

1 SB171  
2 116144-1  
3 By Senator Marsh  
4 RFD: Governmental Affairs  
5 First Read: 12-JAN-10

8 SYNOPSIS: Under existing law, the Alabama Board of  
9 Electrical Contractors regulates electrical  
10 contractors.

11 This bill would provide for additional  
12 definitions. The bill would allow the board to  
13 impose a restoration fee for the issuance of  
14 licenses to those electrical contractors whose  
15 licenses have expired. The bill would allow the  
16 board to hire investigators. The bill would allow  
17 the board to investigate unlicensed contractors.  
18 The bill would allow appeal to the Circuit Court of  
19 Montgomery County by any person aggrieved by the  
20 actions of the board. The bill would require  
21 electrical contractors to earn continuing education  
22 hours. The bill would subject the board to the  
23 Alabama Sunset Law. The bill would increase the  
24 compensation of the board. The bill would allow the  
25 board to promulgate rules in regulating electrical  
26 contractors. The bill would provide for penalties.

The bill would repeal Section 34-36-14 of the Code of Alabama 1975, relating to the Electrical Appeals and Advisory Board.

A BILL

TO BE ENTITLED

## AN ACT

To amend Sections 34-36-1, 34-36-3, 34-36-4,  
34-36-5, 34-36-6, 34-36-7, 34-36-8, 34-36-9, 34-36-13,  
34-36-15, 34-36-16, and 34-36-17 of the Code of Alabama 1975,  
relating to the Alabama Board of Electrical Contractors; to  
provide additional definitions; to increase the compensation  
of the board; to allow the board to impose a restoration fee  
for the issuance of licenses to those electrical contractors  
whose licenses have expired; to allow the board to hire  
investigators; to allow the board to investigate the  
activities of unlicensed contractors; to allow appeal to the  
Circuit Court of Montgomery County by any person aggrieved by  
the actions of the board; to require electrical contractors to  
earn continuing education hours; to allow the board to  
promulgate rules in regulating electrical contractors and to  
provide for penalties; to subject the board to the Alabama  
Sunset Law; and to repeal Section 34-36-14 of the Code of  
Alabama 1975, relating to the Electrical Appeals and Advisory  
Board.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-36-1, 34-36-3, 34-36-4,  
34-36-5, 34-36-6, 34-36-7, 34-36-8, 34-36-9, 34-36-13,  
34-36-15, 34-36-16, and 34-36-17 of the Code of Alabama 1975,  
are amended to read as follows:

"§34-36-1.

"This chapter shall be known and may be cited as the  
"Alabama Electrical Contractors Act." and shall be liberally  
construed and implemented to promote the purposes and policies  
set forth in this chapter.

"§34-36-3.

"The following terms shall have the meanings respectively ascribed to them used in this chapter, for the purposes of this chapter, unless the context clearly requires a different meaning:

"(1) BOARD. The Alabama Board of Electrical Contractors.

"(2) CHARACTER. Satisfaction of the board that the applicant possesses such good character and willingness to serve the public and conserve the public health and safety as to be entitled to a license as an electrical contractor or journeyman electrician.

"(3) DIRECTOR. The Executive Director of the State Board of Electrical Contractors.

"(2) (4) ELECTRICAL CONTRACTING. Any job or project in the State of Alabama wherein the electrical contractor proposes to bid, install, maintain, alter, or repair any electric wiring devices, or equipment.

1                             "(3)(5) ELECTRICAL CONTRACTOR. Any person, firm, or  
2 corporation who is engaged in the business of soliciting and  
3 installing electrical power or control systems; maintaining,  
4 altering, or repairing electrical power or control systems,  
5 any electrical wiring devices, equipment, or any other  
6 electrical apparatus. A person who possesses the necessary  
7 qualifications, training, and technical knowledge to plan, lay  
8 out, and supervise the installation of electrical wiring,  
9 apparatus, or equipment for lighting, heating, power, or  
10 controls and who possesses any of the following  
11 qualifications:

12                             "a. Four years of practical experience as a  
13 journeyman electrician in charge of jobs.

14                             "b. Four years of experience in the design and  
15 construction of electrical systems.

16                             "(4)(6) JOURNEYMAN ELECTRICIAN. A person who  
17 possesses necessary qualifications, training, and technical  
18 knowledge to install electrical wiring, apparatus, or  
19 equipment ~~light, heat~~ lighting, heating, or power or control,  
20 ~~as covered by the terms and provisions of this chapter, must.~~  
21 He or she shall work under master or state certified  
22 electrical contractor, ~~also he~~ and shall be capable of doing  
23 ~~said~~ work according to plans and specifications furnished to  
24 him or her and in accordance with standard rules and  
25 regulations governing such work.

26                             "(5) MASTER ELECTRICIAN. A person who possesses the  
27 ~~necessary qualifications, training and technical knowledge to~~

1 plan, lay out and supervise the installation of electrical  
2 wiring, apparatus or equipment for lighting, heating, power or  
3 controls, and who possesses any of the following.

4 "a. Has obtained four years of practical experience  
5 as a journeyman electrician in charge of jobs,

6 "b. Has a professional electrical engineering  
7 degree; or

8 "c. Has five years experience in the design and  
9 construction of electrical systems.

10 "(6) SECRETARY. The Executive Secretary of the State  
11 Board of Electrical Contractors.

12 "(7) LICENSE. A valid and current certificate of  
13 registration issued by the secretary director on behalf of the  
14 board which shall give the named person to whom it is issued  
15 authority to engage in the activity prescribed thereon.

16 "(8) LICENSEE. Any person holding a license.

17 "(9) PERSON. A human person, not a legal entity.

18 "§34-36-4.

19 "(a) The Alabama Board of Electrical Contractors is  
20 created.

21 "(b) A person to be eligible for appointment to  
22 serve on the board shall be a citizen and resident of Alabama.  
23 Each person appointed to the board from each congressional  
24 district, shall be actively engaged in the electrical  
25 construction business as a qualified person with electrical  
26 construction background of not less than five consecutive  
27 years, and shall hold certificates to validate his or her

1 competence as ~~a master electrician~~ an electrical contractor in  
2 the electrical construction field. The two persons shall be  
3 appointed to the board as at-large members and shall be  
4 members of the Alabama State Electrical Workers Association.  
5 The membership of the board should be inclusive and should  
6 reflect the racial, gender, geographic, urban/rural, and  
7 economic diversity of the state.

8 "(c) The board shall consist of nine members to be  
9 appointed by the Governor. One member shall be appointed from  
10 each congressional district, and there shall be two at-large  
11 members who shall be appointed from within the state. The  
12 board members from the First, Second, and Third Congressional  
13 Districts shall be appointed for terms of one year; the board  
14 members from the Fourth, Fifth, and Sixth Congressional  
15 Districts shall be appointed for terms of two years; and the  
16 board member from the Seventh Congressional District as well  
17 as the at-large members shall be appointed for terms of three  
18 years. Thereafter, all board members shall be appointed for  
19 terms of three years. Each term shall expire on June 30 of the  
20 last year of the term, and no member shall ~~succeed himself or~~  
21 himself serve more than two consecutive three-year terms.  
22 Vacancies on the board for any cause shall be filled by  
23 appointment by the Governor for the remainder of the unexpired  
24 term. Members shall serve until their successors are  
25 appointed.

26 "(d) The board shall meet at least semiannually and  
27 as often as necessary. The board shall meet annually to elect

1 officers from its membership, whose initial terms shall expire  
2 on June 30 next following their election. Special meetings of  
3 the board may be held as the board provides in its rules and  
4 regulations. The board shall meet at least once in the first  
5 quarter and once in the third quarter of the year. Five  
6 members of the board shall constitute a quorum.

7                         "(e) The board may adopt rules and regulations to  
8 carry out this chapter.

9                         "(f) Any member of the board or duly appointed  
10 hearing officer designated by the board may administer oaths  
11 and take testimony concerning all matters within the  
12 jurisdiction of the board.

13                         "(g) The board may sue and be sued in its official  
14 name. Absent negligence, wantonness, recklessness, or  
15 deliberate misconduct, members of the board are immune from  
16 liability for all good faith acts performed in the execution  
17 of their duties of the board.

18                         "(h) The board shall adopt a seal for its use  
19 containing the words: "Alabama Electrical Contractors'  
20 Licensing Board."

21                         "(i) ~~The board shall employ or contract for an~~  
22 ~~executive secretary whose pay shall be determined by the~~  
23 ~~board. The board may employ, and at its pleasure discharge, an~~  
24 ~~executive director and other officers and administrative~~  
25 ~~employees which may be necessary, including an executive~~  
26 ~~director, to implement this chapter. The board may employ, on~~  
27 ~~an as needed basis, an investigator to investigate complaints.~~

1       The board shall not employ electrical inspectors nor provide  
2       for any electrical inspections. The board shall outline the  
3       duties and fix the compensation and expense allowances of all  
4       employees.

5        "(j) The board is subject to the Alabama Sunset Law  
6       and is classified as an enumerated agency pursuant to Section  
7       41-20-3. The board shall automatically terminate on October 1,  
8       2012, and every four years thereafter, unless a bill is  
9       enacted that the board be continued, modified, or  
10       reestablished.

11       "(k) Each board member shall be accountable to the  
12       Governor for the proper performance of his or her duties as a  
13       member of the board. The Governor shall investigate any  
14       complaints or unfavorable reports concerning the actions of  
15       the board and shall take appropriate action thereon, including  
16       removal of any board member for misfeasance, malfeasance,  
17       neglect of duty, commission of a felony, incompetence, or  
18       permanent inability to perform official duties. A board member  
19       may be removed at the request of the board after failing to  
20       attend three consecutive properly noticed meetings.

21       "§34-36-5.

22       "The members of the board shall receive \$25.00 up to  
23       three hundred dollars (\$300) per day with a limit of 15 days  
24       per year while performing their official duties, in addition  
25       to other expenses which may be provided by law the same per  
26       diem and mileage as provided to state employees.

27       "§34-36-6.

"The (a) By rule, the board shall make provisions to do all of the following:

"(1) Prepare or approve all examinations of applicants for licenses for electrical contractors, ~~master electricians~~ and journeymen journeyman electricians;—

"(2) Determine the qualifications of electrical contractors to engage in the business of electrical contracting; 1

"(3) Determine the qualifications of ~~master and~~ journeymen journeyman electricians to engage in electrical work;—

"(4) Investigate Provide for the investigation of written complaints filed with the board concerning alleged violations of the provisions of this chapter and any other law of this state pertaining to electrical contracting and any rules and regulations adopted by the board.

"(b) The board may suspend, revoke, or refuse to issue or renew a license and impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000), after notice and opportunity for a hearing pursuant to the Administrative Procedure Act, upon proof of any of the following actions by a licensee or applicant:

"(1) Violation of any provision of Act 85-921.

"(2) Attempting to procure a license to practice electrical contracting or to work as a master electrician or journeyman electrician by bribery or fraudulent misrepresentations.

1                   "(3) Having a license to practice electrical  
2 contracting or to work as a master electrician or journeyman  
3 electrician revoked, suspended, or otherwise acted against by  
4 the licensing authority of another municipality, county, or  
5 state.

6                   "(4) Being convicted or found guilty, regardless of  
7 adjudication, of a crime in any jurisdiction which directly  
8 relates to the practice of electrical contracting, working as  
9 a journeyman electrician, or the ability to practice  
10 electrical contracting or to work as a master electrician or  
11 journeyman electrician.

12                  "(5) Making or filing a report or record which the  
13 licensee knows to be false, willfully failing to file a report  
14 or record required by state or federal law, willfully impeding  
15 or obstructing such filing, or inducing another person to  
16 impede or obstruct such filing. Such reports or records shall  
17 include only those which are signed in the capacity of a  
18 licensed electrical contractor, master electrician, or  
19 journeyman electrician.

20                  "(6) Being found guilty of fraud or deceit or of  
21 negligence, incompetency, or misconduct in the practice of  
22 electrical contracting or working as a master electrician or  
23 journeyman electrician.

24                  "(7) Practicing on a revoked, suspended, or inactive  
25 license.

26                  "(8) Aiding or abetting any person to evade any  
27 provision of this chapter.

"(9) Knowingly combining or conspiring with any person by allowing one's license to be used by any unlicensed person with the intent to evade this chapter. When a licensee allows his or her license to be used by any firm, partnership, association, or corporation without having any active participation in the operations or management of the firm, partnership, association, or corporation, such act constitutes prima facie evidence of an intent to evade this chapter.

"(10) Acting in the capacity of a contractor under any license issued under this act except in the name of the licensee as set forth on the issued license.

"(c) Upon finding a person, corporation, or business entity, engaged in electrical contracting as defined in this chapter, to be in violation of any of the provisions contained herein, the board may investigate the activities of licensed and unlicensed contractors. If the board finds that a person, corporation, or business entity is engaged in performing electrical contracting covered by this chapter without having obtained a proper license, the board may do any of the following:

"a. Deny an application for licensure.

"b. Impose an administrative fine of not more than five thousand dollars (\$5,000).

"c. Issue a cease and desist order.

"d. Petition the circuit court of the county where the act occurred to enforce the cease and desist order or collect the assessed fine, or both."

1                   "(d) Any person aggrieved by any adverse action  
2                   taken by the board may appeal the adverse action to the  
3                   Circuit Court of Montgomery County in accordance with the  
4                   Alabama Administrative Procedure Act.

5                   "§34-36-7.

6                   "(a) All applicants for licensure must submit a  
7                   completed application, application fee, and supportive  
8                   documentation of qualifications before taking an examination  
9                   approved by the board. The board shall examine applicants at  
10                   least once every three months according to the method deemed  
11                   by it to be the most appropriate to test the qualifications of  
12                   applicants. Any national standardized or written examination  
13                   proctored by an independent third party which the board shall  
14                   approve as substantially similar to the examination required  
15                   to be licensed under this chapter may be administered to all  
16                   applicants in lieu of or in conjunction with any other  
17                   examination which the board shall give to test the  
18                   qualifications of applicants. The board shall also have the  
19                   right to establish such norms of achievement as shall be  
20                   required for a passing grade. The board may, by rule, adopt  
21                   the National Electrical Code for the purpose of examinations.

22                   "(b) The board may recognize a license issued by any  
23                   other state that, in the opinion of the board, has standards  
24                   of practice or licensure equal to or higher than those  
25                   required by ~~the board~~ this state. The board shall actively  
26                   seek to reciprocate with those states meeting such standards.

1                   The board shall actively seek to maintain those states  
2                   currently under agreement.

3                   "(c) No license shall be issued except in compliance  
4                   with this chapter and none shall be issued except to ~~a person~~  
5                   or a person in a firm, partnership, association, or  
6                   corporation. A firm, partnership, association, or corporation,  
7                   as such, shall not be licensed.

8                   "(d) An individual who has successfully passed, on  
9                   or before January 1, 2010, with a minimum score of 70 percent,  
10                   a nationally standardized proctored electrical examination  
11                   administered in the State of Alabama, by Block and Associates,  
12                   International Code Council, Experior, Promissor, Thomson  
13                   Prometric, PROV, or any other exam approved by the board,  
14                   shall be deemed to be in compliance with the testing  
15                   requirement set forth by the board for licensure as an  
16                   electrical contractor. Individuals meeting this qualification  
17                   shall also be required to complete all other qualifications  
18                   set forth by this chapter and the board prior to issuance of  
19                   an electrical contractor license. Electrical contractor  
20                   applicants affected by this provision shall have one year  
21                   after the effective date of the act adding this subsection to  
22                   apply for licensure without any further examination  
23                   requirements.

24                   "§34-36-8.

25                   "(a) All licenses shall expire annually or at ~~such~~  
26                   other times ~~as may be~~ designated by the board. All  
27                   applications for renewal of licenses shall be filed with the

1                   secretary director prior to the expiration date, accompanied  
2                   by the annual renewal fee prescribed by the board.

3                   "(b) The board is authorized to establish or adopt,  
4                   or both, education requirements and may approve the program or  
5                   programs providing education to fulfill the requirements. The  
6                   board shall set the minimum standards of education. All  
7                   persons holding an electrical contractor license shall be  
8                   required to complete 14 hours of continuing education every  
9                   two years.

10                   "(c) The board may promulgate rules regarding the  
11                   approval of continuing education courses and the accounting  
12                   for continuing education hours.

13                   "(d) Any person licensed by the board may elect an  
14                   inactive status certificate by notifying the board in writing.  
15                   The fee for the issuance and renewal of an inactive status  
16                   certificate shall be established by the board. The board shall  
17                   provide by rule those activities which an inactive status  
18                   certificate holder may engage in and for a procedure for the  
19                   reinstatement as an active status certificate holder.

20                   "§34-36-9.

21                   "A An expired license for an electrical contractor  
22                   which has expired for failure to renew may only be restored  
23                   within two years from the date of expiration after application  
24                   and payment of the prescribed restoration fee and satisfaction  
25                   of all continuing education requirements. The restoration fee  
26                   shall be established by the board and shall be due upon  
27                   application for restoration. The restoration fee shall be in

1           addition to all accrued renewal fees. Any license which has  
2           not been restored within two years following its expiration  
3           may not be renewed, restored or reissued thereafter. The  
4           holder of such a cancelled license may apply for and obtain a  
5           valid license only upon compliance with all relevant  
6           requirements as prescribed by this chapter or by rule for  
7           issuance of a new license.

8                         "§34-36-13.

9                 "(a) No person shall engage in the electrical  
10           contracting business or perform work as a master or journeyman  
11           electrician unless such person shall have received a license  
12           from the board or from the county or municipality where the  
13           contract electrical contracting work is being performed;  
14           provided, however, the provisions of this chapter shall not  
15           apply:

16                 "(1) To the installation, construction or  
17           maintenance of power systems for the generation and secondary  
18           distribution of electric current constructed under the  
19           provisions of the ~~national electrical safety code~~ National  
20           Electrical Safety Code which regulates the safety requirements  
21           of utilities.7.

22                 "(2) To the installation, construction, maintenance  
23           or repair of telephone or signal systems by or for public  
24           utilities or their corporate affiliates, when such work  
25           pertains to the services furnished by such utilities.7.

26                 "(3) To any technician employed by a municipal  
27           franchised CATV system.7.

1                         "(4) To any master or journeyman electrician  
2 employed by a state licensee of the board or a licensee of a  
3 county or municipality where the contract work is being  
4 performed;.

5                         "(5) ~~To persons engaging in the electrical  
6 contracting business or performing work as a master or  
7 journeyman electrician where there is no governing ordinance  
8 or laws requiring a license;~~

9                         "(6) To the owner of any premises or an employee  
10 of any such owner when performing electrical work or  
11 installing, constructing, maintaining, altering or repairing  
12 electrical wiring, equipment or apparatus on such premises;.

13                         "(7) To an employee of an electric utility when  
14 installing or repairing cord connected electric appliances and  
15 equipment for a customer;.

16                         "(8) To any retail merchant, or its employees  
17 making the installation of or the repair or maintenance on any  
18 appliance that the merchant has sold; or to any modular or  
19 manufacturer of the housing industry within the state which is  
20 regulated by state and federal governments;.

21                         "(9) To the installation, construction or  
22 maintenance of systems that operate on 25 volts or less.

23                         "(b) (1) No license shall be issued by the board  
24 without an examination of the applicant for the purpose of  
25 ascertaining his or her qualifications for such work, but no  
26 such examination shall be required for the annual renewal of  
27 such license.

1                         "(2) This provision section shall in no way prohibit  
2 the governing authorities of each county and municipality in  
3 the State of Alabama from exercising the their authority to  
4 require any person engaging in the electrical contracting  
5 business or performing work as a master or journeyman  
6 electrician to stand and attain a passing grade on an  
7 examination administered by such county or municipality to  
8 evidence their ability and proficiency to engage in the  
9 electrical contracting business or to perform work as a master  
10 or journeyman electrician within their jurisdiction; provided,  
11 however, that any person who holds a valid statewide license  
12 issued by the board shall be deemed qualified and, upon  
13 satisfactory proof of said license, shall be allowed to  
14 perform forthwith electrical work in any county or  
15 municipality under the terms and conditions set forth in this  
16 chapter, if such person has the proper county or municipal  
17 building permit and business license.

18                         "(c) All persons performing work under a license  
19 issued by the board must abide by all state and local laws and  
20 ordinances.

21                         "§34-36-15.

22                         "Electrical contracting is hereby declared to  
23 involve involves activities affecting the public interest and  
24 involving the health, and safety, and welfare of the public.  
25 Such activities, when engaged in by a person who is not  
26 licensed, are declared to be a public nuisance, and harmful to  
27 the public health, safety, and welfare. The board or the

1 district attorney of the circuit where such nuisance exists  
2 may bring a petition to restrain and enjoin such unlicensed  
3 practice in the district court of the county where such  
4 unlicensed person resides. It shall not be necessary in order  
5 to obtain the equitable relief provided herein to allege or  
6 prove that there is no adequate remedy at law.

7 "§34-36-16.

8 " (a) It shall be unlawful for any person to violate  
9 any provision of this chapter regulating electrical  
10 contracting, and any person convicted of such violation shall  
11 be punished as prescribed for a Class ~~B~~ A misdemeanor.

12 " (b) It shall be unlawful, except as otherwise  
13 provided, on or after December 31, 2011, for a person not  
14 licensed as an electrical contractor to solicit, represent,  
15 seek to perform, or perform those tasks and functions that can  
16 only be performed by a licensed electrical contractor in  
17 accordance with this chapter.

18 " (c) Subsection (b) shall not apply to an electrical  
19 contractor who has taken an examination offered by the board  
20 within the preceding 12 months, who holds a license or permit  
21 issued by a county or municipal government to perform the  
22 tasks and functions that can only be performed by a licensed  
23 electrical contractor, and who performs those tasks and  
24 functions within the boundaries of the county or municipality  
25 that issued the license or permit.

26 "§34-36-17.



1 such repayment to the State General Fund shall be made as soon  
2 as funds are available."

3                   Section 2. The provisions of this chapter shall not  
4 be construed as authorizing the employment of statewide  
5 electrical inspectors.

6                   Section 3. Section 34-36-14 of the Code of Alabama  
7 1975, is hereby repealed.

8                   Section 4. This act shall become effective on the  
9 first day of the third month following its passage and  
10 approval by the Governor, or its otherwise becoming law.