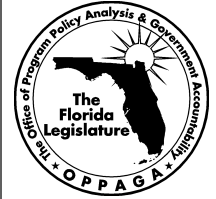




Office of Program Policy Analysis And Government Accountability



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November 1998

Follow-Up Report on the Electrical Contractors' Licensing Board

Abstract

- The Electrical Contractors' Licensing Board has addressed the concerns that the Office of Program Policy Analysis and Government Accountability (OPPAGA) raised about its rules regarding the work experience requirements needed for licensure applicants.
- The Legislature has not made major changes to the structure for regulating electrical and alarm system contractors. Electrical contractors are still licensed at both the local level and the state level, and other construction contractors are still regulated by a separate state licensing board.

Purpose

In accordance with state law this follow-up report informs the Legislature of actions taken by the Department of Business and Professional Regulation in response to our 1996 report.^{1,2} This report presents our assessment of the extent to which the department has addressed the findings and recommendations included in our report.

Background

The Florida Legislature has deemed the regulation of contractors necessary in the interest of public health, safety, and welfare. Chapter 489, F.S., provides for the licensing and regulation of contractors by establishing two separate licensing boards. The Construction Industry Licensing Board regulates contractors practicing in 18 different building and construction trades, including general, air conditioning and plumbing. The Electrical Contractors' Licensing Board (ECLB) is responsible for regulating electrical and alarm system contractors.

The Electrical Contracting Licensing Board is comprised of 11 board members: 7 certified electrical contractors, 2 alarm system contractors, and 2 consumer members. The board, whose operations are funded by licensure fees, is responsible for issuing and renewing licenses and prosecuting license holders for violations specified in statute. The board also promulgates rules to carry out the provisions of law. The Department of Business and Professional Regulation assists the board by performing functions such as processing licensure applications, administering examinations, and conducting investigations. For Fiscal Year 1996-97, the resources required for state regulation of electrical and alarm system contractors in Florida totaled \$1,082,581.

Under current law and rule, there are four categories of state certification for electrical and alarm system contracting in Florida: (1) Unlimited Electrical Contractor, (2) Alarm System Contractor I, (3) Alarm System Contractor II, and (4) Specialty Electrical or Alarm System Contractor. To be certified, applicants must meet certain experience requirements, pass a state certification examination, and meet certain financial responsibility and insurance requirements. Applicants can satisfy the experience requirement by demonstrating experience in one of four routes: (a) three years of

¹ Section 11.45(7)(f), F.S.

² *Review of Electrical Contractors' Licensing Board*, Report No. 96-16, November 14, 1996.

management experience in the trade; (b) four years of supervisory or foreman level experience in the trade; (c) six years of comprehensive training, technical education, or broad experience associated with an electrical or alarm system installation or servicing endeavor; or (d) three years as a licensed engineer.

Prior Findings

Our prior report assessed administrative rules promulgated by the Electrical Contractors Licensing Board, the board's application review process, and options to improve the overall structure for regulating electrical contractors in Florida.

Board Rules. The Joint Administrative Procedures Committee is required by law to review all proposed rules by agencies. The committee reviews existing agency rules when there are law changes and upon the request of the Legislature, citizens, and other interested parties. In March 1996, the committee reviewed all existing rules established by the Electrical Contractors' Licensing Board. Committee staff identified board rules that possibly modified or contravened the licensure qualifications established in law.

In general, OPPAGA found that the board had worked with committee staff to address their concerns and had taken steps to revise specific rules when it was necessary. However, the board and the committee did not agree on the board's rule requiring that a substantial proportion of an applicant's work experience be in the area of commercial contracting. Committee staff and the board's attorney indicated that there was no specific statutory authority for this particular rule. As a result, committee staff requested that the board delete this provision. The board, conversely, felt strongly that the provision should remain in rule. As of the publication of our prior report, the board and the JAPC had not reached an agreement on this issue. At the time, OPPAGA found the board's requirement for commercial contracting experience to be reasonable and recommended that the board propose statutory changes that would provide specific authority for the requirement.

In addition to the committee's comment on existing rules, OPPAGA found one area where the lack of specific rules may be a problem. Specifically,

s. 489.511, F.S., provides that licensure applicants may demonstrate the experience required to sit for the state examination by having "at least 6 years of comprehensive training, technical education, or broad experience associated with an electrical or alarm system installation or servicing endeavor." The board had defined the term "broad experience" in rule. However, OPPAGA found that the board had not defined the terms "comprehensive training" or "technical education." Thus, it was not clear in rule how an applicant could qualify for the state examination based on these two types of experiences.

Finally, OPPAGA found that the Electrical Contractors' Licensing Board and the Construction Industry Licensing Board operate under different licensing standards. The state certification examinations given by both boards include technical and business related questions. However, the two boards have different standards for the basic type of work experience required to sit for the state exam. Work experience requirements for electrical and alarm system contractors focus on ensuring that applicants have the management and supervisory experience needed to operate a contracting business. In contrast, work experience requirements for the other construction contractors focus on ensuring that applicants have technical experience in the trade. OPPAGA found that there was no clear reason why the two boards had different work experience requirements and concluded that it was reasonable to require all contractor license applicants to have a combination of technical and business-related experience.

Application Review Process. OPPAGA found that the board had established an application review process to ensure consistency. Furthermore, OPPAGA's review of the process indicated that the board consistently approved and denied applicants with similar qualifications.

Alternatives. Florida has a two-tier licensure system for electrical and alarm contractors: contractors can be licensed at both the state (certification) and local (registered) levels. Certified contractors are authorized to practice statewide, whereas registered contractors may practice only in the jurisdiction for which they are registered. According to stakeholders we interviewed, Florida's current licensure system results in duplication of effort, confusion among licensees, and a lack of uniformity for licensure qualifications. Under the current system, multiple jurisdictions (approximately

350 local jurisdictions plus the state) and entities process and review licensure applications, administer examinations, issue licenses, and create bureaucracies to support regulation. As a result, OPPAGA recommended that the Legislature eliminate local licensure and require all contractors to be licensed by the state or establish a local licensing system based on licensing standards and examinations set by the state.

Current Status

OPPAGA's prior review found that the Electrical Contractors' Licensing Board was working with the Joint Administrative Procedures Committee to ensure that its rules were consistent with the law and that the board reviewed licensure applications in a consistent manner. However, as described below, we identified several ways to improve the state's regulation of electrical and alarm system contractors. Overall, the board has made all of the specific changes that OPPAGA recommended for the board. However, the broader legislative changes that we recommended for the regulation of construction contractors were not acted upon.

Prior Recommendation: The Electrical Contractors' Licensing Board should propose statutory changes that would provide specific authority for the board's rule requiring commercial contracting experience. This would specify work experiences in terms of commercial or residential contracting.

The board agreed to delete the term "commercial" as an experience requirement for the unlimited electrical contractors' examination. The Joint Administrative Procedures Committee agreed to retain the term "3-phase service" because it is listed in Webster's Third International Unabridged Dictionary as an electrical term. The department indicated that since most "3-phase service" is applicable to commercial work in the electrical industry, the compromise was acceptable to both sides. This revised rule was adopted by the Electrical Contractors' Licensing Board, effective September 22, 1997.

Prior Recommendation: The Electrical Contractors' Licensing Board should incorporate or define in rule the terms "comprehensive training" and "technical education" as provided for in s. 489.511(2)(a)3.C., F.S. These definitions should clarify how an applicant can qualify to take the state certification examination under these types of work experience.

In May 1998, the board adopted a rule defining the terms "comprehensive training" and "technical education" as

provided for in s. 489.511(2)(a) 3.C., F.S. This new rule was filed for adoption with the Secretary of State and became effective on September 7, 1998.

Prior Recommendation: The Construction Industry Study Committee should examine whether the basic work experience requirements for electrical and alarm system contractors should be different than the requirements for other construction contractors and recommend changes if appropriate

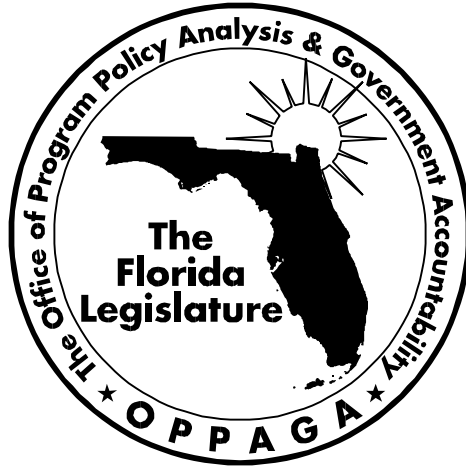
The department indicated that the committee did not address this issue as part of its study.

Prior Recommendation: The Legislature should consider the following alternatives: eliminate local licensure and require all contractors to be licensed by the state, or establish a local licensing system based on licensing standards and examinations set by the state.

The Legislature has not made any major changes to the overall structure for regulating electrical and alarm system contractors since our review. Electrical contractors are still licensed at both the local and state level, and contractors are still regulated by the two separate licensing boards. OPPAGA continues to recommend that the Legislature consider alternatives to reduce duplication in the licensure process for electrical contractors.

The Florida Legislature

Office of Program Policy Analysis and Government Accountability



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