



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### MEMORANDUM

**TO:** Aaron Johnston, Ohio Construction Industry Licensing Board, Ohio Department of Commerce

**FROM:** Ethan Wittkorn, Regulatory Policy Advocate

**DATE:** November 25, 2020

**RE:** **CSI Review – Ohio Construction Industry Licensing Board Rules (OAC 4101:16-1-01 to 4101:16-1-08; 4101:16-2-01 to 4101:16-2-13; 4101:16-2-14; and 4101:16-3-01 to 4101:16-3-03)**

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On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

#### Analysis

This Ohio Department of Commerce (Department), Ohio Construction Industry Licensing Board (Board), rule package consists of 24 amended rules and one new rule. It was submitted to the CSI Office on October 2, 2020, and the public comment period was open through October 16, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on October 2, 2020.

The proposed rules in the package establish the policies and procedures of the Board and requirements for the construction industry. The rules cover requirements of specialty trades, including licensing and continuing education, and requirements for providers of continuing education courses. Amendments are proposed to correct typographical errors, remove duplicative language, provide clarification and consistency, correct references, add requirements for the advanced public notice of Board meetings, remove soliciting or accepting improper payment as disqualifying offenses, and allow disciplinary action for obtaining an order, ruling, or authorization

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by means of deception. Further proposed amendments include expanding acceptable experience requirements for examination to individuals with five years of work experience for a contractor immediately preceding application, adding that a license must bear the name of a contracting company to which it is assigned, changing requirements for the submission of rosters from 14 business days to calendar days, and expanding application time for course approval to 60 days prior to the course. Additionally, the Department proposes to remove requirements for certain documents or notices to be made in writing, including notice of an examination's outcome, a complaint against a licensee, and a license renewal application, instead allowing an application to be submitted in a format prescribed by the specialty section of the Board.

The Department proposes to adopt new rule OAC 4101:16-2-14 to comply with ORC 4743.041, enacted by Amended Substitute Senate Bill 7 (133<sup>rd</sup> General Assembly). The bill requires the Department to issue a temporary occupational license to individuals who are on military duty or whose spouse is on military duty in Ohio, who hold a valid license in good standing to practice the profession in another state or jurisdiction, and who comply with background check requirements. The license must be issued at no cost and the Department must adopt rules to ensure that the application of a military member or their spouse is tracked, prioritized, and expedited.

During the period of early stakeholder outreach, the Department shared the proposed rules with industry associations and trade groups, private contractors, and lobbyists. No comments were received during either the early stakeholder outreach period or the CSI public comment period.

Impacted communities include prospective and licensed contractors in the trades of heating, ventilation, and air conditioning, hydronics, refrigeration, electrical, and plumbing, as well as organizations that provide continuing education courses. Potential adverse impacts identified by the Department include penalties for failing to comply with the proposed rules, and costs associated with the reporting of information for compliance, completing applications, maintaining required insurance, and meeting continuing education requirements, which includes a cost of \$10 plus \$1 per credit hour. Fees include \$25 for examinations, \$25 for licensing, \$60 for annual renewal or \$180 for triennial renewal, up to \$120 for late license renewal, \$30 penalty for fee returned as unpaid, \$60 for reactivation of a license, and \$25 to apply for training agency approval. The Department states that the proposed rules are necessary to ensure the public safety of Ohioans in and around electrical, HVAC, refrigeration, hydronics, and plumbing systems in public and commercial buildings.

## **Recommendations**

Am. Sub. Senate Bill 7 (133<sup>rd</sup> General Assembly) provides military members and their spouses with better employment opportunities by simplifying the process to transfer their occupational licenses to Ohio. The bill mandates that state licensing agencies issue licenses or certificates to military members and spouses who already hold a valid license to practice a trade or profession in another state, in a timely manner and at no cost.

The bill ensures that the State of Ohio has procedures in place to provide exceptional customer service and support to our military members and their families. Therefore, CSI makes the following recommendations to the Department.

### **1. Fees**

ORC 4743.041(G) requires a licensing office to waive all fees associated with the issuance of a temporary license or certificate. It is unclear from the current draft of the rule if the Department is offering the license at no cost. Therefore, CSI recommends the Department consider clarifying the fee language.

### **2. Track, Prioritize, and Expedite**

ORC 5903.04, as amended by Am. Sub. S.B. 7, requires boards to establish and implement processes by rule for 1) obtaining documentation to determine military status, 2) recording, tracking, and monitoring applications from military members and their spouses, and 3) prioritizing and expediting licensing for military members and their spouses, including any appropriate special accommodations.

The proposed rule does not provide any more information than what is already required in statute and does not address how the Department will obtain documentation, record, track, monitor, prioritize, and expedite licensing.

Therefore, CSI recommends that the Department more clearly define how it will meet its statutory obligations regarding these processes.

### **Conclusion**

Based on its review, the CSI Office recommends that the Department should review its proposed rule based on the recommendations above prior to filing it with the Joint Committee on Agency Rule Review.

