 addition, there is hereby appropriated from the Alabama Board
19 of Electrical Contractors Fund to the Alabama Board of
20 Electrical Contractors the amount necessary to repay the State
21 General Fund for any and all amounts expended therefrom and
22 such repayment to the State General Fund shall be made as soon
23 as funds are available."

24 Section 2. The provisions of this chapter shall not
25 be construed as authorizing the employment of statewide
26 electrical inspectors.

1 Section 3. Section 34-36-14 of the Code of Alabama
2 1975, is hereby repealed.

3 Section 4. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.