
Sunset Evaluation Update: Elevator Mechanics

A Report to the
Governor
and the
Legislature of
the State of
Hawaii

Report No. 94-12
September 1994

THE AUDITOR
STATE OF HAWAII

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Submitted by

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Foreword

This report evaluates the regulation of elevator mechanics under Chapter 448H, Hawaii Revised Statutes. This evaluation and repeal of the chapter had been scheduled under the Sunset Law. Subsequently, Act 279 of 1994 removed the repeal date and with it the evaluation requirement. Nevertheless, since the work had already been done, we are issuing the report to help decisionmakers in assessing the regulatory program.

The report presents our findings as to whether the program complies with policies in the Sunset Law and whether there is a reasonable need to regulate elevator mechanics to protect the health, safety, and welfare of the public. It includes our recommendation on whether the program should be continued, modified, or repealed. In accordance with Section 26H-5, HRS, the Appendix incorporates the draft legislation to improve the regulatory program.

We acknowledge the cooperation of the Department of Commerce and Consumer Affairs, the Elevator Mechanics Licensing Board, and others whom we contacted during the course of our evaluation. We appreciate the assistance of the Legislative Reference Bureau, which drafted the recommended legislation.

Marion M. Higa
State Auditor

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Chapter 1

Introduction

The Sunset Law, or the Hawaii Regulatory Licensing Reform Act, Chapter 26H, Hawaii Revised Statutes, establishes policies for occupational licensing. The law directs the State Auditor to evaluate licensing statutes scheduled for repeal to determine whether the health, safety, and welfare of the public are best served by reenactment, modification, or repeal.

This report evaluates whether the regulation of elevator mechanics under Chapter 448H, HRS, complies with policies for occupational licensing in the Sunset Law. After our work was substantially completed, Act 279 of 1994 removed the December 31, 1995, repeal date for Chapter 448H and made the chapter permanent. However, we are still issuing the report to assist decision makers in assessing the regulatory program.

Background on Elevator Mechanics

Elevator mechanics assemble, install, repair, maintain, and replace elevators, escalators, and similar equipment. Elevator mechanics must have knowledge of electronics, electricity, hydraulics, carpentry, and other construction skills.

Elevator work generally falls into three categories—construction, repair, and maintenance. The construction work entails reading blueprints, welding steel, and installing rails, motors, electrical wiring, elevator cars, and related equipment. Repair work often consists of replacing worn parts or modernizing old equipment. Elevator mechanics also do preventive maintenance by oiling and greasing moving parts, and by testing and adjusting equipment for optimal performance.

Applicants for elevator mechanic trainee positions must be at least 18 years of age and have a high school education. Most trainees or helpers learn their trade from experienced elevator mechanics and from programs administered by joint committees of employers and locals of the International Union of Elevator Constructors.

As of February 4, 1994, Hawaii had 206 licensed elevator mechanics, with all living in the state.¹ As of December 30, 1993, there were approximately 4,447 elevators and over 340 escalators and moving walks in Hawaii.²

Regulatory Program

Chapter 448H, HRS, enacted in 1971, governs the regulatory program for elevator mechanics. Those wishing to practice must be licensed by the Elevator Mechanics Licensing Board, which is administratively attached to the Department of Commerce and Consumer Affairs (DCCA).

The board consists of seven members, appointed by the governor, who serve without compensation. Four of the members must be licensed elevator mechanics, two must be lay members not associated or connected with the elevator or building industry, and the seventh member is the branch manager of the Boiler and Elevator Inspection Bureau in the Division of Occupational Safety and Health of the Department of Labor and Industrial Relations. An executive officer in DCCA's Professional and Vocational Licensing Division serves as staff to the board and administers its day-to-day operations.

Chapter 448H defines an elevator mechanic as a person who constructs, reconstructs, alters, maintains, or adjusts any elevator, dumbwaiter, stage lift, escalator, moving walk or ramp, and associated structure or facility. License applicants must complete at least two years of training under the supervision of a licensed elevator mechanic and pass an examination administered by the board. Apprentice elevator mechanics are required to be registered with the board under Section 16-81-5 of the Hawaii Administrative Rules and must work under the direct supervision of a licensed elevator mechanic.

Under Chapter 448H, a person may also work as an elevator mechanic under a temporary permit. The board issues temporary permits to individuals qualified in other states with standards substantially equal to Hawaii's standards, and who have skills and training not available in this state. The temporary permit lasts for three months or for the length of a particular job, whichever is longer.

The department's Regulated Industries Complaints Office (RICO) mediates and resolves consumer complaints, pursues disciplinary action against licensees, and seeks court injunctions and fines against unlicensed persons. Final disciplinary decisions on licensing are made by the board following a recommended decision from the department's Office of Administrative Hearings.

Previous Sunset Report

Our 1985 sunset evaluation of elevator mechanics found sufficient other safeguards for public safety to make licensing of elevator mechanics unnecessary.³ Because of legal responsibilities and liabilities, elevator contractors use elevator mechanics who have been properly trained by

industry and union training programs. Additionally, the Department of Labor and Industrial Relations has primary responsibility for the safety of elevators. It inspects elevators and enforces safety standards.

The same findings surfaced in our earlier 1983 sunset report.⁴ Although both our 1983 and 1985 reports recommended repealing the regulatory program for elevator mechanics, the Legislature extended it twice. The 1983 Legislature amended Chapter 448H to increase the board's activity and involvement in examination and licensing. But our 1985 sunset found that the board's greater activity had little substance, making the board unnecessary.

Objectives of the Evaluation

This evaluation sought to determine whether the regulation of elevator mechanics complies with policies in the Sunset Law. Specifically, the objectives were to:

1. Determine whether there is a reasonable need to regulate elevator mechanics to protect the health, safety, and welfare of the public;
2. Determine whether current regulatory requirements are appropriate for protecting the public;
3. Establish whether the regulatory program is being implemented effectively and efficiently; and
4. Make recommendations based on findings in these areas.

Scope and Methodology

To accomplish these objectives, we reviewed the literature on elevator mechanics and their regulation. We reviewed statutes and rules on the occupation in Hawaii and any changes since our 1985 sunset evaluation.

We also reviewed complaints and other evidence of harm to consumers. We interviewed members of the Elevator Mechanics Licensing Board, personnel from the Department of Commerce and Consumer Affairs and Department of Labor and Industrial Relations, and representatives from the elevator industry. We obtained information from state and national groups, including the National Elevator Industry, Inc., the International Union of Elevator Constructors, the National Elevator Industry Educational Program, and the National Association of Elevator Safety Authorities. At the Department of Commerce and Consumer Affairs, we reviewed files on board operations, licensing, enforcement, and correspondence. Finally, we reviewed the administration and results of the licensing examination.

Our work was performed from January 1994 through June 1994 in accordance with generally accepted government auditing standards.

Chapter 2

Findings and Recommendations

The Legislature has twice determined that the regulation of elevator mechanics is needed. We recommend the continued regulation of elevator mechanics under Chapter 448H, Hawaii Revised Statutes. However, we reconfirm our previous recommendation that the board should be eliminated.

Summary of Findings

1. The State should continue regulating elevator mechanics to protect the public's health, safety, and welfare.
2. The Elevator Mechanics Licensing Board is unnecessary. It exercises little discretion and the regulatory program could be administered more efficiently by the Department of Commerce and Consumer Affairs (DCCA).
3. No penalty is assessed for late license renewals by the Elevator Mechanics Licensing Board.

State Should Continue To Regulate Elevator Mechanics

The Legislature has twice chosen to continue regulating elevator mechanics under Chapter 448H, HRS. In 1983, the Legislature extended Chapter 448H and amended it to increase the board's involvement in licensure. In 1985, the Legislature again extended Chapter 448H. The committee report of the Senate Consumer Protection and Commerce Committee noted that licensing requirements ensure that elevator mechanics are qualified and competent. The report stated that "without this requirement, untrained elevator mechanics would be able to work in Hawaii without any testing of their skills and knowledge."¹ The committee report further noted that continuing Chapter 448H would maintain the high standards of competency in our elevator industry.

Technological innovations are increasing the complexities of elevators, requiring additional training in computer programming and diagnostics. Today, elevator mechanics must have knowledge of computer programming and diagnostics to effectively service new and remodeled elevators. Many elevators are remodeled with computer microprocessors to increase efficiency. The Department of Labor and Industrial Relations' (DLIR) Boiler and Elevator Inspection Bureau reported that since 1989, more than 700 elevators were remodeled with microprocessors. For the past two years, about 190 elevators were remodeled each year.

Evidence of harm exists

The complexities of elevators and escalators combined with the frequency of use create the potential for harm. Elevators and escalators could cause injury. Escalators that stop abruptly cause people to fall. Elevators that stop at a level not even with the floor also cause people to trip and fall. In addition, the number of people who ride elevators and escalators increases the potential for injury. For example, an estimated 5,000 or more people ride the Ala Moana Shopping Center escalators every day.

Evidence is available that the practice of this occupation has the potential to cause harm. DLIR's Boiler and Elevator Inspection Bureau inspects all elevators and escalators in Hawaii every six months and whenever an accident occurs. For the past three years, the bureau has issued citations for an average of over 13,000 violations of safety standards each year. The bureau also reported an average of over 25 "trip and fall" accidents a year.

Board Is Still Not Needed

Although regulation should be continued, a board is not necessary. In general, occupational licensing boards have two functions. One is to determine whether applicants are sufficiently qualified and competent to practice the occupation. The second is to ensure that practitioners adhere to standards, and when necessary, to adjudicate disputes between the public and practitioners of the regulated profession.² In Hawaii, the Elevator Mechanics Licensing Board has little to do with these two functions. They are carried out by other agencies.

Determining applicants' qualifications for licensure is primarily performed by DCCA. The department reviews a verification by an applicant's employer of the applicant's qualifications. Previously, the board developed the questions of the licensing examination that determines an applicant's competency, with DCCA administering the examination. Now, both functions of developing and administering the examination will be carried out by a national testing agency. Most of the board's functions now consist of ratifying decisions already made by others.

Adherence to safety standards is the responsibility of DLIR's Boiler and Elevator Inspection Bureau. It inspects elevators and kindred equipment, and cites elevator companies for violations. DLIR makes sure that the equipment is operating safely.

The board's role in adjudicating disputes is also not significant. Since 1989, neither the board nor DCCA has received any complaints against elevator mechanics except for unlicensed activity. In the last few years, the board was involved in only one dispute—a petition for a declaratory ruling to determine who could work on elevators. Had there not been a board, the dispute could have been decided by the director of DCCA.

Board's role is minor

The board's other responsibilities are minor and require little discretion. For example, the board plays a small role in registering apprentice elevator mechanics. The rules require all apprentice elevator mechanics to register with the *board*. The date of registration is used to establish the two years of minimum experience required for licensure. In practice, *DCCA* registers apprentice mechanics upon receiving a registration application. The board merely ratifies the registration.

Section 448H-4, HRS, requires the board to evaluate licensing applications, but not much evaluation is needed. Applicants submit verification that they have satisfactorily completed two years of training under the supervision of a licensed elevator mechanic. The application includes an experience verification form filled out by the applicant's employer. The board then decides whether the two-year training requirement has been met.

In 1985, the Legislature required the board to prescribe a nationally recognized examination for licensure. Nevertheless, the board has been using a locally developed examination and periodically reviewing the questions.

But the board no longer develops and reviews examination questions. It recently decided to have the National Assessment Institute (NAI) develop and administer the licensing examination for elevator mechanics. NAI's examination questions are based on specific task analyses that are reviewed by examining boards and subject matter experts. The institute assures the validity and reliability of its examinations. NAI is also responsible for keeping the tests current and credible through continuous question analysis and revision of the test questions.

The board also plays a limited role in decisions to grant temporary permits. Temporary permits are granted to elevator mechanics who are qualified elsewhere to work on particular projects when Hawaii lacks licensed elevator mechanics who have the necessary skills. To avoid delays in construction, the board has delegated to the *DCCA* executive officer responsibility for reviewing applications and issuing temporary permits throughout the year. The board subsequently ratifies the executive officer's decisions at its meetings. Since the board meets only quarterly, by the time the board formally approves the permits, many of them are close to expiring.

The board handles very few complaints and adjudications. Since 1989, *RICO* has received only three complaints, and all were on unlicensed activity. Two were closed due to insufficient evidence. In the remaining case, *RICO* issued an advisory letter. *DCCA*'s Office of Administrative Hearings heard a petition for a declaratory ruling on who could work on elevators. The hearings officer issued a recommended order, which was adopted by the board, requiring that any elevator work be done by personnel licensed under Chapter 448H.

DCCA could manage more efficiently without the board

The Legislature should consider amending Chapter 448H to terminate the board and assign regulatory responsibilities to the director of DCCA. DCCA could administer the entire regulatory program more efficiently. It would not need to get formal approval for its decisions from the board.

DCCA's staff already performs the board's function of determining the qualifications of an applicant. DCCA staff reviews license applications and related documents for completeness, and the executive officer reviews and approves temporary permit applications.

With regard to complaints that are received by the board or RICO, RICO conducts the investigations. Any disputed matters are heard by the DCCA Office of Administrative Hearings. That office adjudicates the dispute and makes a recommendation to the board for its final decision. Without a board, the DCCA director could make final decisions on disciplinary matters as the director already does for many other regulatory programs.

A Penalty Should Be Assessed for Late Renewals

Elevator mechanics who are late in renewing their licenses are not assessed a penalty. Section 16-81-10, Hawaii Administrative Rules, requires licensed elevator mechanics to renew their licenses on or before June 30 of every even-numbered year. The renewal application sets the same fee whether the renewal is on-time or late. A late fee should be established to encourage all licensees to make timely renewals. In most of the other regulated professions, licensees who renew late must pay additional fees.

The department should amend Chapter 53, Hawaii Administrative Rules, to establish a suitable late fee. The department should also amend its renewal application form for elevator mechanics to reflect the fee for late renewals.

Recommendations

1. The Legislature should continue the regulation of elevator mechanics.
2. The Legislature should amend Chapter 448H, HRS, to terminate the Elevator Mechanics Licensing Board and transfer the board's functions to the director of the Department of Commerce and Consumer Affairs.
3. The Department of Commerce and Consumer Affairs should amend Chapter 53, Hawaii Administrative Rules, to establish a suitable late fee for late renewals of the elevator mechanic license and amend its renewal application form accordingly.

Notes

Chapter 1

1. Hawaii, Department of Commerce and Consumer Affairs, *Summary Geographic Report* (printout), Honolulu, February 4, 1994, p. 11.
2. Interview with Nicholas A. Souza, Manager, Boiler and Elevator Inspection Bureau, State of Hawaii, Department of Labor and Industrial Relations, Honolulu, May 3, 1994.
3. Hawaii, Legislative Auditor, *Sunset Evaluation Update: Elevator Mechanics*, Report No. 85-6, Honolulu, January 1985.
4. Hawaii, Legislative Auditor, *Sunset Evaluation Report: Elevator Mechanics*, Report No. 83-1, Honolulu, January 1983.

Chapter 2

1. Senate Standing Committee Report No. 917 on House Bill No. 757, Regular Session of 1985.
2. Benjamin Shimberg, Barbara F. Esser, Daniel H. Kruger, *Occupational Licensing: Practices and Policies*, Washington, D.C., Public Affairs Press, 1973, pp. 14-15.

Response of the Affected Agency

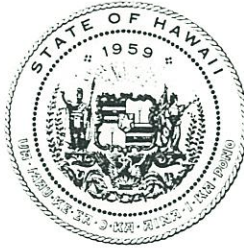
Comments on Agency Response

We transmitted a draft of this report to the Elevator Mechanics Licensing Board and to the Department of Commerce and Consumer Affairs on August 9, 1994. A copy of the transmittal letter to the board is included as Attachment 1. A similar letter was sent to the department. The response from the board is included as Attachment 2. The department did not respond.

The board agrees with our recommendation to continue Chapter 448H, Hawaii Revised Statutes, on the regulation of elevator mechanics. The board also agrees with our recommendation that the Department of Commerce and Consumer Affairs should amend its administrative rules to establish a suitable fee for late renewals and to amend the renewal application form accordingly.

The board objects to our recommendation to terminate the Elevator Mechanics Licensing Board and transfer its functions to the director of the Department of Commerce and Consumer Affairs. The board claims that its knowledge and expertise have maintained the industry's high standards that make the board's participation or activity appear limited. It states that it has been involved in evaluating qualifications and ensuring that the examination continues to be valid and reliable. We believe that the board's role with respect to both these functions is limited and not significant.

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917



MARION M. HIGA
State Auditor
(808) 587-0800
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August 9, 1994

C O P Y

Mr. Thaddeus R. Tomei, Chair
Elevator Mechanics Licensing Board
Department of Commerce and Consumer Affairs
Kamamalu Building
1010 Richards Street
Honolulu, Hawaii 96813

Dear Mr. Tomei:

Enclosed for your information are 8 copies, numbered 9 to 16 of our draft report, *Sunset Evaluation Update: Elevator Mechanics*. We ask that you telephone us by Thursday, August 11, 1994, on whether or not you intend to comment on our recommendations. Please distribute the copies to the members of the board. If you wish your comments to be included in the report, please submit them no later than Thursday, September 8, 1994.

The Department of Commerce and Consumer Affairs, Governor, and presiding officers of the two houses of the Legislature have also been provided copies of this draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

Marion M. Higa
State Auditor

Enclosures

JOHN WAIHEE
GOVERNOR



CLIFFORD K. HIGA
DIRECTOR

NOE NOE TOM
LICENSING ADMINISTRATOR

ELEVATOR MECHANICS LICENSING BOARD

STATE OF HAWAII
PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
P. O. BOX 3469
HONOLULU, HAWAII 96801

September 8, 1994

RECEIVED

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OFF. OF THE AUDITOR
STATE OF HAWAII

The Honorable Marion H. Higa
State Auditor
Office of the Auditor
465 South King Street, Room 500
Honolulu, Hawaii 96813-2917

Dear Ms. Higa:

The Elevator Mechanics Licensing Board ("Board") thanks you for the opportunity to comment on the Sunset Evaluation Update for Elevator Mechanics. We will comment on the recommendations as they appear chronologically on page 8 of the report.

1. "The Legislature should continue the regulation of elevator mechanics."

The Board agrees that Chapter 448H, Hawaii Revised Statutes, should continue the regulation of elevator mechanics.

2. "The Legislature should amend Chapter 448H, HRS, to terminate the Elevator Mechanics Licensing Board and transfer the board's function to the director of the Department of Commerce and Consumer Affairs."

The Board strongly opposes the elimination of the Board and feels the Board is necessary to maintain the high standards established in the industry. The law establishes the Board with the basic duty and responsibility of regulating its peers at entry level competency to ensure the protection the public's health, safety and welfare. The Board has shown its knowledge and expertise in the changing industry to maintain the high standards that make the Board appear

The Honorable Marion H. Higa
September 8, 1994
Page 2


to have limited participation or activity. The Board has been involved in evaluating the qualification standards and ensuring the examination continues to be valid and reliable to comply with relevant industry changes.

3. "The Department of Commerce and Consumer Affairs should amend Chapter 53, Hawaii Administrative Rules to establish a suitable late fee for late renewal of the elevator mechanic license and amend its renewal application form accordingly."

The Board agrees with the recommendation to establish a late fee for forfeited licenses. The Board is working to implement a late fee assessment through rule amendments to either its own rules or the Department's fee rules.

Again, the Board thanks you for the opportunity to comment on the findings and recommendations of this sunset evaluation report.

Very truly yours,

For 
Thaddeus R. Tomei
Chairman

Proposed Legislation

EIGHTEENTH LEGISLATURE, 1995
STATE OF HAWAII

A BILL FOR AN ACT

RELATING TO ELEVATOR MECHANICS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 26-9, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:
3 "(c) The board of acupuncture, board of public accountancy,
4 board of barbers, board of cosmetology, boxing commission, board
5 of chiropractic examiners, contractors license board, board of
6 dental examiners, board of electricians and plumbers, [elevator
7 mechanics licensing board,] board of professional engineers,
8 architects, surveyors, and landscape architects, board of hearing
9 aid dealers and fitters, board of massage therapy, board of
10 medical examiners, motor vehicle industry licensing board, motor
11 vehicle repair industry board, board of examiners in naturopathy,
12 board of nursing, board of examiners of nursing home
13 administrators, board of dispensing opticians, board of examiners
14 in optometry, board of osteopathic examiners, pest control board,
15 board of pharmacy, board of physical therapy, board of
16 psychology, board of private detectives and guards, real estate
17 commission, board of veterinary examiners, board of speech
18 pathology and audiology, and any board, commission, program, or
19 entity created pursuant to or specified by statute in furtherance

1 of the purpose of this section including but not limited to
2 section 26H-4, or chapters 484, 514A, and 514E shall be placed
3 within the department of commerce and consumer affairs for
4 administrative purposes."

5 SECTION 2. Section 448H-1, Hawaii Revised Statutes, is
6 amended:

7 1. By deleting the definition of "board".

8 ["Board" means the elevator mechanics licensing board
9 created by this chapter."]

10 2. By adding two new definitions to be appropriately
11 inserted and to read as follows:

12 "Department" means the department of commerce and consumer
13 affairs.

14 "Director" means the director of commerce and consumer
15 affairs."

16 SECTION 3. Section 448H-5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§448H-5 [Powers] Regulation of elevator mechanics; powers
19 and duties of the [board.] department. In addition to any other
20 powers and duties authorized by law, the [board] department
21 shall:

22 (1) Adopt rules in accordance with chapter 91 to carry out

- 1 the purposes of this chapter;
- 2 (2) Develop, apply, review and upgrade appropriate
- 3 techniques, including examinations and investigations
- 4 for determining whether a person meets the requirements
- 5 of this chapter and standards to [insure] ensure that
- 6 elevator mechanics will be persons qualified to serve
- 7 as such;
- 8 (3) Prescribe, at a minimum, that a nationally recognized
- 9 examination, augmented with locally developed material,
- 10 be used in testing for licensure, the passing grade for
- 11 the examination to be not less than seventy per cent;
- 12 (4) Issue licenses to persons determined, after application
- 13 of those techniques, to have met the required
- 14 qualifications, and revoke or suspend licenses,
- 15 previously issued [by the board] under this chapter,
- 16 pursuant to hearings held in accordance with chapter
- 17 91, in any case where the individual holding any
- 18 license is determined substantially to have failed to
- 19 conform to the required qualifications, this chapter,
- 20 or the rules of the [board;] department;
- 21 (5) Establish and carry out procedures designed to [insure]
- 22 ensure that persons licensed as elevator mechanics

1 will, during any period they serve as such, comply with
2 the requirements of this chapter, the rules of the
3 [board,] department, and chapter 397 and rules adopted
4 thereunder;

5 (6) Receive, investigate, and take appropriate action with
6 respect to, any charge or complaint filed with the
7 [board] department to the effect that any individual
8 licensed as an elevator mechanic has failed to comply
9 with the requirements of this chapter regarding any
10 complaint regarding job performance by mechanics, the
11 rules of the [board,] department, or chapter 397 and
12 the rules adopted thereunder;

13 (7) Register apprentice elevator mechanics;

14 (8) Maintain a record of its proceedings;

15 (9) Assist and advise the department of labor and
16 industrial relations in the adoption of rules relating
17 to the conditions of work for elevator mechanics
18 including requirements related to equipment or
19 facilities essential for the safe installation, repair,
20 maintenance, or alteration of any elevator, dumbwaiter,
21 escalator, moving walk or ramp, and manlift; and

22 (10) Notify the department of labor and industrial relations

1 of any fact or situation that, in the opinion of the
2 [board,] department, constitutes a violation of chapter
3 397 or of any rule adopted thereunder."

4 SECTION 4. Section 448H-6, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§448H-6 Qualifications for license.** No person shall be
7 licensed as an elevator mechanic unless the person has
8 satisfactorily passed the examination administered by the
9 [board,] department, and satisfactorily completed at least two
10 years of training under the supervision of a licensed,
11 registered, or [journeyman] journey elevator mechanic."

12 SECTION 5. Section 448H-7, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§448H-7 Temporary permit.** The [board] director may issue
15 a temporary permit to any person who has qualified as an elevator
16 mechanic in another state with standards substantially equal to
17 those of this chapter and who possesses skills or training not
18 available in [the] this State; provided that the [board] director
19 shall not register any such person as an apprentice elevator
20 mechanic. The [board] department shall[, by rules and
21 regulations,] establish the terms of the temporary permit[.] by
22 rules adopted pursuant to chapter 91."

1 SECTION 6. Section 448H-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§448H-8 Fees.** Application, examination, license,
4 temporary permit, and biennial renewal fees shall be as provided
5 in rules adopted by the director [of commerce and consumer
6 affairs] pursuant to chapter 91. A fee is required for each
7 reexamination. Application fees are not refundable.

8 Licenses shall expire on June 30 of each even-numbered
9 year."

10 SECTION 7. Section 448H-9, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~[[§448H-9]]~~ **Injunctive relief.** The [board] director may
13 apply for an injunction in any court of competent jurisdiction to
14 enjoin any person who has not been issued a license or registered
15 or whose license has been suspended or revoked or has expired;
16 and, upon the filing of a verified petition in the court, the
17 court or any judge thereof, if satisfied by affidavit or
18 otherwise, may issue a temporary injunction, without notice or
19 bond, enjoining the defendant from further practicing as an
20 elevator mechanic. A copy of the verified complaint shall be
21 served upon the defendant and the proceedings shall thereafter be
22 conducted as in other civil cases. If it is established that the

1 defendant has been or is practicing as an elevator mechanic
2 without having been issued a license or registered or has been or
3 is practicing as an elevator mechanic after the defendant's
4 license has been suspended or revoked or has expired, the court
5 or any judge thereof may enter a decree enjoining the defendant
6 from further practicing as an elevator mechanic. In case of
7 violation of any injunction issued under this section, the court
8 may summarily try and punish the offender for contempt of court.
9 The injunction proceeding shall be in addition to, and not in
10 lieu of, all penalties and other remedies provided in this
11 chapter."

12 SECTION 8. Sections 448H-3 and 448H-4, Hawaii Revised
13 Statutes, are repealed.

14 ["§448H-3 Elevator mechanics licensing board; appointment;
15 organization. There is created an elevator mechanics licensing
16 board within the department of commerce and consumer affairs for
17 administrative purposes. The board shall consist of seven
18 members, four of whom shall be licensed elevator mechanics, two
19 others of whom shall be lay members, not connected or associated
20 with the elevator or building industry, and one of whom shall be
21 the branch manager of the boiler and elevator inspection bureau,
22 division of occupational safety and health, department of labor

1 and industrial relations.

2 **§448H-4 Meetings.** The board shall meet not less than twice
3 a year at a time and place as determined by the board. The board
4 shall also meet but not later than thirty days prior to the
5 licensing examination pursuant to section 448H-5(2) in order to
6 evaluate applications therefor. Any board member who misses two
7 consecutive meetings of the board or fifty per cent of the
8 meetings in a year shall be removed from the board."]

9 **SECTION 9.** All rights, powers, functions, and duties of the
10 elevator mechanics licensing board are transferred to the
11 department of commerce and consumer affairs.

12 All officers and employees whose functions are transferred
13 by this Act shall be transferred with their functions and shall
14 continue to perform their regular duties upon their transfer,
15 subject to the state personnel laws and this Act.

16 No officer or employee of the State having tenure shall
17 suffer any loss of salary, seniority, prior service credit,
18 vacation, sick leave, or other employee benefit or privilege as a
19 consequence of this Act, and such officer or employee may be
20 transferred or appointed to a civil service position without the
21 necessity of examination; provided that the officer or employee
22 possesses the minimum qualifications for the position to which

1 transferred or appointed; and provided that subsequent changes in
2 status may be made pursuant to applicable civil service and
3 compensation laws.

4 An officer or employee of the State who does not have tenure
5 and who may be transferred or appointed to a civil service
6 position as a consequence of this Act shall become a civil
7 service employee without the loss of salary, seniority, prior
8 service credit, vacation, sick leave, or other employee benefits
9 or privileges and without the necessity of examination; provided
10 that such officer or employee possesses the minimum
11 qualifications for the position to which transferred or
12 appointed.

13 In the event that an office or position held by an officer
14 or employee having tenure is abolished, the officer or employee
15 shall not thereby be separated from public employment, but shall
16 remain in the employment of the State with the same pay and
17 classification and shall be transferred to some other office or
18 position for which the officer or employee is eligible under the
19 personnel laws of the State as determined by the head of the
20 department or the governor.

21 SECTION 10. All appropriations, records, equipment,
22 machines, files, supplies, contracts, books, papers, documents,

1 maps, and other personal property heretofore made, used,
2 acquired, or held by the elevator mechanics licensing board
3 relating to the functions transferred to the department of
4 commerce and consumer affairs shall be transferred with the
5 functions to which they relate.

6 SECTION 11. All rules, policies, procedures, guidelines,
7 and other material adopted or developed by the elevator mechanics
8 licensing board shall remain in full force and effect until
9 amended or repealed by the department of commerce and consumer
10 affairs pursuant to chapter 91, Hawaii Revised Statutes. In the
11 interim, every reference to the elevator mechanics licensing
12 board in those rules, policies, procedures, guidelines, and other
13 material is amended to refer to the department of commerce and
14 consumer affairs or director of commerce and consumer affairs as
15 appropriate.

16 SECTION 12. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun, before its effective date.

19 SECTION 13. Statutory material to be repealed is bracketed.
20 New statutory material is underscored.

21 SECTION 14. This Act shall take effect upon its approval.

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INTRODUCED BY: _____