

AUTOMATIC FIRE PROTECTION REGULATORY ACT

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5320 with House committee amendments

Sponsor: Rep. Andy Neumann

Committee: Regulatory Reform

Complete to 12-8-09

A SUMMARY OF HOUSE BILL 5320 AS REPORTED FROM COMMITTEE

The bill would create a new act, known as the Automatic Fire Protection Regulatory Act, to provide for the licensure and regulation of the installation of automatic fire protection systems. Administration of the act would be the responsibility of the Department of Energy, Labor and Economic Growth, Bureau of Fire Services. The following is a section-by-section summary of the bill.

Section 3 (Definitions)

The bill includes numerous definitions; notably it defines *automatic fire protection system* to mean a fire sprinkler system designed in accordance with nationally recognized standards that includes an assembly of piping or conduits that conveys water, foam, or air with or without agents to dispersal openings or devices to extinguish, control, or contain fire and that provides protection from exposure to fire or the products of combustion. For fire protection purposes, automatic fire protection system means an integrated system designed in accordance with fire protection engineering standards.

Among numerous terms, the bill also defines the following: "apprentice," "contractor," "endorsement," "fire sprinkler fitter," "inspection," "install," "registered fire sprinkler fitter apprenticeship program," and "system maintenance and inspections."

Section 5 (Licensure Required)

The bill would require that contractors installing automatic fire protection systems hold a license issued by the department in the appropriate endorsement. A fire sprinkler fitter would have to obtain an endorsement for the following services:

- Installation of automatic fire protection systems.
- Fire pump installation and testing.
- Systems inspections, testing, and maintenance.

Section 7 (Applications)

The bill would require the department to promulgate rules establishing separate licenses for contractors, journey licensees, and apprentice level installers. Licenses would be issued on a three-year cycle (starting on October 1), with licenses issued in off-years lasting one or two years, depending on when the license is issued.

Section 9 (Fire Protection System Fund and License Fees)

The bill would create the Fire Protection System Fund, administered by the department. The Fund would consist of a \$20 application fee, a three-year license fee of \$150, and a three-year fee of \$40 for each endorsement, as well as investment earnings. The Fund would also include fees for issuing certificates of acceptability, testing, and evaluation, which would be established by the State Fire Marshal in consultation with the Fire Sprinkler Board. The State Fire Marshal would notify the appropriations committee chairs before certification fees are established, and would also submit a report to the legislature regarding the rationale behind the fee structure.

Section 11 (Michigan Fire Sprinkler Board)

The bill would establish a 9-member Michigan Fire Sprinkler Board, appointed by the Governor with the advice and consent of the Senate. The bill includes provisions regarding the qualification of board members and the staggering of terms. The board would be charged with advising the department on matters of qualification, examinations, standards of practices, and disciplinary actions against licensees.

Section 13 (Qualification and Testing Standards)

A person seeking licensure would have to complete a sprinkler fitter apprenticeship program approved by the board and the bureau, and pass an examination. For the first year after the bill's effective date, licenses and endorsements would be issued to persons meeting other standards approved by the bureau.

Section 15 (Exemptions)

The license requirements would not apply to persons engaged in the routine visual inspection of automatic fire protection systems owned by the person or entity and installed on property under that person's or entity's control. It would also not apply to an individual or safety official representing a publicly appointed commission or local authority having jurisdiction over automatic fire protection systems.

Section 17 (Continuing Education)

The bill would require a minimum of 24 hours of continuing education per license cycle. Continuing education would include courses sponsored by fire equipment manufacturers or trade associations, courses sponsored by the bureau, distance learning approved by the bureau, courses completed in other states approved by the bureau, and related college or vocational course work.

Section 19 (Apprenticeships)

The bill would require that all work of an apprentice be done under the direct and task-specific instruction and direct supervision of an endorsed individual. An apprenticeship program of another state and meeting the requirements of the National Apprenticeship Act would be approved by the department.

Section 21 (Failure to obtain a License)

Failure to obtain a required license before engaging in a regulated activity would be a misdemeanor.

Section 23 (Rule Making Authority)

The department would be granted rule-making authority for the purpose of administering and enforcing the act.

FISCAL IMPACT:

The bill would have, at present, an indeterminate fiscal impact on the state, depending on the number of individuals licensed under the bill, and no real fiscal impact on local units of government. The bill includes a requirement that fire sprinkler contractors be licensed by the DELEG, Bureau of Fire Services, although similar provisions concerning the licensure of contractors installing "fire suppression" systems are currently in place under the Forbes Mechanical Contractors Act, 1984 PA 192.¹ The department indicates that there are approximately 1,100 contractors with a fire suppression endorsement under the FMCA. These contractors would be subject to a license application fee of \$20.00 and a triennial license fee of \$150.00, plus a triennial "endorsement fee of \$40.00."² Based on the estimated number of contractors potentially licensed, the bill would generate approximately \$187,000 in fee revenue per three-year license renewal cycle (not counting the additional revenue generated through the individual endorsements).

It isn't clear, given the existing law, how much the licensure requirements under the bill would differ from the licensure requirements under the Forbes Mechanical Contractors Act, and how significantly the Bureau of Fire Services could piggy-back off of the licensure activities of the Bureau of Construction Codes in its administration of the Forbes Mechanical Contractors Act. Additionally, there are similar provisions contained in the Fire Prevention Code, as amended by 1982 PA 144 ("Act 144"), concerning the Bureau of Fire Services' certification of firms and "qualifying persons" that install, modify, test, service, inspect, maintain, or design/plan fire suppression systems in state regulated facilities (schools, hospitals, etc).³ According to the bureau's 2007 annual report there were 176 fire suppression firms and 312 qualifying fire suppression persons certified by the bureau in 2007.

Where the bill differs from current law is through the licensure of fire sprinkler fitters, defined to mean those individuals who "work on" automatic fire protection systems.

¹ The Forbes Mechanical Contractors Act provides that a contractor license be classified and limited to several building trades areas including, among other things, HVAC equipment, ductwork, and fire suppression. The act defines "fire suppression" to mean "an integrated combination of a fire alarm system and fire suppression equipment which as a result of a predetermined temperature, rate of temperature rise, products of combustion flame, or human intervention will discharge a fire extinguishing substance over a fire area."

² As set out in the bill, separate endorsements would be available for (1) installation of automatic fire protection systems, (2) fire pump installation and testing, and (3) system inspections, testing, and maintenance.

³ Under departmental rules (R 29.2803), a firm can not be certified by the bureau unless it employs a "qualifying person" to actively supervise the technical aspects of the installation, modification, testing, servicing, inspection, or maintenance of a fire suppression system.

According to the department, based in prior year testimony, there may approximately be 2,000 fire sprinkler fitters who would be subject to the licensure requirements under the bill. These individuals would also be subject to a license application fee of \$20.00 and a triennial license of \$150.00, plus a triennial "endorsement" fee of \$40. Based on the estimated number of individual fitters potentially subject to licensure, the bill would generate approximately \$340,000 in fee revenue per three-year license renewal cycle (not counting the additional fee revenue generated through the individual endorsements.) The potential amount of license revenue would tend to increase under a provision in the bill that permits the bureau to establish a schedule of fees related to the issuance of certificates of acceptability, testing, and evaluation. The number of such certificates that would be issued by the bureau is unknown.

Any fee revenue generated would be credited to a new Fire Protection System Fund, created as a revolving fund within the state treasury. The fund would also receive common cash earnings. The fund would be expended, upon appropriation, by the department for the enforcement of the act and the operations of the bureau, including indirect overhead expenses. At present, there is no information available from the department as to any estimate of staffing and programmatic requirements for the department to properly administer the bill. The department's activities under the bill include the processing and reviewing of (potentially) thousands of applications for licensure by contractors, and apprentice and journey fire sprinkler fitters, reviewing the appropriateness of attaching one or more "endorsements," approving appropriate continuing education courses, enforcing the licensure requirements, promulgating administrative rules, and operating the proposed Michigan Fire Sprinkler Board. (The bill does not contain any explicit provisions concerning the potential for reimbursing board members for their costs.). Given the somewhat overlapping nature of existing provisions in the Forbes Mechanical Contractors Act and Act 144 provisions in the Fire Prevention Code, there may be some opportunities for efficiencies within the department to use its existing licensure/certification processes in administering the provisions of the bill.

POSITIONS:

A representative of Concerned Citizens for Community Safety and Life Safety testified in support of the bill as amended. (2-17-10)

A representative of D&H Fire testified in support of the bill. (12-9-09)

A representative of the Michigan Laborers' District Council testified as neutral on the bill as amended. (2-17-10)

A representative of Contractors Legislative Services testified in opposition to the bill. (2-17-10)

The Department of Energy, Labor, and Economic Growth indicated opposition to the bill. (12-9-09)

Michigan Plumbing and Mechanical Contractors indicated opposition to the bill. (2-17-10)

Associated Builders and Contractors of Michigan indicated opposition to the bill. (2-17-10)

The National Federation of Independent Business indicated opposition to the bill. (2-17-10)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Mark Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.