

SENATE BILL 387

IN THE SENATE

February 6, 1979	Introduced and referred to Committee on State Administration.
February 7, 1979	Fiscal note requested.
February 13, 1979	Fiscal note returned.
February 19, 1979	Committee recommend bill, do not pass.

1 *Senate* BILL NO. *387*
 2 INTRODUCED BY *Jerguson Hymel Thomas*
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
 6 REGULATION OF THE WARM AIR HEATING, VENTILATION, AND AIR
 7 CONDITIONING INDUSTRY BY A BOARD OF PUBLIC SAFETY IN THE
 8 DEPARTMENT OF ADMINISTRATION; TERMINATING THE OPERATION OF
 9 THE BOARD OF WARM AIR HEATING, VENTILATION, AND AIR
 10 CONDITIONING ON JULY 1, 1979; ELIMINATING REFERENCES TO THE
 11 BOARD OF WARM AIR HEATING, VENTILATION, AND AIR
 12 CONDITIONING; REVISING THE EXCEPTIONS TO THE APPLICATION OF
 13 TITLE 37, CHAPTER 70; REVISING THE LICENSURE PROVISIONS;
 14 PERMITTING THE BOARD TO SET FEES; IMPOSING CERTAIN DUTIES ON
 15 THE DEPARTMENT; AMENDING SECTIONS 2-8-121, 37-70-103,
 16 37-70-104, 37-70-202, 37-70-301 THROUGH 37-70-305, AND
 17 50-60-204, MCA; AND REPEALING SECTIONS 2-15-1656, 37-70-201,
 18 AND 37-70-203, MCA."
 19

20 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
 21 will terminate the board of warm air heating, ventilation,
 22 and air conditioning and require a performance evaluation of
 23 the board by the legislative audit committee; and

24 WHEREAS, as a result of the performance evaluation, the
 25 legislative audit committee recommends that the board of

1 warm air heating, ventilation, and air conditioning be
 2 abolished and that regulation of the warm air heating,
 3 ventilation, and air conditioning industry be transferred to
 4 the board of public safety in the department of
 5 administration and that certain statutory provisions be
 6 amended or repealed.
 7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 2-8-121, MCA, is amended to read:
 10 "2-8-121. Effect of termination. ~~Upon~~ Unless otherwise
 11 provided, upon termination, each agency or unit shall
 12 continue in existence until July 1 of the next succeeding
 13 year for the purpose of winding up its affairs. During the
 14 windup period, termination does not reduce or otherwise
 15 limit the powers or authority of each respective agency
 16 except that no action may be taken which would continue in
 17 effect beyond the 1-year windup period. Upon the expiration
 18 of the 1 year after termination, each agency not modified or
 19 reestablished shall be abolished and all unexpended balances
 20 of appropriations, allocations, or other funds shall revert
 21 to the fund from which they were appropriated or, if that
 22 fund is abolished, to the general fund."

23 Section 2. Section 37-70-103, MCA, is amended to read:
 24 "37-70-103. Definitions. As used in this chapter, the
 25 following definitions apply:

1 (1) "Board" means board of ~~warm-air-heating~~
 2 ~~ventilation-and-air-conditioning-provided-for-in--2-15-1656~~
 3 public safety provided for in (section 1 of Senate Bill
 4 247).

5 (2) "Department" means the department of ~~professione~~
 6 ~~and-occupational--licensing~~ administration provided for in
 7 Title 2, chapter 15, part 10.

8 (3) (a) "Warm air heating, ventilation, and air
 9 conditioning work" means construction, installation,
 10 alteration, maintenance, and repair of:

11 (i) all warm air heating systems, complete with warm
 12 air appliances, ducts, registers, and flues, with or without
 13 air filters or humidity and thermostatic controls;

14 (ii) ventilating systems, complete with blowers, ducts,
 15 plenum chambers, registers, with or without air filters,
 16 humidity and thermostatic controls;

17 (iii) air conditioning systems, complete with air
 18 conditioning units, ducts, registers, air filters, humidity
 19 and thermostatic controls;

20 (iv) all equipment for air heating, ventilating, and
 21 air conditioning;

22 (v) blower and exhaust appliances and systems; and

23 (vi) domestic and commercial forced air heating
 24 equipment.

25 (b) Warm air heating, ventilation, and air

1 conditioning work does not include any portable heating,
 2 ventilating, or air conditioning equipment which does not
 3 become affixed to real property and masonry fireplaces and
 4 component parts with masonry flues."

5 Section 3. Section 37-70-104, MCA, is amended to read:
 6 "37-70-104. Exemptions. The provisions of this chapter
 7 do not apply or affect work done:

8 (1) by a homeowner on either his family dwelling or
 9 outbuildings or both of them or person doing routine
 10 maintenance in his place of business or rental housing; ~~or~~
 11 ~~(2) to provide fuel or refrigeration pipelines when~~
 12 ~~lines are connected to the installation of heating~~
 13 ~~ventilating-and-air-conditioning-systems; or~~

14 ~~(3) by railroads, smelters, underground mining~~
 15 ~~operations, mills, or refineries on their properties by self~~
 16 ~~or employees or other businesses doing their own routine~~
 17 ~~maintenance."~~

18 Section 4. Section 37-70-202, MCA, is amended to read:

19 "37-70-202. Powers and duties. In addition to all
 20 other powers and duties conferred and imposed upon the board
 21 by law, the board shall have and exercise the following
 22 powers and duties:

23 (1) to promulgate rules which it determines to be
 24 necessary to carry out the provisions of this chapter;

25 (2) to hear contested cases coming under the

1 provisions of this chapter; and

2 (3) ~~to establish how permit fees are to be collected~~
3 ~~and allocated under applicable state and local building~~
4 ~~codes; to grant individual and combination licenses in:~~

- 5 (a) warm air heating;
6 (b) ventilation; and
7 (c) air conditioning."

8 Section 5. Section 37-70-301, MCA, is amended to read:

9 "37-70-301. License and permit required. It shall be
10 unlawful:

11 (1) for any person or firm to perform or to establish
12 a place of business to perform or to advertise for warm air
13 heating, ventilation, or air conditioning work for another
14 unless such person or ~~a full partner or 10% or more~~
15 ~~shareholder an~~ employee of such firm shall have first
16 obtained a master license hereunder, provided, that any
17 person who is licensed as a journeyman may perform such work
18 for a master licensee or a firm with which a master licensee
19 is associated; and

20 (2) for equipment to be installed in this state unless
21 evidence of permit fee payment is attached in the manner
22 prescribed by the board."

23 Section 6. Section 37-70-302, MCA, is amended to read:

24 "37-70-302. Qualifications of applicants -- master --
25 journeyman -- apprentice. (1) The following requirements

1 shall be met by applicants for a state license:

2 (a) masters shall furnish evidence of 5 years'
3 experience in ~~warm air heating, ventilation, and air~~
4 ~~conditioning work~~ satisfactory to the board in each of the
5 following phases in which he seeks licensure: warm air
6 heating, ventilation, and air conditioning;

7 (b) journeyman mechanics shall furnish evidence of 4
8 years' experience in ~~warm air heating, ventilation, and air~~
9 ~~conditioning work which is~~ satisfactory to the board in each
10 of the following phases in which he seeks licensure: warm
11 air heating, ventilation, and air conditioning. This
12 experience requirement may be fulfilled by working 4 years
13 in any major phase of the warm air heating, ventilation, and
14 air conditioning business or by completing an apprenticeship
15 program meeting the standards set by the state
16 apprenticeship council or United States department of labor,
17 bureau of apprenticeship, and credit toward this experience
18 requirement shall be given for time spent in attending trade
19 or other schools specializing in training in the warm air
20 heating, ventilation, and air conditioning business and
21 approved by the board.

22 (c) for apprentice mechanics:

23 (i) registration by the board and the Montana
24 apprenticeship council as an apprentice;

25 (ii) working under the direct and personal supervision

1 of a duly licensed journeyman, learning the business of warm
2 air heating, ventilation, and air conditioning.

3 (2) Apprentices qualifying hereunder shall be issued
4 apprentice permits by the board."

5 Section 7. Section 37-70-303, MCA, is amended to read:

6 "37-70-303. Examination. An applicant for a license to
7 engage in either warm air heating, ventilation, or air
8 conditioning work or a combination thereof shall be examined
9 as to his qualifications in each phase by the department
10 ~~subject to 37-1-101(4)~~. The department shall examine each
11 applicant for a license to determine his qualifications and
12 fitness for carrying on each phase of warm air heating,
13 ventilation, or air conditioning work as a master or
14 journeyman. If the applicant successfully passes the
15 examination prescribed by the board, a license shall be
16 issued to the applicant authorizing him to engage in either
17 warm air heating, ventilation, or air conditioning work or a
18 combination thereof as a master or journeyman in the state,
19 subject to other provisions of this chapter."

20 Section 8. Section 37-70-304, MCA, is amended to read:

21 "37-70-304. Fees. (1) Each applicant for a master's
22 license shall pay a ~~\$75 application fee~~ and each applicant
23 for a journeyman's license shall pay a ~~\$35 an~~ application
24 fee determined by the board.

25 (2) All licenses and renewals expire on July 1 of each

1 year. Renewal fees shall be set annually by the board and
2 may not exceed the application fees.

3 (3) Examination fees shall be set by the board ~~but not~~
4 ~~to exceed \$50 for a master's examination and \$25 for a~~
5 ~~journeyman's examination.~~

6 (4) All fees established by the board must be
7 reasonably related to the respective aspects of the
8 regulatory programs."

9 Section 9. Section 37-70-305, MCA, is amended to read:

10 "37-70-305. Deposit of fees. Money paid for license
11 and equipment fees under this chapter shall be deposited in
12 the earmarked revenue fund for the use of the board ~~subject~~
13 ~~to 37-1-101(6)~~."

14 NEW SECTION. Section 10. Duties of the department.

15 The department shall:

16 (1) assist the board in the transaction of its
17 business and keep a record of the board's office actions
18 and

19 (2) charge the board for the reasonable costs of the
20 department incurred in assisting the board.

21 Section 11. Section 50-60-204, MCA, is amended to
22 read:

23 "50-60-204. Public hearing required. (1) Except as
24 provided in subsection (2) of this section, no rule,
25 amendment, or repeal of the state building code may take

1 effect until after a public hearing by the department.

2 (2) If a hearing has been held by the state fire
3 marshal with respect to his duties contained in chapter 3 of
4 this title or by the board of plumbers, the department of
5 health and environmental sciences, the board of ~~warm-air~~
6 ~~heating, ventilation, and air conditioning~~ public safety, or
7 the state electrical board on a proposed rule relating to
8 building and equipment standards in their respective fields,
9 a public hearing by the department is not required."

10 Section 12. Transfer of funds. All unexpended balances
11 of appropriations, allocations, or other funds of the board
12 of warm air heating, ventilation, and air conditioning shall
13 be transferred to the board of public safety on the
14 effective date of this act to be used for the purpose of
15 regulating the warm air heating, ventilation, and air
16 conditioning industry.

17 Section 13. Transition. All orders and rules relating
18 to the regulation of the warm air heating, ventilation, and
19 air conditioning industry made by the board of warm air
20 heating, ventilation, and air conditioning remain in full
21 force and effect until revoked or modified in accordance
22 with law by the board of public safety. The records and
23 documents of the board of warm air heating, ventilation, and
24 air conditioning are transferred to the board of public
25 safety. All licenses, permits, and certificates issued prior

1 to July 1, 1979, remain valid under the same terms and
2 conditions as when issued and are subject to the provisions
3 of Title 37, chapter 70.

4 Section 14. Effect of termination. The provisions of
5 2-8-121 do not apply to the board of warm air heating,
6 ventilation, and air conditioning.

7 Section 15. Codification. Section 10 is intended to be
8 codified as an integral part of Title 37, chapter 70, and
9 the provisions of Title 37, chapter 70, apply to section 10.

10 Section 16. Repealer. Sections 2-15-1656, 37-70-201,
11 and 37-70-203, MCA, are repealed.

-End-

FISCAL NOTE

Form BD-15

In compliance with a written request received February 7, 1979, there is hereby submitted a Fiscal Note for Senate Bill 387 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

SB 387 transfers the functions for the Board of Warm Air Heating, Ventilation, and Air Conditioning to the Board of Public Safety to be created under the Department of Administration. In addition, it lays out the duties of the Board as they relate to the plumbing field as well as laying out the licensing guidelines.

ASSUMPTIONS:

1. The duties of the Board of Warm Air Heating, Ventilation, and Air Conditioning will be assumed by the Board of Public Safety on July 1, 1979.
2. The duties after the transfer will remain the same as before.
3. The budget and staff needs will increase since the previous board had been under legal restraints since its creation and not allowed to function as required by law.
4. The budget should more realistically approach that of the Board of Plumbers and Board of Electricians.
5. Use budget data from Montana Executive Budget 1980-1981 for the Board of Plumbers, Board of Electricians, and Warm Air Heating.
6. Assume a 6% budget increase from FY80 to FY81.

FISCAL IMPACT:

	FY 80		FY 81	
	Amount Under Existing Law	Amount Under Proposed Law	Amount Under Existing Law	Amount Under Proposed Law
*Revenue:				
License Fees	\$ 7,566	\$20,000	\$ 7,772	\$21,200
Expenditures:				
Personal services	4,149	10,900	4,154	11,554
Operating Expenses	3,417	9,000	3,618	9,540
Capital Outlay	0	100	0	106
	<u>7,566</u>	<u>20,000</u>	<u>7,772</u>	<u>21,200</u>
Net fiscal impact	\$ 0	\$ 0	\$ 0	\$ 0

*The program is self-supporting

Richard L. Drayton
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/12/79