

Update on the Preliminary Evaluation of the State Board of Stationary Engineers

Recommendations: Waive from Full Evaluation

Extend Termination Date by 10 Years to July 1, 2024

During the 2011 interim, the Department of Legislative Services (DLS) conducted a preliminary evaluation of the State Board of Stationary Engineers as required by the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article). DLS recommended that the decision regarding waiver from full evaluation be deferred until the submission of a follow-up report to be prepared jointly with the Board of Boiler Rules and the Department of Labor, Licensing, and Regulation (DLLR). DLS deferred a recommendation to the Legislative Policy Committee (LPC) on whether to waive the board from full evaluation and for what period of time to extend the board's termination date until receiving the follow-up report. DLS has received and reviewed the joint follow-up report, copies of which are available upon request. Thus, this report presents our final findings and recommendations regarding the board which, where appropriate, mirror final recommendation for the Board of Boiler Rules contained in DLS's sunset evaluation of the Division of Labor and Industry.

Summary of the 2011 Preliminary Evaluation of the State Board of Stationary Engineers

After conducting the preliminary evaluation, DLS concluded that it was too early to determine whether recent efforts undertaken by the board to (1) improve compliance with the licensing requirement; (2) coordinate efforts with the Board of Boiler Rules; and (3) address the looming shortage of stationary engineers were sufficient and effective. DLS recognized that addressing the issues identified in the preliminary evaluation, particularly the effective regulation of boiler safety, could be complicated by the separation of the two boards and the fact that both boards have had persistent vacancies.¹ The State Board of Stationary Engineers is also unique in that a different division within DLLR (Labor and Industry) houses the vast majority of State staff expertise on the subject of boiler safety because the office of the Chief Boiler Inspector resides in that division. Although the board benefits from having eager and active members, it was unclear at the time of the preliminary evaluation whether the current regulatory structure, if fully embraced, affords it sufficient resources to carry out its mission effectively.

¹The board had three vacancies until October 2011, when a representative of the boiler manufacture and design industry who also serves on the Board of Boiler Rules was appointed.

To address these issues, DLS recommended that the board work in conjunction with the Board of Boiler Rules and DLLR to:

- **enhance efforts to fill vacant seats on both boards;**
- **meet regularly with a quorum necessary to conduct official business;**
- **hold joint meetings between the two boards, including joint meetings to consider ways to boost board membership and improve the State's regulatory structure;**
- **enhance its enforcement of the stationary engineer licensing statute with more active and effective enforcement strategies; and**
- **explore initiatives designed to increase the number of new entrants into the stationary engineer trade.**

DLS also recommended that the three entities submit a joint follow-up report addressing these issues to DLS by October 1, 2012. The report was to address:

- **the frequency with which the State Board of Stationary Engineers and the Board of Boiler Rules have been able to meet independently with a quorum necessary to conduct official business;**
- **the frequency with which the two boards have met to coordinate enforcement of boiler safety;**
- **the extent to which the anticipated increase in the volume of complaints handled by the State Board of Stationary Engineers has been realized and whether the complaint volume has resulted in increased expenditures for the board; and**
- **final fiscal 2012 revenues and expenditures for the State Board of Stationary Engineers; fiscal 2012 licensing totals by grade; and projected revenues, expenditures, and licensing numbers for fiscal 2013.**

DLS deferred a recommendation to LPC on whether to waive the board from full evaluation and for what period of time to extend the board's termination date until receiving the board's follow-up report. If the report was not submitted, DLS was to automatically conduct a full evaluation of the board during the 2013 interim. LPC adopted these recommendations at its December 2011 meeting.

The 2012 Follow-up Report

DLS received the follow-up report on October 1, 2012. The report addressed all of the issues requested by DLS.

Board Meetings and Coordination

With one exception, the board met once a month for every month between the publication of the preliminary evaluation and the completion of the follow-up report. It held two meetings with the Board of Boiler Rules over a 15-month period, including one following the completion of the preliminary evaluation. One individual currently serves on both the State Board of Stationary Engineers and the Board of Boiler Rules, which facilitates communication and collaboration between the two boards. The board currently reports only one vacancy, an industry member.

Complaint Volume

Proactive enforcement actions by the Boiler Inspection Unit of the Division of Labor and Industry, described in the preliminary evaluation, have not resulted in a dramatic increase in complaint volume for the board, as was anticipated by the preliminary evaluation. The complaint volume for the board remains low, with only a few complaints received in the intervening period between the completion of the preliminary evaluation and the receipt of the follow-up report. Therefore, the need for additional staff expenditures to process a larger number of complaints is not anticipated.

Revenues Continue to Exceed Costs

Year-end data for fiscal 2011 and 2012 indicate that board revenues continue to exceed total direct and indirect costs for the board by substantial margins. Expenditures exceeded total direct and indirect costs by \$101,600 in fiscal 2011 and by \$179,800 in fiscal 2012. This represents a net gain to the general fund, as the board is general funded. The surplus is prompted by the lack of any full-time staff expenditures for the board. The board's executive director position became vacant in February 2009 and was eventually eliminated as part of cost containment. The board also lost its full-time administrative assistant position; it now shares a position with the State Board of Master Electricians.

The board projects stable licensing activity over the next two biennial licensing cycles, which may justify a reduction in licensing fees. The persistent excess revenues generated by the board's licensing fees do not conform with statutory requirements that licensing revenues approximate the true cost of regulating the industry.

Potential Merger with Board of Boiler Rules

The preliminary evaluation invited, but did not require, the board to comment on the advantages and disadvantages of merging with the Board of Boiler Rules to consolidate their respective expertise on boiler safety and create a single entity responsible for regulating boiler safety. The follow-up report did not address this issue. However, in subsequent discussions with staff in both the Division of Labor and Industry and the Division of Occupational and

Professional Licensing, DLS has concluded that such a merger is not warranted. For a more complete discussion of this issue, refer to the sunset evaluation of the Division of Labor and Industry, available at <http://dls.state.md.us/content.aspx?page=104>.

Recommendations

Based on the information provided in the follow-up report, DLS is satisfied that the board continues to make meaningful strides in filling its vacancies, maintaining a consistent meeting schedule, and coordinating its efforts with the Board of Boiler Rules. A substantial increase in complaints generated by more proactive enforcement by the Boiler Inspection Unit has not materialized, obviating the need for additional staff to adjudicate those complaints.

With respect to the board's fiscal status, board revenues continue to exceed costs by substantial margins. **Given that the board does not anticipate any reduction in licensing activities, nor does it anticipate any significant one-time expenditures for staff or other direct costs, DLS recommends that the board consider a reduction in licensing fees in conjunction with an assessment of its current and future staffing needs. DLS further recommends that LPC waive the board from full evaluation and that legislation be enacted to extend the board's termination date by 10 years to July 1, 2024. DLS also finds that there is no need for the board to submit any additional follow-up report.**