

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Vidricksen at
Chairperson

1:45 ~~am~~/p.m. on March 2, 1983 in room 531N of the Capitol.

All members were present except:

Senator Gaines

Committee staff present:

Norm Furse - Revisor

Julian Efird - Legislative Research

Conferees appearing before the committee:

Charles Carey - Mechanical Contractors Association of Kansas
Lana Lentz - Legislative Representative, Women's Auxiliary to KPHCC
Herbert Whitlow - Kansas Plumbing, Heating and Cooling Contractors Assn.
Jim Kaup - League of Kansas Municipalities
Jim Aiken - Kansas Department of Health and Environment
Janet Stubbs - Homebuilders Assn. of Kansas
Scot Wrighton - City of Wichita
Gordon Hahn - The Associated Landlords of Kansas

Charles Carey appeared before the committee in support of Senate Bill 111. However, he pointed out that there were some specifics that seemed to be missing in the bill and he suggested a further study or an interim study in order to refine Senate Bill 111 so it would work better to accomplish its intended purpose. (Exhibit A)

Lana Lentz stated that the Women's Auxiliary to the Plumbing, Heating, Cooling Contractors wanted to go on record as being in favor of a Plumber's License Law for the State of Kansas. This group of women were relatives of someone owning a plumbing business. (Exhibit B)

Herbert Whitlow explained that the purpose of Senate Bill 111 was to ask that plumbing contractors be licensed by the State. This would give protection to homeowners who lived outside the jurisdiction of areas which already had this requirement and would set up a state-wide system of inspectors to enforce this act. They did not plan to interfere with the code of any city which has these requirements and it was the feeling that this would save the homeowners money. (Exhibit C)

Conditional support was given to Senate Bill 111 by Jim Kaup if this recommendation would consider legitimacy at the local level.

The Director of the Division of Environment told the committee that this bill raised many questions and needed review. He recommended that Senate Bill 111 be held over for further study. (Exhibit D)

Janet Stubbs addressed some of the problems with individual provisions of the bill and said she felt this bill added more bureaucracy and expense and was perhaps unworkable and unenforceable. (Exhibit E)

The representative from the City of Wichita expressed two concerns on the bill as written. They felt that licensing of this profession ought to remain a prerogative of the local jurisdiction and they questioned the need for those engaged in inspection of construction to be licensed by the board created by the legislation. (Exhibit F)

Gordon Hahn stated that he heavily opposed Senate Bill 111 because it was poorly written and it felt that one license could not cover everything.

There being no more time the Chairman brought the meeting to a close.

Senator Mulich made a motion to approve the minutes. Senator Hein seconded this. Motion carried.

Meeting adjourned
at 2:30 p.m.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

GUEST LIST

COMMITTEE: Senate Governmental Organization DATE: March 2, 1983

NAME	ADDRESS	COMPANY/ORGANIZATION
Charles D. Carey	Topeka	Mech. Contr. Assoc. of Ks
Hubert G. Wetters	"	Kans Pkg. Htg. cooling syst.
Janet Stubbs	Topeka	ABAK
James Power	Topeka	KDHE
Jim Aiken	"	KDHE
Scott Wrigton	Wichita	City of Wichita
Gordon M. Hahn	Topeka	TALK & the associated Smaller of Ks
TIMOTHY A. ZURAWSKI	TOPEKA	SCLA
Jim Kaup	"	League of Ks Municipalities
Robert West	"	Nat'l Elec. Contractors Assn.

Fiscal Note
1983 Session
February 11, 1983

Bill No.

The Honorable Ben Vidricksen, Chairperson
Committee on Governmental Organization
Senate Chamber
Third Floor, Statehouse

Dear Senator Vidricksen:

SUBJECT: Fiscal note for Senate Bill No. 111 by Committee
on Federal and State Affairs

In accordance with K.S.A. 75-3715a, the following fiscal note concerning Senate Bill No. 111 is respectfully submitted to your committee.

Senate Bill No. 111 creates the professional plumbers licence act. The bill would prohibit the practice of professional plumbing unless the person who desires to practice plumbing had been duly licensed under this act. The act establishes the Kansas Plumbers Examining Board within the Kansas Department of Health and Environment. The Board will be responsible for administering exams to become a professional plumber, maintain a register of licensed professional plumbers, and enforcing rules of professional conduct.

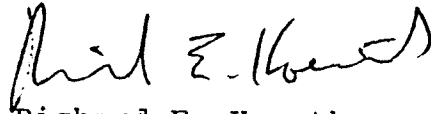
The Secretary of the Kansas Department of Health and Environment would be responsible for adopting rules and regulations necessary to enforce the act. In addition, the Secretary would establish annually a fee adequate to finance the operations required by this bill. These fees would be deposited to the Professional Plumbers Fund created by the bill. The bill provides that 20 percent of the fees collected would be deposited to the State General Fund.

The Kansas Department of Health and Environment estimates that expenditures of \$70,900 would be required in FY 1984 to enforce the provisions of this bill. This estimate provides for expenditures of \$6,300 by the five member Board of Plumbing Examiners. These expenses would provide mileage and subsistence expenses for eight two day meetings.

The Kansas Department of Health and Environment estimates that expenditures of \$64,600 and two positions would be required to administer the provisions of the bill. The Department estimates that \$39,600 would be required for salaries and wages (1 technical and 1 clerical position), \$10,000 for operating cost such as printing and telephone, \$10,000 for legal fees, and \$5,000 for capital outlay. These expenses would be financed from the Professional Plumbers Fund. The Department was not able to obtain an estimate of the number of plumbers which would be

licensed by this bill. Therefore, the Department did not estimate the revenue that would be developed by the provisions of the bill.

It should be noted that the Kansas Plumbers Examining Board will incur expenses before revenue can be generated through increased receipts. Any expenditures resulting from the passage of this bill will be in addition to amounts contained in the 1984 Governor's Budget Report.



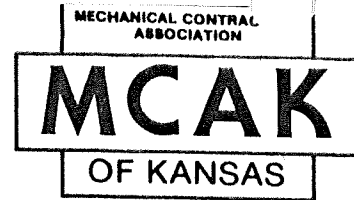
Richard E. Koerth
Senior Budget Analyst
For the Director of the Budget

REK:sr

MECHANICAL CONTRACTORS Association of Kansas, Inc.

Phone 913-354/1130

500 Kansas Avenue, Topeka, Kansas 66603



March 1, 1983

To: Senate Governmental Organization Committee: Chairperson Vidricksen;
Vice-Chairperson Hein; and Members of the Committee

From: Charles Carey, Executive Director

Re: "FOR" SB 111, AN ACT creating the professional plumbers license act.

Mechanical Contractors do plumbing, heating, air conditioning, refrigeration, process piping, solar and energy retrofit work.

Plumbing, including waste, vent, water, air and gas piping systems are an integral part of our business. Improper installation of these systems can cause health and safety hazards, as well as, displeasure from systems that are noisy such as gurgling sinks, vibrating pipes and the absence of cleanout openings can cause unnecessary expense to remove stoppages.

It is in the public interest to prevent improper installations. Regardless of how cheap the cost of the first improper installation, the additional cost of correction will usually make a total cost greater than an original proper installation.

Plumbing work is all or partly concealed and the buyer usually cannot learn before purchasing that he is buying an inferior plumbing system. Many areas just outside city limits, small cities and rural areas have no standards or codes to protect the individual from incompetent plumbing work OR the public from pollution of surface and underground water supply which can adversely and indirectly affect the health and welfare of others. The majority of the foregoing work is not architect or engineer designed so the quality of the plumbing too often will be determined by the lowest price, i.e., application of the "cheaper and worse principle".

As I understand this bill, it will be fiscally self-supporting from State licensing and examination fees.

Also, this bill requires a bond from the licensed plumber in order to provide a means of enforcement for compliance to the provisions of this act. Critics may say the bonding requirement will eliminate competition. I would submit that anyone practicing plumbing without sufficient assets to get a \$10,000 surety bond isn't fiscally sound enough to guarantee his work. Some degree of solvency is as much a part of the capital cost of being in business as the pickup truck and wrenches.

While some may suggest the bond will restrict competition, it may not be recognized that the freedom of movement from Statewide licensing will

(over)



Ex. A

allow more competition because a license fee will not be required every time a State licensed plumber goes to a different town to do even one project.

I have two nephews who have recently taken the Statewide plumbing examinations in Texas. They were impressed with the comprehensiveness and objectivity of these examinations. It seems these examinations were better than what is usually required by a local unit of government. Also, they were not subject to local politics and the protectionism that can sometimes exist in cities to keep competition out.

There may be a feeling by some that plumbers only want to restrict competition with licensing and codes. I reject this assumption because I personally know of the sincere dedication and feeling of responsibility of too many qualified plumbers for their industry. Qualified plumbers see too much inferior work done by incompetent people representing themselves as plumbers. For their own conscience and loyalty to the plumbing industry they support licensing and codes as a means of opposing this exploitation of the public.

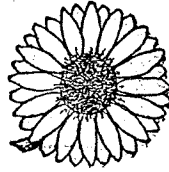
There are other things I could say "for" SB 111 but at this point in time I would like to point out that some specifics seem to be missing, such as, 1. years of experience required to qualify for examination, 2. it only covers licensing of shops and businesses and doesn't address the competency of the journeymen doing the work, 3. it doesn't state how existing local inspection and enforcement will fit into the overall picture (Local inspection, enforcement and fees should remain but work in conjunction with the State law.), 4. it seems inconsistent for SB 111 to require uniform licensing across the State but not require a uniform plumbing code across the State (which recognized code is less important than just having "one" code.)

Perhaps there are other specifics that need to be considered but the above four items seem sufficient for the Mechanical Contractors to recommend further study or interim study in order to "refine" SB 111 so it will work better to accomplish its intended purpose.

Thank you.

Charles

WOMEN'S



AUXILIARY

Kansas Plumbing, Heating, Cooling Contractors Association, Inc.

March 2, 1983

To Whom It May Concern:

The Women's Auxiliary to the Plumbing, Heating, Cooling Contractors want to go on record as being in favor of a Plumber's License Law for the State of Kansas.

Lana Lentz, Legislative Representative
Women's Auxiliary to KPHCC
(913) 357-4124

Ex. B

SENATE BILL # 111

Re: LICENSING OF PLUMBING CONTRACTORS

SENATE GOVERNMENTAL COMMITTEE

CHAIRMAN SENATOR VIDRICKSON

Mr. Chairman:

Ladies and Gentlemen:

When this Bill was originally drafted, it was the contention of the Kansas Plumbing, Heating, Cooling Contractors to ask that plumbing contractors be licensed by the State of Kansas. The contractors, thereby, showing a degree of professionalism and knowledge by having taken an examination; such as an exam given in many municipalities.

The reasons for such an act were:

1. To give protection to homeowners who live outside the jurisdiction of cities which already have this requirement, by requiring a license that could be revoked by an act unbecoming a professional plumbing contractor, and a bond which could be used to reimburse the homeowner of any cost they might incur.
2. Having once acquired this license, after exhibiting the knowledge and professionalism required, anyone then doing business as a plumbing contractor would more than likely keep in mind the best interest of the homeowner and his trade. And, finally, it was never the Associations desire to set up a state-wide system of inspectors to enforce this act, but only to provide any homeowner a source where they could receive help if needed.

Also, we would not in any way interfere with the examination and/or code of any city now having such requirements.

Neither do we believe that this will in any way increase costs to the homeowner, but could actually save them money.

Thank you,

Herbert G. Whitlow
K.P.H.C.C.

Ex. C

KANSAS



NATIONAL ASSOCIATION OF
PLUMBING · HEATING · COOLING CONTRACTORS

PLUMBING, HEATING, COOLING CONTRACTORS ASSOCIATION, INC.

320 LAURA, WICHITA, KANSAS 67211

PHONE 316 / 262-8860

February 28, 1983

THE HONORABLE COMMITTEE ON GOVERNMENTAL ORGANIZATION,
KANSAS SENATE

Re: S.B. 111 - The Professional Plumbers License Act

The Kansas Plumbing, Heating, Cooling Contractors Association is totally supportive of both the intent and format of the proposed bill.

Although we have always maintained an interest, the association began an intensive review of this matter approximately three years ago. Prior to that time, the need had periodically asserted itself, however the general economic decline added a great deal of impetus to our efforts. As jobs nationwide became more difficult to obtain, the number of "instant" contractors began a dramatic increase. This is true not only of plumbing, but of the construction industry and service related business as well. Unfortunately, a great number of these people were (and are) unskilled in the technical aspects of the job they attempt to perform, resulting in (at best) an inferior installation for the consumer and, at worst, an extremely hazardous situation. Further, basic contracting business acumen was often lacking in these individuals. This resulted in their submission of impossibly low bids, and being unable to complete the job after having "drawn" a significant portion of the funds or receiving advances from homeowners. Evidence of this is reflected in the legislatures recent considerations of our states lien laws.

In most trades, poor work is readily apparent either visually or through poor performance. This is not necessarily true in plumbing. The improper performance of an installation can easily result in a cross-connection or backflow (siphonage) situation in which not only the structures inhabitants are in danger, but the potable water supply (public or ground water) becomes polluted. The Federal Safe Water Act, under the jurisdiction of the Kansas Department of Health and Environment, specifically addresses these areas.

The House Committee on Federal and State Affairs recently conducted hearings on HB 2389, an identical bill to S Bill. In that hearing, the Kansas Department of Health and Environment recommended that due to the possible inclusion of areas not addressed in the original bill(s) and the involvement of the Department, the bills be referred to them for further consideration and subsequent meetings with all involved parties. Upon conclusion of these discussions, the bill(s) would be returned to the committee for their further consideration.

Once again, the KPHCCA views this response as realistic and viable, thus recommends that this course of action be followed. If the KPHCCA may be of assistance in this matter, we will be happy to do so.

Thank you in advance for your time and kind consideration.

Sincerely,
KANSAS PLUMBING, HEATING, COOLING CONTRACTORS ASSOCIATION, INC.

Allen Inlow
Allen Inlow, Executive Director

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY

SENATE BILL 111

Jim Aiken, Director
Division of Environment
March 2, 1983

Senate Bill 111 proposes a statute to license and regulate plumbers statewide. K.S.A. 12-1501 et seq. authorizes communities over 7,000 persons to create a board of examiners to examine, certify, and regulate plumbers. The Consumer Protection Act, K.S.A. 50-623 through 644, deals with consumer transactions with persons providing services. The senate bill creates a state board of plumbing examiners to examine, license, and regulate persons -- either public or private -- providing installation or maintenance of air, gas, water, and waste disposal systems and fixtures. The board would be created within the Kansas Department of Health and Environment. Fees generated from examinations and licenses would be deposited in the professional plumbers fund and used to pay expenses and compensation of the board. The cost of administration and enforcement of this act would be provided by the Kansas Department of Health and Environment staff, supported by state general funds. All enforcement actions would be before the board.

The bill in its present form raises many questions and needs extensive review before this department can give its support to undertaking this new program. The department suggests the Governmental Organization Committee hold the bill over until next session. The committee may wish to direct the Kansas Department of Health and Environment to study the issue and submit a report to the committee next session. The department would create a special task force composed of representatives from the League of Municipalities; Independent Plumbing, Heating, and Air Conditioning Contractors; and unions to develop a proposal which would recognize the nonuniformity of the existing city plumbing codes; the need for a state uniform building code; and the relationship between Senate Bill 111 and K.S.A. 12-1501 et seq. which authorizes communities to examine, certify, and regulate plumbers; and should the entire program be fee funded.

TESTIMONY BEFORE
SENATE GOVERNMENTAL ORGANIZATION
MARCH 2, 1983
BY
JANET J. STUBBS
HOME BUILDERS ASSOCIATION OF KANSAS

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS JANET J. STUBBS, EXECUTIVE DIRECTOR OF HOME BUILDERS ASSOCIATION OF KANSAS, APPEARING TO ADVISE THE COMMITTEE OF OUR CONCERNS ON SB 111.

THE HOME BUILDERS ASSOCIATION OF KANSAS OPPOSES STATE-WIDE LICENSURE OF PLUMBERS AS ANOTHER LAYER OF BUREAUCRACY, AN ADDED EXPENSE TO THE INDIVIDUAL SEEKING TO PRACTICE HIS TRADE, UNWORKABLE AS WRITTEN AND UNENFORCEABLE.

FIRST OF ALL, PROPONENTS OF THE BILLS REASON THAT THEY ARE DESIRABLE AS A MEANS OF ALLOWING A PLUMBER THE ABILITY TO WORK IN ALL KANSAS CITIES WITHOUT OBTAINING A LICENSE FROM THAT CITY. WHERE IS THIS PROVISION CONTAINED IN THE BILL? IS IT INTENDED TO PREVENT A CITY FROM REQUIRING A LICENSE? IF NOT, THEN THE PURPOSE HAS NOT BEEN ACHIEVED BY THIS LEGISLATION AND ANOTHER EXPENSE HAS BEEN ADDED.

IF SO, THEN WHO WILL DO THE INSPECTION OF THE JOB? ARE WE TO THEN HAVE A STATE INSPECTOR? IF THAT IS THE INTENT, WHAT WOULD BE THE EXPENSE AND WAITING TIME FOR AN INSPECTION? IF NO STATE INSPECTOR, AND NO CITY LICENSURE, THEN WHO WILL PAY THE COST OF THE INSPECTION?

SECTION 9 REFERS TO THE APPLICANT'S EDUCATION, BUT DOES THE BILL ESTABLISH THE REQUIRED EDUCATION TO OBTAIN A LICENSE OR WILL THE BOARD ESTABLISH THE EDUCATIONAL REQUIREMENTS? DOES SECTION 11 ALLOW THE BOARD TOTAL DISGRESSION IN THIS AREA?

SECTION 17 APPEARS TO GRANDFATHER CURRENT CONTRACTORS WITHOUT ORAL OR WRITTEN EXAMS WHO SUBMIT EVIDENCE UNDER OATH THAT SUCH PERSON IS OF GOOD CHARACTER, A RESIDENT OF KANSAS FOR 1 YEAR IMMEDIATELY PRIOR TO THE DATE OF APPLICATION AND WAS "PRACTICING PLUMBING AT THE TIME THIS ACT BECAME EFFECTIVE." THE DEFINITION FOR "PRACTICING" IN THE PROFESSION IS CONTAINED IN LINES 50-58 AND WOULD ALLOW ANYONE NOW "PRACTICING" THE TRADE TO BECOME LICENSED.

SUPPORTERS PROPOSE THIS AS A MEANS OF PROTECTING THE PUBLIC FROM INCOMPETENT WORKMANSHIP. CAN THIS BE DONE OR IS THIS A MEANS OF RESTRICTING COMPETITION?

SECTION 15 LIMITS AN OWNER EXEMPTION TO ONLY THAT OF A SINGLE FAMILY STRUCTURE - OWNER OCCUPIED.

SECTION 16 STATES "THE ACT SHALL NOT BE CONSTRUED TO PREVENT OR AFFECT "(B) THE PRACTICE OF A PERSON NOT A RESIDENT OF AND HAVING NO ESTABLISHED PLACE OF BUSINESS IN THIS STATE;" WOULD KANSAS PERMIT CONTRACTORS IN BORDERING STATES TO PRACTICE WITHOUT REGULATION AND WITHOUT THE \$10,000 SURETY BOND REQUIRED OF OUR KANSAS CONTRACTORS?

LOCATION OF THE MEETING PLACE OF THE BOARD DOES NOT APPEAR TO BE SPECIFIED. HOWEVER, SECTION 3 ALLOWS THE BOARD TO PETITION THE DISTRICT COURT OF THE COUNTY IN WHICH IT IS MEETING IF A SUBPOENA IS REFUSED. WILL THE CONTRACTOR BE REQUIRED TO APPEAR IN SHAWNEE COUNTY DISTRICT COURT?

ADDITIONAL REGULATION MEANS ADDITIONAL HOUSING COSTS AND WE WOULD URGE THE COMMITTEE TO CAREFULLY CONSIDER THE COST AND EFFECTIVENESS OF THIS MEASURE.

THE CITY OF WICHITA

OFFICE OF CENTRAL INSPECTION DIVISION

DATE February 28, 1983



TO Governmental Organization Committee of the Kansas Senate

FROM Robert B. Feldner, Superintendent of the Central
Inspection Division of the City of Wichita, Kansas

SUBJECT

City of Wichita Position on
Senate Bill No. 111 on
Statewide Licensing of the
Plumbing Profession

The City of Wichita wishes to express its concern in regard to the draft of the captioned bill as written.

Our concerns are on two fronts.

The first of these is that we believe that licensing (the granting of the right to practice) of this profession is and ought to remain a prerogative of the local jurisdiction. Presently Wichita grants licenses through technical review boards appointed by the governing body. Individual citizens may petition these technical boards to call a hearing on the suspension or revocation of the licenses of individual contractors. This local regulatory mechanism has worked well. We note that there is no specific provision in the proposed legislation vis a vis preemption of local regulations already in effect. There is a need for legal clarification as to whether or not such State preemption would follow from passage of the legislation. If local regulations were preempted, we feel that the potential would be for the creation of a more cumbersome, less effective set of State regulations in their stead. Conversely, if local provisions are not preempted, the result will be the creation of another layer of regulation on top of existing regulatory provisions which are at present wholly adequate in many jurisdictions.

Having said this, we would, however, perhaps be supportive of some kind of Statewide testing and certification program which would attest to the minimum qualifications of an individual to perform the work. Such a program would be helpful in the cases of reciprocal recognition of qualifications among jurisdictions. The absence of a uniform Statewide code is a major obstacle to such a testing program.

Our second concern is in regard to the stated in the bill need for those engaged in "inspection of construction" to be licensed by the board created by the legislation. This reference is objectionable in that the determination of qualifications as inspectors should remain with the local jurisdiction. In Wichita's case, employees inspecting plumbing installations are required to have passed a certification test administered by a national model codes organization.

In summary, our basic concerns would be addressed by the insertion of the following three amendments into the proposed legislation:

Ex. F

1. Specifically state that nothing in the statute shall be construed as preempting local licensing and testing provisions already in effect. State provisions therefore would apply in the absence of local regulation.
2. Specifically provide for the recognition by the State board of the licensing and testing programs of local jurisdictions determined by the board to have standards comparable to State standards. Holders of licenses from such recognized local jurisdictions would not be required to obtain a State license.
3. Delete any reference to "inspection of construction" as being included among those activities requiring a State license.

We believe that the professional qualifications of the board would be enhanced by adding a licensed mechanical engineer to the proposed Kansas plumbers' examining board.

We believe also that the proposed creation of regulations in the plumbing area is a complex undertaking deserving further study in all its ramifications prior to final passage.



Robert B. Feldner, P.E., R.A.
Superintendent of Central Inspection

RBF:mml