

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1091

Short Title: Licensing Board/Budget Act.

(Public)

Sponsors: Representatives Mavretic; and Bowman.

Referred to: State Government.

April 24, 1991

A BILL TO BE ENTITLED

AN ACT TO SPECIFY THAT ALL OCCUPATIONAL LICENSING BOARDS ARE
SUBJECT TO THE EXECUTIVE BUDGET ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-1 reads as rewritten:

"§ 143-1. Scope and definitions.

This Article shall be known, and may be cited, as 'The Executive Budget Act.' Whenever the word 'Director' is used herein, it shall be construed to mean 'Director of the Budget.' Whenever the word 'Commission' is used herein, it shall be construed to mean 'Advisory Budget Commission,' if the context shows that it is used with reference to any power or duty belonging to the Office of State Budget and Management and to be performed by it, but it shall mean when used otherwise any State agency, and any other agency, person or commission by whatever name called, including any occupational licensing board as defined in G.S. 93B-1, that uses or expends or receives any State funds. 'State funds' are hereby defined to mean any and all moneys appropriated by the General Assembly of North Carolina, or moneys collected or received by or for the State, or any agency thereof, including any occupational licensing board as defined in G.S. 93B-1, pursuant to the authority granted in any ~~of its laws.~~ State law."

Sec. 2. G.S. 143-2 reads as rewritten:

"§ 143-2. Purposes.

It is the purpose of this Article to vest in the Governor of the State a direct and effective supervision of all agencies, institutions, departments, bureaus, boards, commissions, and every State agency by whatsoever name now or hereafter called, including the same power and supervision over such private corporations and persons

1 and organizations of all kinds that may receive, pursuant to statute, any funds either
2 appropriated by, or collected for, the State of North Carolina, or any of its departments,
3 boards, divisions, agencies, institutions and commissions; for the efficient and
4 economical administration of all agencies, institutions, departments, bureaus, boards,
5 commissions, persons or corporations that receive or use State funds; and for the
6 initiation and preparation of a balanced budget of any and all revenues and expenditures
7 for each session of the General Assembly.

8 The Governor shall be ex officio Director of the Budget. The purpose of this Article
9 is to include within the powers of the Office of State Budget and Management all
10 agencies, institutions, departments, bureaus, boards, and commissions of the State of
11 North Carolina under whatever name now or hereafter known, and the change of the
12 name of such agencies hereafter shall not affect or lessen the powers and duties of the
13 Office of State Budget and Management in respect thereto.

14 The test as to whether an institution, department, agency, board, commission, or
15 corporation or person is included within the purpose and powers and duties of the
16 Director of the Budget shall be whether such agency or person receives for use, or
17 expends, any of the funds of the State of North Carolina, including funds appropriated
18 by the General Assembly and funds arising from the collection of fees, taxes, donations
19 appropriative, or otherwise. Occupational licensing boards as defined in G.S. 93B-1 are
20 included within the purpose and powers and duties of the Director of the Budget."

21 Sec. 3. G.S. 93B-4 reads as rewritten:

22 "**§ 93B-4. Audit of Occupational Licensing Boards; payment of costs. Operation and**
23 **oversight of occupational licensing boards.**

24 Occupational licensing boards are subject to Article 1, Chapter 143 of the General
25 Statutes, the Executive Budget Act. All fees or other funds collected or received by an
26 occupational licensing board shall be deposited with the State Treasurer who shall place
27 the funds in one or more special funds reserved for the use of the depositing board. The
28 funds deposited under this section shall be expended under the supervision of the
29 Director of the Budget exclusively for carrying out the statutorily authorized functions
30 of the depositing board. Occupational licensing boards shall not make any expenditure
31 in excess of the amount available in their respective accounts. The financial records of
32 occupational licensing boards shall be subject to an annual audit, supervised by the State
33 Auditor, and paid for with funds of the board audited.

34 The books, records, and operations of each occupational licensing board shall be
35 subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of
36 the General Statutes.

37 The cost of all audits shall be paid from funds of the occupational licensing board
38 audited."

39 Sec. 4. G.S. 147-69.3(b) reads as rewritten:

40 "(b) Any official, board, commission, other public authority, local government,
41 school administrative unit, local ABC board, or community college of the State having
42 custody of any funds not required by law to be deposited with and invested by the State
43 Treasurer may deposit all or any portion of such funds with the State Treasurer for
44 investment in one of the investment programs established pursuant to this section,

1 subject to any provisions of law with respect to eligible investments, ~~provided that any~~
2 ~~occupational licensing board as defined in G.S. 93B-1 may participate in one of the investment~~
3 ~~programs established pursuant to this section regardless of whether or not the funds were~~
4 ~~required by law to be deposited with and invested by the State Treasurer.~~ investments. In the
5 absence of specific statutory provisions to the contrary, any such funds may be invested
6 in accordance with the provisions of G.S. 147-69.2 and 147-69.3. Upon request from
7 any depositor eligible under this subsection, the State Treasurer may authorize moneys
8 invested pursuant to this subsection to be withdrawn by warrant on the State Treasurer."

9 Sec. 5. G.S. 147-77 reads as rewritten:

10 **"§ 147-77. Daily deposit of funds to credit of Treasurer.**

11 All funds belonging to the State of North Carolina, in the hands of any head of any
12 department of the State which collects revenue for the State in any form whatsoever,
13 and every institution, agency, occupational licensing board as defined in G.S. 93B-1,
14 officer, employee, or representative of the State or any agency, department, division or
15 commission thereof, except officers and the clerks of the Supreme Court and Court of
16 Appeals, collecting or receiving any funds or money belonging to the State of North
17 Carolina, shall daily deposit the same in some bank, or trust company, selected or
18 designated by the State Treasurer, in the name of the State Treasurer, at noon, or as near
19 thereto as may be, and shall report the same daily to said Treasurer: Provided that the
20 State Treasurer may authorize exemptions from the provisions of this section so long as
21 funds are deposited and reported pursuant to the provisions of this section at least once a
22 week and, in addition, so long as funds are deposited and reported pursuant to the
23 provisions of this section whenever as much as two hundred fifty dollars (\$250.00) has
24 been collected and received: Provided, that the Treasurer may refund the amount of any
25 bad checks which have been returned to the department by the Treasurer when the same
26 have not been collected after 30 days' trial."

27 Sec. 6. G.S. 83A-3(b) reads as rewritten:

28 "(b) All funds received by the Board under the provisions of this Chapter shall be
29 deposited by the treasurer or such other officer or staff employee ~~as the Board may~~
30 ~~designate in such depository and under such security as the Board may direct.~~ in accordance
31 with G.S. 93B-4. All expenses incurred by the Board shall be paid out of funds derived
32 from examination, licensing, renewal or other fees herein provided and shall be paid by
33 the treasurer upon vouchers drawn by the secretary and approved by the president. The
34 Board shall have the power to determine necessary expenses, and to fix the
35 compensation for board employees and for professional services. The State of North
36 Carolina shall not be liable for the compensation of any Board members or officers.
37 Payment of expenses and salaries pursuant to administration of this Chapter may not
38 exceed available funds of the Board. All Board receipts and disbursements shall be
39 subject to audit and accounting procedures established by ~~the State for similar boards.~~
40 G.S. 93B-4."

41 Sec. 7. G.S. 87-7 reads as rewritten:

42 **"§ 87-7. Records of Board; disposition of funds.**

43 The secretary-treasurer shall keep a record of the proceedings of the said Board and
44 shall receive and account for all moneys derived from the operation of this ~~Article.~~

1 Article in accordance with G.S. 93B-4. Any funds remaining in the hands of the
2 secretary-treasurer to the credit account of the Board after the expenses of the Board for
3 the current year have been paid shall be paid over to the Greater University of North
4 Carolina for the use of the School of Engineering through the North Carolina
5 Engineering Foundation. The Board has the right, however, to retain at least ten percent
6 (10%) of the total expense it incurs for a year's operation to meet any emergency that
7 may arise. As an expense of the Board, said Board is authorized to expend such funds as
8 it deems necessary to provide retirement and disability compensation for its
9 employees."

10 Sec. 8. G.S. 87-42 reads as rewritten:

11 **"§ 87-42. Duties and powers of Board.**

12 In order to protect the life, health and property of the public, the State Board of
13 Examiners of Electrical Contractors shall provide for the written examination of all
14 applicants for certification as a qualified individual, as defined in G.S. 87-41.1. The
15 Board shall receive all applications for certification as a qualified individual and all
16 applications for licenses to be issued under this Article, shall examine all applicants to
17 determine that each has met the requirements for certification and shall discharge all
18 duties enumerated in this Article. Applicants for certification as a qualified individual
19 must be at least 18 years of age and shall be required to demonstrate to the satisfaction
20 of the Board their good character and adequate technical and practical knowledge
21 concerning the safe and proper installation of electrical work and equipment. The
22 examination to be given for this purpose shall include, but not be limited to, the
23 appropriate provisions of the National Electrical Code as incorporated in the North
24 Carolina State Building Code, the analysis of electrical plans and specifications,
25 estimating of electrical installations, and the fundamentals of the installation of
26 electrical work and equipment. Certification of qualified individuals shall be issued in
27 the same classifications as provided in this Article for license classifications. The Board
28 shall prescribe the standards of knowledge, experience and proficiency to be required of
29 qualified individuals, which may vary for the various license classifications. The Board
30 shall issue certifications and licenses to all applicants meeting the requirements of this
31 Article and of the Board upon the receipt of the fees prescribed by G.S. 87-44. The
32 Board shall have power to make rules and regulations necessary to the performance of
33 its duties and for the effective implementation of the provisions of this Article. The
34 Board shall have the power to administer oaths and issue subpoenas requiring the
35 attendance of persons and the production of papers and records before the Board in any
36 hearing, investigation, or proceeding conducted by it. Members of the Board's staff or
37 the sheriff or other appropriate official of any county of this State shall serve all notices,
38 subpoenas, and other papers given to them by the Chairman for service in the same
39 manner as process issued by any court of record. Any person who neglects or refuses to
40 obey a subpoena issued by the Board shall be guilty of a misdemeanor and, upon
41 conviction thereof, shall be fined or imprisoned in the discretion of the court. The Board
42 shall keep minutes of all its proceedings and shall keep an accurate record of receipts
43 and disbursements which shall be audited at the close of each fiscal year ~~by a certified~~

1 public accountant, and the audit report shall be filed with the State of North Carolina in
2 accordance with Chapter 93B of the General Statutes."

3 Sec. 9. G.S. 87-45 reads as rewritten:

4 **"§ 87-45. Funds.**

5 The fees collected for examinations and licenses under this Article shall be used for
6 the expenses of the State Board of Examiners of Electrical Contractors in carrying out
7 the provisions of this Article. No expenses of the Board or compensation of any
8 member or employee of the Board shall be payable out of ~~the treasury of the State of~~
9 ~~North Carolina; the General Fund of the State treasury;~~ and neither the Board nor any
10 member or employee thereof shall have any power or authority to make or incur any
11 expense, debt or other financial obligation binding upon the State of North Carolina.
12 except in accordance with G.S. 93B-4. Any funds remaining in the hands of the
13 ~~secretary-treasurer to the credit account~~ of the Board after all expenses of the Board for
14 the current fiscal year have been fully provided for shall be paid over to the North
15 Carolina Engineering Foundation, Inc., for the benefit of the electrical engineering
16 department of the Greater University of North Carolina. Provided, however, the Board
17 shall have the right to maintain an amount, the cumulative total of which shall not
18 exceed twenty percent (20%) of gross receipts for the previous fiscal year of its
19 operation as a maximum contingency or emergency fund."

20 Sec. 10. G.S. 87-63 reads as rewritten:

21 **"§ 87-63. License fees payable in advance; application of.**

22 All license fees shall be paid in advance as hereafter provided to the secretary and
23 treasurer of the Board and ~~by him~~ held in accordance with G.S. 93B-4 as a fund for the
24 use of the Board. The compensation and expenses of the members of the Board as
25 herein provided, the salaries of its employees, and all expenses incurred in the discharge
26 of its duties under this Article shall be paid out of such fund, ~~upon the warrant of the~~
27 ~~chairman and secretary and treasurer;~~ fund. Provided, upon the payment of the necessary
28 expenses of the Board as herein set out, and the retention by it of twenty-five per
29 centum (25%) of the balance of funds collected hereunder the residue, if any, shall be
30 paid to the State Treasurer."

31 Sec. 11. G.S. 88A-7 reads as rewritten:

32 **"§ 88A-7. Custody and use of funds.**

33 The Treasurer or the Executive Director shall deposit all fees payable to the Board in
34 ~~financial institutions designated by the Board as official depositories;~~ accordance with G.S.
35 93B-4. The funds shall be deposited in the name of the Board and shall be used to pay
36 all expenses incurred by the Board in carrying out the purposes of this Chapter. The
37 Board is subject to the oversight of the State Auditor under Article 5A of Chapter 147 of
38 the General Statutes."

39 Sec. 12. G.S. 89B-7 reads as rewritten:

40 **"§ 89B-7. Receipts and disbursements.**

41 The secretary of the Board shall receive and account for all moneys derived under
42 ~~the provision of this Chapter, and shall keep such moneys in a separate fund to be known as the~~
43 ~~"Registered Foresters' Fund;"~~ this Chapter in accordance with G.S. 93B-4. ~~Moneys in the~~
44 ~~aforsaid fund~~ Funds received by the Board shall be expended to carry out the purposes

1 of the Board. The secretary of the Board shall give surety bond to the Board in such
2 sum as the Board may determine, the premium of which shall be regarded as a proper
3 expense of the Board and shall be paid from ~~the Registered Foresters' Fund.~~ Board funds.

4 The Board may employ and fix the compensation of necessary clerical and other
5 assistants. The compensation of such assistants shall be paid out of ~~the Registered~~
6 ~~Foresters' Fund.~~ Board funds."

7 Sec. 13. G.S. 89C-11 reads as rewritten:

8 **"§ 89C-11. Secretary; duties and liabilities; expenditures.**

9 The secretary of the Board shall receive and account for all moneys derived from the
10 operation of the Board as provided in this Chapter, and shall deposit them in ~~one or more~~
11 ~~special funds in banks or other financial institutions carrying deposit insurance and authorized~~
12 ~~to do business in North Carolina. The fund or funds shall be designated as "Fund of the Board~~
13 ~~of Registration for Professional Engineers and Land Surveyors" and shall be drawn against~~
14 ~~only for the purpose of implementing provisions of this Chapter as herein provided. in~~
15 accordance with G.S. 93B-4. All expenses certified by the Board as properly and
16 necessarily incurred in the discharge of its duties, including authorized compensation,
17 shall be paid out of ~~said fund on the warrant signed by the secretary of the Board; provided,~~
18 ~~however, that at no time shall the total of warrants issued~~ Board funds, provided that the
19 total expenses shall not exceed the total amount of funds accumulated under this
20 Chapter. The secretary of the Board shall give a surety bond satisfactory to the State
21 Board of Registration for Professional Engineers and Land Surveyors, conditioned upon
22 the faithful performance of his duties. The premium on said bond shall be regarded as a
23 proper and necessary expense of the Board. The secretary of the Board may delegate to
24 the executive secretary certain routine duties, such as receipt and disbursement of funds
25 in stated amounts by a written authorization, which has the unanimous approval of the
26 Board."

27 Sec. 14. G.S. 89E-5(e) reads as rewritten:

28 "(e) The Board may authorize expenditures deemed necessary to carry out the
29 provisions of this Chapter and all expenses shall be paid upon the warrant of the Board
30 treasurer. The Board treasurer shall deposit funds received by the Board ~~in one or more~~
31 ~~funds in banks or other financial institutions carrying deposit insurance and authorized to do~~
32 ~~business in North Carolina. Interest earned on such funds may remain in the funds account and~~
33 ~~may be expended as authorized by the Board to carry out the provisions of this Chapter. in~~
34 accordance with G.S. 93B-4. In no event may expenditures exceed the revenues of the
35 Board during any fiscal year. The Board is authorized and empowered to utilize the
36 services of the Purchase and Contract Division of the Department of Administration for
37 the procurement of personal property, in accordance with Article 3 of Chapter 143 of
38 the General Statutes."

39 Sec. 15. G.S. 90-15 reads as rewritten:

40 **"§ 90-15. License fee; salaries, fees, and expenses of Board.**

41 Each applicant for a license by examination shall pay to the treasurer of the Board of
42 Medical Examiners of the State of North Carolina a fee which shall be prescribed by
43 said Board in an amount not exceeding the sum of four hundred dollars (\$400.00) plus
44 the cost of test materials before being admitted to the examination. Whenever any

1 license is granted without examination, as authorized in G.S. 90-13, the applicant shall
2 pay to the treasurer of the Board a fee in an amount to be prescribed by the Board not in
3 excess of two hundred fifty dollars (\$250.00). Whenever a limited license is granted as
4 provided in G.S. 90-12, the applicant shall pay to the treasurer of the Board a fee not to
5 exceed one hundred fifty dollars (\$150.00), except where a limited license to practice in
6 a medical education and training program approved by the Board for the purpose of
7 education or training is granted, the applicant shall pay a fee of twenty-five dollars
8 (\$25.00). A fee of twenty-five dollars (\$25.00) shall be paid for the issuance of a
9 duplicate license. All fees shall be paid in advance to the treasurer of the Board of
10 Medical Examiners of the State of North Carolina, to be held ~~by him~~ in accordance with
11 G.S. 93B-4 as a fund for the use of said Board. The compensation and expenses of the
12 members and officers of the said Board and all expenses proper and necessary in the
13 opinion of the Board to the discharge of its duties under and to enforce the laws
14 regulating the practice of medicine or surgery shall be paid out of said fund, upon the
15 warrant of the said Board and all expenses proper and necessary in the opinion of the
16 officers and members of said Board shall be fixed by the Board but shall not exceed one
17 hundred dollars (\$100.00) per day per member for time spent in the performance and
18 discharge of his duties as a member of said Board, and reimbursement for travel and
19 other necessary expenses incurred in the performance of his duties as a member of said
20 Board. Any unexpended sum or sums of money remaining in the treasury of said Board
21 at the expiration of the terms of office of the members thereof shall be paid over to their
22 successors in office.

23 For the initial and annual registration of an assistant to a physician, the Board may
24 require the payment of a fee not to exceed a reasonable amount."

25 Sec. 16. G.S. 90-133 reads as rewritten:

26 **"§ 90-133. Fees held by Board; ~~Fees~~; salaries; payment of expenses.**

27 All fees shall be paid in advance to the treasurer of the Board, to be ~~by him~~ held in
28 accordance with G.S. 93B-4 as a fund for the use of the State Board of Osteopathic
29 Examination and Registration. The compensation and expenses of the members and
30 officers of said Board, and all expenses proper and necessary, in the opinion of said
31 Board, to discharge its duties under and to enforce the law, shall be paid out of such
32 fund, upon the warrant of the president and secretary of said Board, and no expense
33 shall be created to exceed the income of fees or fines as herein provided. The salaries
34 shall be fixed by the Board, but shall not exceed ten dollars (\$10.00) per day per
35 member, and railroad and hotel expenses."

36 Sec. 17. G.S. 90-171.25 reads as rewritten:

37 **"§ 90-171.25. Custody and use of funds.**

38 The executive director shall deposit in ~~financial institutions designated by the Board as~~
39 ~~official depositories~~ in accordance with G.S. 93B-4, all fees payable to the Board. The funds
40 shall be deposited in the name of the Board and shall be used to pay all expenses
41 incurred by the Board in carrying out the purposes of this Article. Such funds shall be
42 annually audited by the State Auditor."

43 Sec. 18. G.S. 90-178.4(d) reads as rewritten:

1 "(d) All fees collected on behalf of the joint subcommittee and all receipts of
2 every kind and nature, as well as the compensation paid the members of the joint
3 subcommittee and the necessary expenses incurred by them in the performance of the
4 duties imposed upon them, shall be reported annually to the State Treasurer. All fees
5 and other moneys received by the joint subcommittee pursuant to the provisions of the
6 General Statutes shall be kept in a separate fund ~~by the joint subcommittee,~~ in accordance
7 with G.S. 93B-4, to be held and expended only for such purposes as are proper and
8 necessary to the discharge of the duties of the joint subcommittee and to enforce the
9 provisions of this Article. No expense incurred by the joint subcommittee shall be
10 charged against the General Fund of the State."

11 Sec. 19. G.S. 90C-7 reads as rewritten:

12 **"§ 90C-7. Executive Director.**

13 The Executive Director shall deposit all fees payable to the Board in ~~financial~~
14 ~~institutions designated by the Board as official depositories.~~ accordance with G.S. 93B-4.
15 The funds shall be deposited in the name of the Board and shall be used to pay all
16 expenses incurred by the Board in carrying out the purposes of this Chapter. The Board
17 shall be audited annually by the State Auditor."

18 Sec. 20. G.S. 93-12(14) reads as rewritten:

19 "(14) All fees collected on behalf of the Board and all receipts of every kind
20 and nature, as well as the compensation paid the members of the Board
21 and the necessary expenses incurred by them in the performance of the
22 duties imposed upon them, shall be reported annually to the State
23 Treasurer. All fees and other moneys received by the Board pursuant
24 to the provisions of the General Statutes shall be kept in a separate
25 fund ~~by the treasurer of the Board,~~ in accordance with G.S. 93B-4, to be
26 held and expended only for such purposes as are proper and necessary
27 to the discharge of the duties of the Board and to enforce the
28 provisions of this Chapter. No expense incurred by the Board shall be
29 charged against the State."

30 Sec. 21. This act is effective upon ratification and applies beginning with
31 fiscal year 1992-93, provided that occupational licensing boards that already operate
32 under the provisions of the Executive Budget Act are not removed from coverage of that
33 Act between the date this act is ratified and July 1, 1992.