

SF3554 - 1A - Paint Contractor Board and Licensing Established

Chief Author: **Jennifer McEwen**
 Committee: **Labor**
 Date Completed: **2/14/2024 5:10:14 PM**
 Lead Agency: **Labor and Industry Dept**
 Other Agencies:
 Administrative Hearings Governors Office

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Governors Office	-	-	-	-	-
General Fund	-	-	-	-	-
Labor and Industry Dept					
Construction Code	-	-	67	152	15
Workers Compensation	-	-	(6)	(6)	(6)
State Total					
Administrative Hearings	-	-	-	-	-
General Fund	-	-	-	-	-
Construction Code	-	-	67	152	15
Workers Compensation	-	-	(6)	(6)	(6)
Total	-	-	61	146	9
Biennial Total			61		155

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Governors Office	-	-	-	-	-
General Fund	-	-	-	-	-
Labor and Industry Dept					
Construction Code	-	-	1.15	.6	.6
Workers Compensation	-	-	-	-	-
Total	-	-	1.15	.6	.6

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karl Palm **Date:** 2/14/2024 5:10:14 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	-	-	-	-
Governors Office		-	-	-	-	-
General Fund		-	-	-	-	-
Labor and Industry Dept						
Construction Code		-	-	67	152	15
Workers Compensation		-	-	(6)	(6)	(6)
	Total	-	-	61	146	9
	Biennial Total			61		155
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	-	-	17	5
Governors Office		-	-	-	-	-
General Fund						
Expenditures		-	-	1	-	-
Absorbed Costs		-	-	(1)	-	-
Labor and Industry Dept						
Construction Code		-	-	138	223	86
Workers Compensation		-	-	-	-	-
	Total	-	-	138	240	91
	Biennial Total			138		331
2 - Revenues, Transfers In*						
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	-	-	17	5
Governors Office		-	-	-	-	-
General Fund		-	-	-	-	-
Labor and Industry Dept						
Construction Code		-	-	71	71	71
Workers Compensation		-	-	6	6	6
	Total	-	-	77	94	82
	Biennial Total			77		176

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 Committee: **Labor**
 Date Completed: **2/14/2024 5:10:14 PM**
 Agency: **Labor and Industry Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings) Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Construction Code	-	-	67	152	15
Workers Compensation	-	-	(6)	(6)	(6)
Total	-	-	61	146	9
Biennial Total			61		155

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Construction Code	-	-	1.15	.6	.6
Workers Compensation	-	-	-	-	-
Total	-	-	1.15	.6	.6

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026
					FY2027
Construction Code	-	-	67	152	15
Workers Compensation	-	-	(6)	(6)	(6)
Total	-	-	61	146	9
Biennial Total			61		155
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Construction Code	-	-	138	223	86
Workers Compensation	-	-	-	-	-
Total	-	-	138	223	86
Biennial Total			138		309
2 - Revenues, Transfers In*					
Construction Code	-	-	71	71	71
Workers Compensation	-	-	6	6	6
Total	-	-	77	77	77
Biennial Total			77		154

Bill Description

Section 1 of this bill creates the regulation of solvent-based paint sales and residential and commercial painting activities, to include licensing and enforcement activities, within the MN Dept. of Labor & Industry (DLI).

Section 2 of this bill defines the Scope, Paint Contractor, Master Painter, Journeyworker Painter, Direct Supervision, Responsible Individual, and Owner.

Section 3 of this bill creates licenses for paint contractors, master painters, journeyworker painters, and a registration for unlicensed painters in MS 326B.

Section 4 of this bill creates the Paint Contractor Board (Board), which would have rulemaking authority to set minimum qualifications for the licensing of paint contractors, master painters, journeyworker painters, and registered unlicensed painters, among other duties. The bill also requires the commissioner to annually report to the Board a summary of actions taken in response to complaints referred by the Board.

Assumptions**Paint Contractor Board**

DLI assumes the board would mirror the structure and assigned authorities of the High-Pressure Piping Systems Board (§ 326B.925), the Board of Electricity (§ 326B.32) and the Plumbing Board (§ 326B.435).

DLI would be responsible for supplying office space and supplies along with professional, legal, technical, and clerical staff support to the board. Staffing costs associated with regular board meetings, including the commissioner's designee, would be immaterial and not included as a cost in this fiscal note. DLI will be responsible for providing meeting space and administrative assistance to board members. It assumes that board meetings will be held at DLI's St. Paul location during regular business hours, the space expense for which can be absorbed by the Department's current lease.

DLI assumes the board will initiate rulemaking in SFY2026 and that this type of rulemaking would be considered "medium". Per the MN Rulemaking Manual, estimated costs for a medium rule are \$136,496.

DLI assumes the board will meet quarterly during standard business years, and every other month during years in which the board is undergoing rulemaking. DLI will be responsible for processing board member reimbursement expenses. Board members would be allowed the \$55 per day compensation.

Licensing

This bill would create three new license types, a business paint contractor license (\$188), a master painter license (\$88), and a journeyworker painter license (\$48). The bill requires that each licensed paint contractor appoint a licensed master painter as its responsible licensed individual and provide a bond and liability insurance to DLI as a condition of licensure. Further, the bill would also create a registration (and supervision) requirement for unlicensed painters (\$14). DLI assumes these licenses and registrations would be subject to the fees outlined in MS 326B.092, Subd. 7.

According to the Quarterly Census of Employment and Wages (QCEW), the North American Industry Classification System (NAICS) 23032 Painting and Wall Covering Contractor (commercial and residential) employed 3,524 workers at 729 establishments in Minnesota. Not all workers employed in this industry are painters, as painting contractors also employ accounting, sales, managerial, and clerical staff. As such, we estimate that 700 business and 2,000 painters would be eligible for licenses. DLI estimates that 50 percent would apply for licensure, resulting in 350 total business licenses, 1,000 total individual licenses, and 500 registrations. This business license assumption is based on recently enacted legislation (2023) which required licensed electrical contractors performing residential rooftop solar installations to also obtain a residential building contractor or remodeler license, providing homeowners with the financial protections of the Department's Contractor Recovery Fund. DLI noted that amongst a group of licensed electrical contractors which specialize in solar installation work, roughly 50% of these licensees complied with the new dual licensure requirement. It is assumed that as DLI shares this license requirement with its stakeholders, and as a result of enforcement actions, the compliance percentage will increase. Licenses are valid for two years, for the purpose of this fiscal note, DLI assumes that 175 business licenses would be issued each year, 175 individual master licenses, and 325 individual journeyworker licenses. The 500 individual registrations would be issued each year.

Currently there is no license requirement for painting services in either residential or commercial settings. However, businesses/individuals that offer/perform painting services are required to obtain a construction contractor registration, pursuant to Minn. Stat. § 326B.701. Further, painting services are identified in multiple special skill categories (§

326B.802, subd. 15) which determines scopes of work which requires licensure. When a person who offers to contract or contracts to perform more than one special skill with an owner of residential real estate, a license is required. If this bill is enacted, the special skills categories will require modification to remove painting services. Additionally, it is assumed that currently licensed residential building contractors, remodelers and certificate of exemption holders would not be allowed to contract to perform painting services, rather they would need to subcontract this scope of work out to appropriately licensed painting contractors. For the purposes of this fiscal note, DLI does not assume that currently licensed residential building contractors and remodelers will seek the proposed licensure.

During the first year, DLI estimates needing 0.5 FTE customer services specialist sr. (AFSCME 64L) in the licensing unit and 0.25 FTE construction code rep 2 (MAPE 18L) in the education unit to perform the work outlined in the bill. The customer services specialist position would implement the licensing programs clerical functions, develop program materials and exam materials, administer exams at the St. Paul office, and issue licenses and registrations to individuals. The construction code rep position would serve as the subject matter expert by developing program procedures, licensing requirements, and content for the licensing exam.

Each year thereafter, DLI estimates 0.2 FTE customer services specialist sr. in the licensing unit to maintain licensing and registration services.

Enforcement

DLI's enforcement responsibilities would include developing outreach materials, compliance assistance, complaint investigations, audits, and enforcement action.

Based on an average of 1,500 enforcement investigations conducted each year, DLI estimates 50 enforcement cases would be initiated per year because of this bill. Currently, enforcement investigators manage approximately 130 investigations each year. DLI estimates 0.4 FTE investigator senior (MAPE 14L) each year to manage the estimated 50 enforcement cases in the painting industry.

Of the 50 investigations, DLI estimates 25% would result in enforcement action and a monetary penalty. On average, DLI would assess a \$2,000 penalty and expect to collect only \$500 per penalty. Penalties are deposited in to DLI's Assigned Risk Safety Account within the Workers Compensation Fund.

DLI assumes one enforcement case annually would be referred to the Office of Administrative Hearings (OAH) and that DLI would be represented by the Attorney General (AG) throughout the proceeding. It is assumed that one contested case would require 50 hours of AG time at the currently approved billable rate of \$163 per hour for an estimated cost of \$8,150. It is also assumed that the contested case would require 20 hours of administrative law judge (ALJ) time at the currently approved billable rate of \$245 per hour, with a total cost of \$4,900. DLI assumes OAH and AG costs will begin SFY26.

Licensing Software

DLI does not expect any costs for the creation of the new licensure categories in the agency's licensing system, iMS, as this functionality is already built into the software. DLI assumes it would be responsible for license data retention, license holder information, and data related to lapsed licenses, however any costs connected to that would be inclusive of current software rates.

Expenditure and/or Revenue Formula

Expenditures	2024	2025	2026	2027
Customer Svcs Spec Sr - AFSCME 64L	0	45,406	18,186	18,162
Construction Code Rep 2 - MAPE 18L	0	38,279	0	0
Investigator Sr. - MAPE 14L	0	53,555	53,555	53,555
Attorney General	0	0	8,150	8,150
OAH	0	0	4,900	4,900
Boardmember Compensation	0	1,100	1,650	1,100
Rulemaking - Medium	0	0	136,496	0
Expenditures	0	138,339	222,913	85,867

FTE	2024	2025	2026	2027
Customer Svcs Spec Sr - AFSCME 64L	0	0.50	0.20	0.20
Construction Code Rep 2 - MAPE 18L	0	0.25	0	0
Investigator Sr. - MAPE 14L	0	0.40	0.40	0.40
Total FTE	0	1.15	0.60	0.60

Revenue	2024	2025	2026	2027
Unlicensed Painter Registration (500 x \$14)	0	7,000	7,000	7,000
Journeyworker License (325 x \$48)	0	15,600	15,600	15,600
Master License (175 x \$88)	0	15,400	15,400	15,400
Business License (175 x \$188)	0	32,900	32,900	32,900
Total License Revenue (2020 Fund)	0	70,900	70,900	70,900
Penalties (2830 Fund)	0	6,250	6,250	6,250
Total Revenue	0	77,150	77,150	77,150

Long-Term Fiscal Considerations

NA

Local Fiscal Impact

NA

References/Sources

Quarterly Census of Employment and Wages (QCEW). Retrieved from <https://mn.gov/deed/data/data-tools/qcew/>.)

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SF3554 - 1A - Paint Contractor Board and Licensing Established

Chief Author: **Jennifer McEwen**
 Committee: **Labor**
 Date Completed: **2/14/2024 5:10:14 PM**
 Agency: **Administrative Hearings**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Chloe Burns **Date:** 2/14/2024 1:23:54 PM
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State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Administrative Hearings		-	-	-	17	5
Total		-	-	-	17	5
Biennial Total				-		22
2 - Revenues, Transfers In*						
Administrative Hearings		-	-	-	17	5
Total		-	-	-	17	5
Biennial Total				-		22

Bill Description

SF3554-1A creates the Paint Contractor Board (Board) within the Department of Labor and Industry (DLI) and provides for enforcement, regulation and licensing of master painters, paint contractors and journey workers, and the restriction of solvent-based paint materials sales.

The legislation authorizes DLI to conduct rulemaking to implement the provisions of Sec. 4, Paint Contractor Board.

Assumptions

The Office of Administrative Hearings (OAH) has used DLI's estimate to project that one enforcement matter will be appealed to OAH annually beginning in FY2026 under Sec. 4, subd. 8 Complaints. DLI assumes that each appeal will require an estimated 20 hours of administrative law judge (ALJ) time at the currently approved billable rate of \$245 per hour.

OAH has used DLI's assumption that a medium rulemaking will be required to meet the requirements of Sec. 4, Paint Contractor Board. Based on past practices, OAH assumes that a medium rulemaking under chapter 14 will require an estimated 50 hours of ALJ time for activity related to rulemaking procedures. Of the total rulemaking amount of \$136,496 estimated by DLI, \$12,250 is for the 50 hours of ALJ time for a medium rulemaking.

OAH currently bills ALJ time for rulemaking at the MMB-approved billable rate of \$245 per hour (see Minn. Stat. § 16A.126, subd. 1 (2022)).

Expenditure and/or Revenue Formula

Estimated 20 hours of ALJ time at \$245/hr = \$4,900 for one appeal referred to OAH per fiscal year.

One-time rulemaking: Estimated 50 hours of ALJ time for rulemaking activities related to implementing the requirements of Sec. 4 = 50 hours x \$245/hr = \$12,250 charged to DLI in FY2026 pursuant to the requirements of Minn. Stat. § 14.53.

FY26 Total Expenditures - \$4,900 + \$12,250 = \$17,150

Subsequent years - \$4,900

Long-Term Fiscal Considerations

Annual appeals costs would continue into future years. Costs associated with rulemaking activities are a one-time occurrence.

Local Fiscal Impact

References/Sources

Agency Contact: Denise Collins

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SF3554 - 1A - Paint Contractor Board and Licensing Established

Chief Author: **Jennifer McEwen**
 Committee: **Labor**
 Date Completed: **2/14/2024 5:10:14 PM**
 Agency: **Governors Office**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Susan Nelson **Date:** 2/13/2024 2:32:04 PM
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State Cost (Savings) Calculation Details

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Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund						
Expenditures		-	-	1	-	-
Absorbed Costs		-	-	(1)	-	-
Total		-	-	-	-	-
Biennial Total				-		-
2 - Revenues, Transfers In*						
General Fund						
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

Establishes a paint contractor board; requires licensing for paint contractors and journeyworker painters; authorizes rulemaking; proposes coding for new law in Minnesota Statutes. The Paint Contractor Board shall consist of six members,

all of whom are voting members. Five members shall be appointed by the governor with the advice and consent of the senate. Appointments of members by the governor shall be made in accordance with section 15.066. Appointments must be made no later than July 1, 2024.

Assumptions

The legal and appointments team will prepare the appointments required under this bill as part of their regular appointments work.

Expenditure and/or Revenue Formula

The Governor's Office will absorb the costs of this work.

Long-Term Fiscal Considerations**Local Fiscal Impact****References/Sources**

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