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A bill to regulate persons engaged in the installation, maintenance, repair, removal and renovation of irrigation systems; to create an irrigation review board; to provide for the licensing of individuals engaged in irrigation; to provide for powers and duties for certain state agencies; to provide for the establishment of certain standards; to prescribe fees; to provide for the promulgation of rules; and to prescribe remedies and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "irrigation contracting licensure act".

3 Sec. 3. As used in this act:

4 (a) "Board" means the irrigation review board.

5 (b) "Department" means the department of labor and economic



1 growth.

2 (c) "Irrigation apprentice" means an individual working as an
3 employee of a master irrigator under the immediate and personal
4 supervision of a master irrigator for the purpose of assisting in
5 irrigation contracting.

6 (d) "Irrigation contracting" means the practice by an
7 individual who engages in the furnishing and use of materials,
8 connections, and devices designed for the installation and
9 connection of irrigation systems to a local source of water.
10 Irrigation contracting includes maintenance and service regarding
11 the operation, adjustment, repair, removal, and renovation of such
12 connections and devices. Irrigation contracting does not include
13 persons engaged in plumbing as that term is defined in section 9 of
14 the state plumbing act, 2002 PA 733, MCL 338.3519, or persons
15 engaged in agricultural or golf course irrigation.

16 (e) "Irrigation contractor" means a person engaging in, or
17 advertising as engaging in, irrigation contracting for money or
18 other consideration.

19 (f) "Irrigation journeyman" means an individual whose
20 principal occupation is to work as an employee of, or under the
21 direction of, a master irrigator engaged in irrigation contracting.

22 (g) "Irrigation laborer" means an employee of a licensed
23 master irrigator who performs tasks required for assembly of
24 components after the zone-control valve of an irrigation system.

25 (h) "Irrigation system" means any assemblage of components,
26 materials, or specialized equipment designed, constructed, and
27 installed for controlled water dispersion from any safe and



1 suitable source, including properly treated wastewater, for the
2 purpose of irrigating landscape vegetation or for the control of
3 dust and erosion on landscaped areas, but not including golf course
4 or agricultural areas. Irrigation system includes integral pumping
5 systems or integral control systems of manual, semiautomatic, or
6 automatic operational control.

7 (i) "Master irrigator" means an individual possessing the
8 training and skills to engage in irrigation contracting with
9 competence and to properly supervise irrigation journeymen,
10 apprentices, and laborers.

11 (j) "Rule" means a rule promulgated under the administrative
12 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

13 Sec. 5. (1) There is created within the department an
14 irrigation review board consisting of 7 residents of the state to
15 be appointed by the governor with the advice and consent of the
16 senate. Appointed members shall be not less than 18 years of age
17 and qualified in their respective fields. Of the members first
18 appointed, 3 members shall have a term of 3 years, 3 members shall
19 have a term of 2 years, and 1 member shall have a term of 1 year.
20 Appointed members of the board shall include the following:

21 (a) At least 4 members that are individuals licensed under
22 this act. The initial members appointed under this subdivision
23 shall be individuals required to be licensed under this act, have
24 actively been engaged in the irrigation business for at least 3 out
25 of the 5 years immediately preceding the date of appointment, and
26 become licensed under this act within 1 year after the effective
27 date of this act.



1 (b) The remaining members shall be members of the general
2 public, but 1 member shall have experience in landscape
3 architecture. Of the initial membership of the board, at least 1
4 member of the general public shall serve for a term of 3 years.

5 (2) Except for the initial members, a member of the board
6 shall be appointed for a term of 4 years. A vacancy shall be filled
7 for the unexpired portion of the term. A member of the board may be
8 removed from office by the governor in accordance with section 10
9 of article V of the state constitution of 1963. A member of the
10 board who has a pecuniary interest in a matter shall disclose that
11 interest before the board takes action in the matter, which
12 disclosure shall be made a matter of record in the board's official
13 proceedings. A member of the board shall not serve more than 2
14 consecutive terms. Each member of the board shall receive per diem
15 compensation and actual expenses incurred by the member in the
16 performance of his or her duties as a member of the board.

17 (3) Annually, the legislature shall fix the per diem
18 compensation of a member of the board. Travel or other expenses
19 incurred by a member of a board in the performance of an official
20 function shall be payable by the department pursuant to the
21 standardized travel regulations of the department of management and
22 budget.

23 (4) The board shall hold an organizational meeting within 60
24 days after the effective date of this act. At the first meeting of
25 each year, the board shall elect from its membership a chairperson,
26 vice-chairperson, and secretary. The chairperson, vice-chairperson,
27 and secretary shall be elected from those members appointed to the



1 board by the governor.

2 Sec. 7. (1) The board shall hold regular quarterly meetings.
3 Special meetings may be held at the call of the chairperson or 4
4 members of the board. Written notice of a special meeting shall be
5 mailed to each member not less than 12 days before the date of the
6 meeting.

7 (2) Four members of the board shall constitute a quorum for
8 the transaction of business. An approval, decision, or ruling of
9 the board shall not become effective unless approved by 2/3 of the
10 board members attending a meeting.

11 (3) The board may request a person to appear before the board
12 to advise the board regarding the implementation of this act.

13 (4) The business which the board performs shall be conducted
14 at a public meeting of the board held in compliance with the open
15 meetings act, 1976 PA 267, MCL 15.261 to 15.275, and public notice
16 of the time, date, and place of the meeting shall be given in the
17 manner required by that act.

18 (5) A writing prepared, owned, used, in the possession of, or
19 retained by the board in the performance of an official function
20 shall be made available to the public in compliance with the
21 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

22 Sec. 9. (1) The board shall adopt standards and qualifications
23 for licensure shall include, but not be limited to, a minimum age
24 of 18 years, experience as prescribed in this section for the
25 appropriate category, a physical examination or physician's
26 certificate, a written examination, and a practical examination.
27 The board shall adopt the standards described in subsection (2).



1 The board may amend or supplement the standards and qualifications
2 by adoption of those amendments or supplements, by reference or
3 otherwise, pursuant to rules adopted by the director of the
4 department.

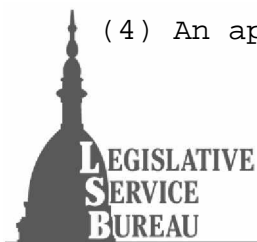
5 (2) Beginning the effective date of this act and until such
6 time as the board promulgates any rule as described in subsection
7 (1), the standards, in existence on the effective date of this act,
8 in the best management practices for nonagricultural irrigation:
9 the recommended guidelines for efficient use and conservation of
10 ornamental landscape and turf irrigation water in the Great Lakes
11 region, October 2005, are adopted by reference as licensure
12 standards.

13 Sec. 11. (1) Upon the filing of an application on a form
14 prescribed by the department and payment of the license fee
15 prescribed in this section, the department shall determine the
16 qualifications and competency of applicants seeking licensing for
17 the category for which the application is submitted and, except as
18 otherwise provided, shall issue licenses to qualified applicants
19 after payment of the appropriate license fee.

20 (2) An applicant is not considered eligible for licensure
21 unless the applicant is of good moral character, as defined and
22 determined under 1974 PA 381, MCL 338.41 to 338.47.

23 (3) Only a person licensed as an irrigation contractor shall
24 use the titles "irrigation contractor" and "licensed irrigation
25 contractor" or any other title connoting licensure as an irrigation
26 contractor under this act.

27 (4) An applicant for a master irrigator license must have at



1 least 1 year's experience as a irrigation journeyman or a
2 combination of 3 years' experience as both an irrigation apprentice
3 and irrigation journeyman. An applicant for an irrigation
4 journeyman license must submit proof of 2 years of experience as an
5 irrigation apprentice. An applicant for an irrigation apprentice
6 license must comply with the requirements of subsection (1) and
7 indicate the irrigation contractor under whom he or she will be
8 employed. The experience shall be presented in a manner acceptable
9 to the board and department and must be demonstrated by affidavit
10 or in any other manner acceptable to the department.

11 (5) A license under this act shall be issued for a period of 2
12 years. The director shall promulgate rules for the imposition of
13 application, examination, and license fees. Until such rules are
14 promulgated, the department may charge an examination fee that
15 shall not exceed \$____, an application fee that shall not exceed
16 \$____, and a license fee that shall not exceed \$____.

17 (6) The irrigation industry fund is created within the state
18 treasury. The fees and administrative fines collected under this
19 act shall be deposited into the fund, and the state treasurer may
20 receive money or other assets from any source for deposit into the
21 fund. The state treasurer shall direct the investment of the fund.
22 The state treasurer shall credit to the fund interest and earnings
23 from fund investments. Money in the fund at the close of the fiscal
24 year shall remain in the fund and shall not lapse to the general
25 fund. The department shall be the administrator of the fund for
26 auditing purposes. The department shall expend money from the fund,
27 upon appropriation, for the administration of this act, except that



1 12% of this fund shall be used by the department to support the
2 advancement of the irrigation industry.

3 (7) Beginning the license cycle after the effective date of
4 this act, an applicant for renewal of a license shall demonstrate
5 to the department the completion of the appropriate credit hours,
6 but not less than ___ credit hours, of continuing education as
7 required by subsection (8).

8 (8) The continuing education courses, hours, and standards
9 contained in _____, published by _____, dated _____, are
10 incorporated by reference. The director of the department, after
11 consultation with the board, may promulgate rules to update, amend,
12 or supplement the continuing education courses and standards
13 incorporated in this subsection.

14 Sec. 13. (1) A person shall not act or attempt to act as an
15 irrigation apprentice, irrigation journeyman, master irrigator, or
16 irrigation contractor unless licensed under this act.

17 (2) A license is not required for an individual acting as an
18 irrigation laborer.

19 (3) The department shall issue a license as an irrigation
20 contractor to a person only if that person meets the requirements
21 of section 9 and presents proof, acceptable to the department and
22 board, of having adequate liability and worker's compensation
23 insurance coverage based upon the proposed size and nature of the
24 business.

25 (4) A person seeking licensure as an irrigation contractor
26 shall either hold a license as a master irrigator or shall have in
27 his or her employ a master irrigator who supervises the employees



1 and activities of the irrigation contractor.

2 Sec. 15. (1) Beginning the effective date of this act, the
3 department shall issue a license in 1 or more appropriate
4 categories to an individual who applies to the department and pays
5 the appropriate license fee and is qualified under sections 11 and
6 13.

7 (2) The department may license, without examination and upon
8 the payment of the license fee prescribed in section 11, an
9 applicant who is legally licensed, regulated, or authorized in
10 another state or country if the licensing requirements of the state
11 or country are considered by the board to be substantially
12 equivalent to the licensing requirements of this state and the
13 state or country observes reciprocity in regard to comparable
14 licensees under this act.

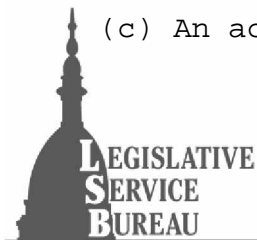
15 (3) The holder of a license issued under this section may
16 renew the license pursuant to section 11.

17 Sec. 17. (1) The department may investigate the activities of
18 a licensee related to the licensee's activities. The department may
19 hold administrative hearings, administer oaths, and order relevant
20 testimony to be taken and shall report its findings to the board.
21 The board shall proceed under section 19 if the board finds that
22 any of the following grounds exist:

23 (a) The practice of fraud or deceit in obtaining a license
24 under this act.

25 (b) The practice of fraud or deceit in the performance of work
26 for which a license is required under this act.

27 (c) An act of gross negligence.



1 (d) The practice of false advertising.

2 (e) An act which demonstrates incompetence, misconduct, or
3 lack of good moral character.

4 (f) A violation of this act or rule promulgated under or an
5 order issued under this act.

6 (g) The licensee is incapable of discharging his or her
7 duties, for medical or other reasons, resulting in the inability to
8 protect the public health, safety, and welfare.

9 (2) A revocation, suspension, or other sanction set forth in
10 subsection (1) or section 19 shall be imposed only after an
11 opportunity for a hearing pursuant to the administrative procedures
12 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

13 (3) An individual shall not act as a licensee under this act
14 if his or her license is suspended, revoked, or expired.

15 Sec. 19. After finding the existence of 1 or more of the
16 grounds for board action described in section 17(1) and after
17 having provided an opportunity for an administrative hearing, the
18 board shall impose 1 or more of the following sanctions on the
19 license issued under this act for each violation:

20 (a) Suspension.

21 (b) Denial.

22 (c) Revocation.

23 (d) Limitation.

24 (e) A requirement that restitution be made.

25 Sec. 21. If restitution is required to be made under section
26 19, the department and board may suspend the license of the person
27 required to make the restitution until restitution is made.



1 Sec. 23. This act takes effect July 1, 2006.

