

LOCAL GOVERNMENT OCCUPATIONAL LICENSING ACT

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House Bills 5955 and 5956 as enacted
Public Acts 493 and 494 of 2018
Sponsor: Rep. James A. Lower

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5957 as enacted
Public Act 495 of 2018
Sponsor: Rep. Triston Cole

House Bill 5962 as enacted
Public Act 500 of 2018
Sponsor: Rep. Lee Chatfield

House Bills 5958 and 5959 as enacted
Public Acts 496 and 497 of 2018
Sponsor: Rep. Thomas A. Albert

House Bill 5963 as enacted
Public Act 501 of 2018
Sponsor: Rep. Jim Lilly

House Bills 5960 and 5961 as enacted
Public Acts 498 and 499 of 2018
Sponsor: Rep. Jason Wentworth

House Bills 5964 and 5965 as enacted
Public Acts 502 and 503 of 2018
Sponsor: Rep. Julie Calley

House Committee: Local Government
Senate Committee: Michigan Competitiveness

Complete to 12-28-18

BRIEF SUMMARY: House Bill 5955 creates a new act, the Local Government Occupational Licensing Act. The act prohibits local units of government from imposing licensing requirements on specific occupations if they do not currently do so; from imposing local licensing requirements beyond those imposed by the state; and from enforcing local licensing requirements on specific occupations that come under state licensing requirements. Existing local licensing requirements can continue.

House Bills 5956 through 5965 amend various statutes to provide that those other statutes are “subject to” the Local Government Occupational Licensing Act.

Each bill states that it is retroactive and takes effect January 1, 2018.

FISCAL IMPACT: Collectively, the bills would have an unknown fiscal impact on state and local governments. It is unknown how many local licensing requirements the provisions of the bills would preempt. Therefore, the bills’ effect on employment within the local unit of government cannot be determined.

THE APPARENT PROBLEM:

Many see occupational licensing requirements as impediments to the operation of free markets. Through fees, paperwork, and other regulations, the licensing requirements create barriers to entry to specific occupations, limiting the supply of workers in those occupations and driving up costs for consumers of those services. These requirements are made worse when local governments add their own requirements on top of licensing requirements set by the state or a

statewide agency. These additional requirements are often duplicative and only further limit competition, job growth, and economic development. Legislation has been introduced to prohibit local governments from adopting new occupation licensing requirements and from requiring any additional licensure for an occupation that is already licensed by the state.

THE CONTENT OF THE BILLS:

Under House Bill 5955, beginning retroactively on January 1, 2018, a ***political subdivision*** may not impose any ***licensing*** requirements on any individuals who perform a specific occupation if the political subdivision does not already have licensing requirements for that occupation. A political subdivision may continue to regulate any occupation that was subject to licensing requirements before January 1, 2018.

Political subdivision means a city, township, village, or county.

Licensing means any training, education, or fee required for an individual to perform work in a specific occupation in a political subdivision, in the state, or in any other governmental unit in the state. Licensing includes ***registration***.

Registration means an authorization to use a designated title while performing work in a specific occupation in a political subdivision, in this state, or in any other governmental unit in this state.

If an occupation is subject to licensing requirements by the Department of Licensing and Regulatory Affairs (LARA) or any other ***licensing authority*** of the state, a political subdivision may not impose any regulations on that occupation that add additional licensing requirements to those already imposed.

Licensing authority means an agency, examining board, credentialing board, or other office of a political subdivision or other governmental unit that has the authority to impose fees or other licensing requirements on an individual as a condition to performing work in a specific occupation in that governmental unit.

If, after January 1, 2018, LARA or any other licensing authority imposes any new licensing requirements on any occupation that was previously unregulated, and if the political subdivision has licensing requirements for that occupation in effect when the new state licensing requirements take effect, the political subdivision cannot continue to enforce its own licensing requirements for that occupation on or after the date the state licensing requirements take effect.

The bill does not apply to licensing requirements that are subject to any of the following sections of Michigan law:

- MCL 339.5733, which allows a municipality to adopt an ordinance to provide standards for the examination and licensing of master electricians, electrical or specialty contractors, electrical journeymen, sign specialists, and fire alarm specialty technicians that are at least as stringent as those established by the Skilled Trades Regulation Act.

- MCL 339.5735, which requires a municipality that does regulate standards for electrical wiring and inspection, as described above, to apply to and be licensed by a board created under the Skilled Trades Regulation Act.
- MCL 338.2152, which allows a city, village, or township to have regulations for elevator licensing as long as the regulations are comparable with state guidelines found in two acts.
- MCL 338.2186, which allows a local unit of government to, among other things, require a permit for high-voltage electrical or plumbing work performed by a security alarm system provider.

House Bills 5956 to 5965 amend acts that relate to the powers and duties of local governments. In each instance, the bill adds a sentence to state that any regulations, ordinances, or requirements imposed under the applicable act, section, subsection, or subdivision are “subject to” the Local Government Occupational Licensing Act.

- **HB 5956** amends 1846 RS 16, the statute that governs the powers and duties of townships and township officers.
- **HB 5957** amends the Home Rule Village Act, which governs the creation and powers and duties of home rule villages.
- **HB 5958** amends PA 246 of 1945, the act that authorizes township boards to adopt ordinances and regulations related to public health, safety and general welfare.
- **HB 5959** amends the Charter Township Act, which governs the creation and powers and duties of charter townships.
- **HB 5960** amends the Home Rule City Act, which governs the creation and powers and duties of home rule cities.
- **HB 5961** amends the Fourth Class City Act, which governs the creation and powers and duties of fourth class cities.
- **HB 5962** amends PA 156 of 1851, the act that defines the powers and duties of county boards of commissioners.
- **HB 5963** amends the General Law Village Act, which governs the creation and powers and duties of general law villages.
- **HB 5964** amends PA 139 of 1973, the act that allows for the optional unified form of county government.
- **HB 5965** amends PA 293 of 1966, the act that allows for the establishment of charter counties.

ARGUMENTS:

For:

House Bill 5955 simply removes the duplicative and redundant nature of local occupational licensing requirements and prohibits new local requirements in the future. These local requirements are a barrier for people to work and represent the government getting in the way of transactions between otherwise willing workers and consumers. If a person is licensed to work as a plumber in one city, why shouldn't that person be allowed to work as a plumber in another city? Moreover, these jobs might be ideal for people having a difficult time obtaining employment, such as those with criminal records. The state has recently focused on skilled

trades training and workforce development, and any policy that makes these jobs more accessible and attainable is desirable.

For:

There are numerous studies and reports—from both sides of the political spectrum—that show that occupational licensing standards are not an effective way to meet the intended goal of protecting public health and safety. In some instances, the occupations being licensed have no clear or legitimate relationship to public health and safety. Additionally, there are numerous other methods to protect public safety that do not interfere with the labor market as much as occupational licensing standards. These include the enforcement of building codes, the use of technology and review tools to create reputational scores for businesses, and the requirement that businesses have insurance and certification requirements.

Against:

Local occupational licensing requirements allow individual communities to develop policies that best meet their needs. Each community has unique assets and issues, and each should be allowed to develop occupational licensing standards as it sees fit. Protecting the public health and safety is a critical role of local government, and the ability to require a fee or occupational training is a small price to pay for that protection.

Response:

Many of the occupations regulated locally are already regulated at the state level. If the goal of licensing is to protect the public, is there any reason to think that the state licensing isn't already doing that?

Against:

Proponents of the bills point to a handful of cities—notably, Detroit—that utilize these local occupational licensing requirements and note that these requirements are harmful to workers and consumers. But is there any evidence to suggest that Detroit's economy is actually being hindered because of its occupational licensing requirements? And is this really a problem to the state overall if only a few municipalities have local licensing?

Response:

There may not be a specific data point or dollar amount, but the economics are clear: restricting the supply of a good or service increases its cost. Additionally, an unintended cost of licensing requirements is that people simply don't abide by them. Removing one layer of licensing at the local level might actually prompt more individuals to become licensed by the state; this could potentially increase public health and safety.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.