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Senate Bill 358 (Substitute S-1 as reported)
Sponsor: Senator Arlan Meekhof
Committee: Reforms, Restructuring and Reinventing

(as passed by the Senate)

Date Completed: 10-2-13

RATIONALE

The Electrical Administrative Act generally prohibits an individual from executing electrical wiring unless the individual is licensed under the Act, or the individual is employed by and working under the direction of a licensed electrical contractor. The Act includes a number of exceptions to the licensure requirement. Some people believe that independent power producers, and those involved in manufacturing or mining operations, also should face less regulation with regard to electrical work that is performed on their property and related to their equipment and services.

CONTENT

The bill would amend the Electrical Administrative Act to exempt the following from the requirement to have an electrical contractor's license:

- An independent power producer that installed, altered, or repaired electrical equipment, or electric wiring, in certain circumstances.**
- An employee of a licensed mechanical contractor or plumbing contractor who performed work on control wiring circuits and electrical component parts in existing mechanical systems.**
- An agent or employee of a manufacturing or mining operator who installed, altered, maintained, repaired, or renovated electrical wiring, if the operator employed a licensed master electrician responsible for code compliance and met other criteria.**

Exceptions for Power Producer & Contractor Employee

The Act makes an exemption to its licensure requirement for an electrical energy supply or communication agency with regard to the installation, alteration, or repair of electrical equipment and its associated wiring installed on the premises of consumers or subscribers for use by that agency in the generation, transmission, distribution, or metering of electrical energy or for operating signals or transmitting intelligence.

The Act also exempts an electric light and power utility with regard to the installation, alteration, or repair of electric wiring for the generation and distribution of electric current, or the secondary distribution system up to and including the meters. The work must be an integral part of the system that is owned and operated by an electric light and power utility in rendering its duly authorized service.

The bill would include an independent power producer within these exceptions. "Independent power producer" would mean a person, other than an electric utility, that owns or operates a facility that generates electricity and sells electricity primarily at wholesale.

In addition, the Act exempts work that is performed by either a mechanical contractor who is licensed in any one of five limited contractor's license classifications under the Mechanical Contractors Act, or a plumbing contractor licensed under the State Plumbing Act. (The five limited contractor's license classifications include: 1) hydronic heating and cooling and process piping; 2) HVAC equipment; 3) refrigeration; 4) limited service, heating or refrigeration; and 5) unlimited service, heating or refrigeration.) The work generally must be performed on control wiring circuits and electrical component parts within existing mechanical systems defined in mechanical and plumbing codes under the Single State Construction Code Act. The bill would extend this exception to work by an employee of a mechanical contractor or plumbing contractor licensed under one of those other Acts.

(The Electrical Administrative Act also exempts the following classes of work from the licensure requirement:

- Minor repair work.
- Work involved in the manufacture of electric equipment, including tests and repairs.
- Work on equipment and its associated wiring with regard to communication systems owned or operated by a telephone or telegraph company.
- Work on electrical equipment by a homeowner in a single-family home or an accompanying outbuilding if the individual owns and occupies or will occupy the home, and that individual performs the work.
- Work on motion picture and theatrical equipment in a building that has approved facilities for entertainment or educational use as well as the necessary permanent wiring and outlets designed for that equipment, excluding work on any permanent wiring.
- Electrical wiring for work on a water well pump on a single-family dwelling by a registered pump installer.
- Work on security alarm systems in a building or structure.
- Work on lawn irrigation equipment or listed landscape lighting systems and equipment, except as to any permanent wired connections in excess of 30 volts.
- Work on electric signs and related wiring by an unlicensed individual under the direct supervision of a licensed sign specialist.
- Work on telecommunications equipment and related systems by a person primarily engaged in the telecommunications and related information systems industry, except a fire alarm system.)

Exception for Manufacturing or Mining Operations

The bill would make an exemption to the licensure requirement in the Electrical Administrative Act for work performed by an employee or agent of a person engaged in manufacturing or mining operations. Authorized work would include the installation, alteration, maintenance, repair, or renovation of electrical wiring, at or in a property, business location, plant, factory, or facility, if two conditions were met.

Under the first condition, the person engaged in manufacturing or mining operations would have to employ or engage a licensed master electrician whom the person designated as responsible for all of the following at the property, business location, plant, factory, or facility:

- Code compliance.
- Obtaining any permits required for any installation, alteration, maintenance, repair, or renovation of electrical wiring.
- Recording the applicable hours worked by employees engaged in an apprenticeship program.

The second condition would require the person engaged in manufacturing or mining operations to notify the Department of Licensing and Regulatory Affairs of the identity of the licensed master electrician designated as responsible for code compliance.

The notice would have to be in writing and include the names, phone numbers, business addresses, and signatures of both the designated licensed master electrician, and the person engaged in manufacturing or mining operations or the individual authorized to sign on that

person's behalf. If the person designated a different licensed master electrician as responsible for code compliance, the person would have to give the Department written notice including that electrician's name, phone number, business address, and signature.

If a person designated a licensed master electrician as responsible for code compliance, and that electrician ceased to be responsible for code compliance on behalf of the person, the person or electrician would have to notify the Department in writing within 60 days.

The Department would have to keep a copy in its records of each notice it received under these provisions.

MCL 338.887

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill's licensure exception for manufacturers and mining operations would strike a balance between safety and economic concerns, while reducing unnecessary burdens on these industries. Currently, manufacturing and mining face cumbersome and costly procedures with regard to electrical work, due to licensure requirements. Other industries are already afforded similar exceptions under the Act, e.g., there are provisions for elevator installation and repair, communication, and power utilities.

Regarding safety, requiring a licensed electrician or an apprentice directly under his or her supervision to perform any electrical work is an unnecessary precaution. Current codes, mandatory local inspections, and other regulations suffice to ensure safety. Regulations of the Federal Occupational Safety and Health Administrations (OSHA) and similar State rules already provide safety assurance. Typically, code enforcement officers inspect a work site at various stages throughout the work process, depending on the specific local regulations.

Further, under the bill, a manufacturer or mining operator having electrical work performed would have to designate and engage a master licensed electrician. The company still would have to file the proper permits and ensure that any electrical work met code requirements. The end goal of licensure requirements for electrical work should be to achieve functional and efficient installation and maintenance of electrical equipment, while maintaining high safety standards. The bill would meet this goal.

Response: The burdens imposed on the affected industries due to existing licensure requirements are justified and part of the cost of doing business. The proposed exception would pose an extreme safety risk to unlicensed workers performing electrical work, and anyone exposed to that electrical equipment. Any electrical work should be done by a licensed master electrician, an apprentice under the supervision of a licensed master electrician, or someone with equivalent training. Working with electricity is dangerous and deadly, and allowing untrained individuals to perform this work would increase safety risks to unacceptable levels.

The exception under the bill would not be similar to existing exceptions. The current exemptions from licensure have specific requirements that must be met, and the allowed activities are limited in scope. For example, the landscaper exception has voltage limitations with regard to allowable work. Exempt utilities have training programs for workers that are similar to those for licensed master electricians. The bill would exempt mining operations and manufacturers, but without similar restrictions or limitations. The bill also could encourage more industries to seek similar exemptions, and result in the exceptions swallowing the rule.

The type of work specified in the bill that would qualify under the exception is very broad. "Installation" could cover entire projects, meaning that complete buildings could be constructed under just one designated licensed master electrician. Further, the designated electrician would not have to directly supervise any work at the construction site.

Relying on local code enforcement inspections as a substitute for a licensed electrician's direct supervision would overlook an important goal of the current statutory requirements for electrical work. This goal is to ensure safe installation and maintenance of electrical work while the work is performed, not simply to ensure, after the work is complete, that the equipment is properly functioning. The quality of electrical work is in the hands of the individual performing the work, not a code enforcement inspector.

Additionally, relying on local code enforcement could put an increased amount of pressure on inspectors, and potentially pose liability concerns for inspectors and local governments. For example, if an inspector failed to notice an error in electrical work at a manufacturing plant, and the error resulted in injury to someone, the manufacturer or injured person could attempt to hold the building inspector liable.

Opposing Argument

The bill would open the door to licensed master electricians effectively "selling" their licenses to multiple manufacturing and mining companies, while providing little or no supervision or instruction. Since the bill would not require a designated licensed electrician to directly oversee electrical work, it follows that a single licensed individual could become the designated licensee for many companies without ever setting foot on a job site. According to the Washtenaw County Building Inspector, liability for injuries involving electrical work often rests with the manufacturer or mining operation, not the licensed electrician who performed the work. Thus, designated licensed electricians would have little incentive to ensure safety through voluntary inspections or supervision. The bill would fail to assign responsibility or liability to someone present at the job site.

Also, according to the Washtenaw County Building Inspector, in cases of faulty work, a licensed electrician typically is fined, but rarely stripped of his or her license. If this practice continued under the bill, there could be little or no accountability for a designated electrician who engaged in "selling" his or her license. In the alternative, if a licensed electrician lost his or her license as the result of a death or injury, that sanction would be too late; the harm would have already been done.

Response: Manufacturers and mining operators should be trusted to voluntarily keep the workplace safe with regard to electrical work, since it is in their best interests to do so. Liability concerns, existing regulations like those of OSHA, and other existing safeguards encourage safe practices. According to the Michigan Manufacturers Association, most companies already provide training and supervision with regard to electrical work, and most work on new construction projects is performed by a licensed individual, so the contention that no licensed person would be present throughout a project is not necessarily accurate.

Legislative Analyst: Glenn Steffens

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.