

By: Representative Weathersby

To: Judiciary B

HOUSE BILL NO. 1328

1 AN ACT TO CREATE THE MISSISSIPPI BOARD OF PLUMBING EXAMINERS;  
 2 TO PROVIDE DEFINITIONS; TO PRESCRIBE THE POWERS AND DUTIES OF THE  
 3 BOARD; TO PROVIDE FOR THE SUPPORT OF THE BOARD THROUGH THE  
 4 COLLECTION OF FEES; TO PROVIDE QUALIFICATIONS AND EXAMINATIONS FOR  
 5 PLUMBERS; TO PROVIDE FOR THE ISSUANCE OF LICENSES; TO PROVIDE FOR  
 6 TEMPORARY WORKING PERMITS; TO PROVIDE FOR LICENSE RENEWAL; TO  
 7 REQUIRE CONTINUING PROFESSIONAL EDUCATION COURSES FOR LICENSE  
 8 RENEWAL; TO ESTABLISH THE PROCESS FOR FILING COMPLAINTS; TO  
 9 PROVIDE PENALTIES FOR VIOLATIONS OF THIS ACT; TO PROVIDE THE  
 10 GROUNDS FOR THE REVOCATION, SUSPENSION OR REFUSAL TO RENEW  
 11 LICENSES; TO PROVIDE FOR EXEMPTIONS; AND FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** (1) The purpose of this act is the protection of  
 14 the health, safety, environment and general welfare of all those  
 15 persons who use and rely upon plumbing for their personal and  
 16 commercial needs, and to afford those persons with effective and  
 17 practical protection against incompetent, inexperienced or  
 18 unlawful acts by persons who perform plumbing work.

19 (2) It is the intent of the Legislature that the State Board  
 20 of Plumbing created in this act shall be the sole and exclusive  
 21 agency in this state empowered to license natural persons and  
 22 regulate business entities engaged or seeking to engage in the  
 23 business of plumbing systems installation and verification and to  
 24 ensure compliance with the licensing requirements of this act.  
 25 Nothing in this act shall preclude any current authority of the  
 26 State Board of Contractors.

27 **SECTION 2.** As used in this act, the following terms and  
 28 phrases shall have the following meanings unless the context  
 29 clearly indicates otherwise:

30 (a) "Apprentice plumber" means a natural person who  
 31 enters into an agreement with an employer or joint apprenticeship



32 and training committee for a required period of time to receive  
33 instruction and learn the plumbing trade.

34 (b) "Board" means the Mississippi Board of Plumbing  
35 Examiners.

36 (c) "Journeyman plumber" means a natural person who  
37 possesses the necessary qualifications and knowledge to install,  
38 alter and/or repair plumbing systems, is licensed as such by the  
39 board, is supervised by a master plumber, and is in the employment  
40 of an employing entity.

41 (d) "Plumbing" means the work or business of installing  
42 in buildings and on premises the pipes, fixtures, and other  
43 apparatus for supplying water, or removing liquid waste and/or  
44 water-borne waste, and fixtures vessels and process piping that is  
45 in direct contact with products for human consumption. The term  
46 also means the installed fixture, drainage fixtures and water  
47 distribution systems of buildings or premises.

48 (e) "Master plumber" means a natural person who  
49 possesses the necessary qualifications and knowledge to plan and  
50 lay out plumbing systems and who supervises journeyman plumbers in  
51 the installation, alteration, and/or repair of plumbing systems;  
52 and (i) Is familiar with the codes and ordinances, or  
53 (ii) Has passed the required examination and  
54 fulfilled the other requirements of the board.

55 **SECTION 3.** (1) There is created the Mississippi Board of  
56 Plumbing Examiners to license and regulate persons and business  
57 entities engaged in the plumbing industry. The board shall be  
58 composed of nine (9) members appointed by the Governor, with the  
59 advice and consent of the Senate, as follows:

60 (a) One (1) member with at least ten (10) years  
61 practical experience as a master plumber;

62 (b) One (1) member with at least five (5) years  
63 practical experience as a journeyman plumber;



64 (c) One (1) registered engineer with plumbing  
65 background;

66 (d) One (1) member with at least five (5) years  
67 practical experience as a plumbing inspector;

68 (e) One (1) member who is a plumbing contractor with at  
69 least five (5) years experience;

70 (f) Two (2) members who are building contractors with  
71 at least five (5) years contracting experience, one (1) of whom is  
72 principally engaged in home building and one (1) of whom is  
73 principally engaged in commercial building; and

74 (g) Two (2) members who represent the public.

75 (2) Each member of the board must be a United States  
76 citizen.

77 Each member must be a qualified elector of this state and licensed  
78 by the board, except the first board members who must be licensed  
79 within one (1) year.

80 (3) The initial appointments to the board shall be made as  
81 follows: The Governor shall appoint three (3) members to serve  
82 for a term that expires on June 30, 2005, three (3) members to  
83 serve for a term that expires on June 30, 2007, and three (3)  
84 members to serve for a term that expires on June 30, 2009. After  
85 the expiration of the initial terms, all subsequent appointments  
86 shall be made by the Governor for terms of six (6) years from the  
87 expiration date of the previous term. Upon the expiration of his  
88 or her term of office, a board member shall continue to serve  
89 until his or her successor has been appointed and qualified. No  
90 board member may succeed himself without waiting a period of six  
91 (6) years after having served one (1) full six (6) year term.

92 (4) Any vacancy on the board before the expiration of a term  
93 shall be filled by the Governor, with the advice and consent of  
94 the Senate, for the remainder of the unexpired term.



95 (5) After the initial appointments are made to the board,  
96 the board shall submit a list of nominations to the Governor for  
97 any subsequent appointments.

98 (6) The Governor shall give due regard to geographic  
99 distribution in making the appointments to the board.

100 Appointments to the board shall be made without regard to the  
101 race, creed, sex, religion or national origin of the appointee.

102 (7) The board shall select one (1) of its members to serve  
103 as chairman, one (1) member to serve as vice chairman and one (1)  
104 member to serve as secretary. The board may remove any member of  
105 the board or the chairman from his or her position as chairman for  
106 (a) malfeasance in office, or (b) conviction of a felony or a  
107 crime of moral turpitude while in office or (c) failure to attend  
108 three (3) consecutive board meetings. However, no member may be  
109 removed until after a public hearing of the charges against him or  
110 her, and at least thirty (30) days' prior written notice to the  
111 accused member of the charges against him or her and of the date  
112 fixed for the hearing. No board member shall participate in any  
113 matter before the board in which he or she has a pecuniary  
114 interest, personal bias or other similar interest of conflict.

115 (8) Board members shall receive no compensation for their  
116 services, but shall be reimbursed for their actual and necessary  
117 expenses incurred in the performance of official board business as  
118 provided in Section 25-3-41.

119 (9) The board shall meet at least quarterly and at such  
120 other times as deemed necessary by the board. Five (5) members of  
121 the board shall constitute a quorum of the board.

122 (10) The board shall adopt an official seal, which shall be  
123 judicially noticed and which shall be affixed to all licenses  
124 issued by the board. The Office of the State Board of Plumbing  
125 shall be located in the Jackson metropolitan area.

126 (11) The board may employ, subject to the approval of the  
127 State Personnel Board, an executive director and such attorneys,



128 experts and other employees as it may from time to time find  
129 necessary for the proper performance of its duties and for which  
130 the necessary funds are available, and to set the salary of the  
131 executive director, subject to the approval of the State Personnel  
132 Board.

133 (12) The secretary and the executive director shall give  
134 bond, payable to the Governor, in the penal sum of Five Thousand  
135 Dollars(\$5,000.00) for the faithful performance of their duties,  
136 and the premium for the bonds shall be paid from the fees of the  
137 board.

138 (13) The board, by a majority vote, from time to time may  
139 make such provisions as it deems appropriate to authorize the  
140 performance by any board member or members, employee or other  
141 agent of the board of any function given the board in this act.

142 **SECTION 4.** (1) No appropriations from the State General  
143 Fund shall be used to operate the board. The board shall be  
144 supported solely by fees collected for license applications and  
145 renewals and/or other monies received by the board.

146 (2) All fees and any other monies received by the board,  
147 except for monetary penalties imposed, shall be deposited in a  
148 special fund that is created in the State Treasury and shall be  
149 used for the implementation and administration of this act. The  
150 monies in the special fund shall be subject to all provisions of  
151 the state budget laws that are applicable to special fund  
152 agencies, and shall be disbursed by the State Treasurer only upon  
153 warrants issued by the State Fiscal Officer upon requisitions  
154 signed by the chairman of the board or another board member  
155 designated by the chairman, and countersigned by the secretary of  
156 the board. Any interest earned on this special fund shall be  
157 credited by the State Treasurer to the fund and shall not be paid  
158 into the State General Fund. Any unexpended monies remaining in  
159 the special fund at the end of a fiscal year shall not lapse into



160 the State General Fund. Monetary penalties imposed by the board  
161 shall be deposited in the State General Fund.

162 **SECTION 5.** (1) In addition to any other duties set forth in  
163 this act, the board shall:

164 (a) Adopt a test of qualifications to be possessed by  
165 any person actually engaged in plumbing installation or plumbing  
166 work, and require that any person engaged in the duties of a  
167 journeyman plumber must possess journeyman plumber's license;

168 (b) Adopt a test of qualifications to be possessed by  
169 any person actually engaged in the art and business of a master  
170 plumber, and require that any person engaged in the duties of a  
171 master plumber must possess a master plumber's license; and

172 (c) Recognize the system of qualification or  
173 registration of apprentices as administered by joint and nonjoint  
174 apprenticeship committees approved by the State of Mississippi.

175 (2) The board may accept an affidavit from an individual  
176 certifying his work experience in the field of plumbing, and that  
177 individual may be certified as a journeyman plumber if he passes  
178 the written examination and pays the fees established by the  
179 board.

180 (3) The board shall approve, oversee and be responsible for  
181 all examinations for licensure under this act.

182 (4) The board shall be responsible for all disciplinary  
183 functions carried out in this state regarding all licensees under  
184 this act.

185 (5) The board shall be responsible for all disputed matters  
186 involving whether an applicant shall be licensed.

187 (6) The board shall have such other powers as may be  
188 required to carry out the provisions of this act.

189 **SECTION 6.** (1) (a) No natural person shall engage in doing  
190 the work of a journeyman plumber unless he possesses a license or  
191 renewal thereof issued by the board.



192           (b) A journeyman plumber may engage in the art of  
193 plumbing only when he is under the supervision of a master plumber  
194 licensed by this board.

195           (c) Apprentices may engage in the art of plumbing only  
196 when they are under the direct constant, on-the-job supervision of  
197 a licensed journeyman plumber. Direct, constant on-the-job  
198 supervision means that a licensed journeyman plumber will  
199 supervise no more than four (4) apprentices on only one (1) job at  
200 a time.

201           (2) (a) No natural person shall engage in the work of a  
202 master plumber unless he possesses a master plumber's license or  
203 renewal thereof issued by the board.

204           (b) A master plumber shall not engage in the work of a  
205 journeyman plumber unless he currently possesses or previously  
206 possessed a journeyman plumber's licenses issued by the board.

207           (c) A person issued a master plumber's license shall  
208 designate to the board, as required by regulations of the board,  
209 an employing entity, which may be a corporation, partnership, or  
210 sole proprietorship. A licensed master plumber shall notify the  
211 board of any change of employment status with an employing entity.  
212 A master plumber shall designate no more than one (1) employing  
213 entity at any time.

214           (d) A master plumber or restricted master plumber's  
215 license shall not be issued, renewed, or revived until the  
216 applicant has provided proof acceptable to the board that  
217 insurance has been issued to the employing entity.

218           (3) The board shall issue a license to any person who  
219 qualifies under the board's regulations and who desires to engage  
220 in doing the work of a journeyman plumber, if he passes a written  
221 and manual journeyman plumber's examination, which shall be a  
222 standardized, nationally recognized test adopted by the board, and  
223 pays the fees established by the board.



224 (4) The board shall issue a license to any licensed  
225 journeyman plumber or other person who qualifies under the board's  
226 regulations and who desires to engage in the work of a master  
227 plumber, if he passes a written master plumber's examination,  
228 which shall be a standard, nationally recognized test adopted by  
229 the board, and satisfied the provisions of subsection (2)(c) of  
230 this section.

231 (5) No employing entity shall hold itself out as engaging in  
232 the business or art of plumbing unless it employs a master  
233 plumber. For purposes of this section, employment of a master  
234 plumber means employment on a regular paid basis for actual  
235 services performed supervising journeyman plumbers.

236 (6) (a) This section shall supercede municipal or other  
237 regulatory examination authority over master plumbers. Municipal  
238 or other local regulatory authorities may assess and collect  
239 locally adopted fees and charges relative to plumbing work as  
240 defined in Section 1 of this act that is performed in their  
241 respective jurisdictions, but only to persons licensed under the  
242 provisions of this section.

243 (b) No municipality or other local regulatory authority  
244 shall require any master plumber to apply for or maintain any  
245 master plumber's license, or any equivalent thereof, as a  
246 condition to performing plumbing work in any municipal or other  
247 local jurisdiction, other than a master plumber's license issued  
248 by the board.

249 **SECTION 7.** (1) A master plumber who has not been licensed  
250 by the board, but who has worked as a locally licensed master  
251 plumber in a municipality or has a certificate of responsibility  
252 issued by the State Board of Contractors to do plumbing work  
253 before July 1, 2003, shall be allowed to apply for and receive,  
254 upon payment of a reasonable fee set by the board, a master  
255 plumber's license permitting him to continue working as a master  
256 plumber. Any person holding such a master plumber's license shall





257 not perform the work of a journeyman plumber unless licensed by  
258 the board.

259 (2) A journeyman plumber who has not been licensed by the  
260 board but who has worked as a licensed journeyman plumber in a  
261 municipality or other local jurisdiction before July 1, 2003,  
262 shall be allowed to apply for and receive, upon payment of a  
263 reasonable fee set by the board, a journeyman plumber's license  
264 permitting him to continue working as a journeyman plumber.

265 **SECTION 8.** (1) The board shall adopt regulations  
266 establishing a category of inactive master plumbers, who shall be  
267 charged a reasonable annual renewal fee during the period of his  
268 inactive status. An inactive master plumber shall not be required  
269 to designate an employing entity. When an inactive plumber  
270 returns to work as a master plumber, he shall designate an  
271 employing entity and pay a reasonable fee set by the board.

272 (2) An inactive master plumber shall be permitted to work as  
273 a journeyman plumber during the period or periods he maintains an  
274 inactive plumber's license, if he is currently or was previously  
275 licensed by the board as a journeyman plumber.

276 **SECTION 9.** Temporary working permits to perform work as a  
277 journeyman plumber may be issued to a holder of a state license as  
278 a journeyman plumber from another state with similar  
279 qualifications, if that state recognizes the Mississippi license,  
280 or where other evidence shows that the applicant's past experience  
281 would be capable of protecting the public from defective plumbing.  
282 Both the chairman and secretary of the board must sign each  
283 temporary permit. A temporary working permit shall not be issued  
284 to master plumbers.

285 **SECTION 10.** (1) All original licenses shall be valid for  
286 one (1) year, unless suspended or revoked by the board, and each  
287 person to whom a license is issued shall pay a fee as provided in  
288 Section 11 of this act. Licenses shall be renewed annually after  
289 initial licensure upon payment of a renewal fee as provided in



290 Section 11 of this act and being in compliance with such  
291 additional requirements as the board may promulgate.

292 (2) (a) The board may establish and determine minimum  
293 requirements relative to continuing professional development for  
294 the renewal or reinstatement of any license or special endorsement  
295 issued by the board.

296 (b) A journeyman plumber licensed under this act must  
297 complete at least six (6) hours of continuing professional  
298 education each year upon license renewal. Three (3) of the hours  
299 must be in the subjects of health protection, energy conservation,  
300 and water conservation.

301 (c) A master plumber licensed under this act must  
302 complete at least twelve (12) hours of continuing professional  
303 education each year upon license renewal. Three (3) of the hours  
304 must be in the subjects of health protection, energy conservation,  
305 and water conservation.

306 (d) A journeyman plumber or master plumber may receive  
307 credit for participating in a continuing professional education  
308 course only if the course is provided by an individual, business,  
309 or association approved by the board and according to criteria  
310 adopted by the board.

311 **SECTION 11.** (1) The board may prescribe reasonable  
312 examination, licensing, and renewal fees for journeyman and master  
313 plumbers, temporary permit fees for journeymen plumbers,  
314 restricted license fees for journeyman and master plumbers and  
315 renewal fees for inactive master plumbers. These fees shall be  
316 commensurate to the extent feasible with the cost of fulfilling  
317 the duties of the board as provided by this act.

318 (2) The fees charged by the board shall not exceed the  
319 following amounts:

- 320 (a) Journeyman plumber examination..... \$125.00  
321 (b) Nonwritten journeyman plumber examination.. \$150.00  
322 (c) Master plumber examination..... \$250.00



- 323 (d) Nonwritten master plumber examination..... \$275.00  
 324 (e) Initial journeyman plumber or master plumber  
 325 license fee, payable upon successful completion of  
 326 examination..... \$50.00  
 327 (f) Journeyman or master plumber renewal fee.... \$50.00  
 328 (g) Journeyman plumber or master plumber revival  
 329 fee..... \$15.00  
 330 (h) Journeyman plumber or master plumber revival fee  
 331 paid ninety (90) days late..... \$30.00  
 332 (i) Journeyman plumber temporary permits..... \$75.00  
 333 (j) insufficient fund checks or return checks  
 334 fee..... \$25.00

335 **SECTION 12.** (1) The board may investigate an alleged  
 336 violation of this act by a person who:

- 337 (a) Is licensed under this act; or  
 338 (b) Performs plumbing without holding a license under  
 339 this act.

340 (2) The board shall keep an information file about each  
 341 complaint filed with the board relating to a person licensed under  
 342 this act. If a written complaint is filed with the board relating  
 343 to a person licensed under this act, the board, at least quarterly  
 344 and until final disposition of the complaint, shall notify the  
 345 parties to the complaint of the status of the complaint unless the  
 346 notice would jeopardize an undercover investigation.

347 **SECTION 13.** Any person who violates any provision of this  
 348 act, upon conviction thereof, shall be fined not less than Five  
 349 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars  
 350 (\$5,000.00), or imprisoned in the county jail for not more than  
 351 ninety (90) days, or both.

352 **SECTION 14.** (1) The board may enjoin any person from  
 353 engaging in doing the work of a journeyman plumber or master  
 354 plumber whenever it appears that a person is violating or is  
 355 conspiring to violate the provisions of this act. The board may



356 also enjoin an employing entity from violating or conspiring to  
357 violate the provisions of this act.

358 (2) The injunction provided for in this section may be  
359 obtained without the necessity of posting bond. A court of  
360 competent jurisdiction may, in its discretion, award a reasonable  
361 attorney's fees to the board if the board prevails in any such  
362 action. In order for the board to sustain any such action, it is  
363 not necessary to allege or prove either that an adequate remedy at  
364 law does not exist or that substantial or irreparable damage would  
365 result from the continued violation of this act.

366 **SECTION 15.** (1) The board may revoke, suspend, or refuse to  
367 renew any license issued by the board to any natural person in  
368 accordance with procedures established by the board. Grounds for  
369 revocation, suspension or refusal to renew a license, include, but  
370 are not limited to, the following:

371 (a) Conviction of a felony;

372 (b) Falsification of any material portion of a  
373 licensee's application or other requisite submission to the board  
374 including, but not limited to, insurance, work, training or  
375 experience verifications;

376 (c) Habitual performance of the work of either a  
377 journeyman plumber or master plumber that is substantially below  
378 the standard established by the State Department of Health;

379 (d) Refusal of a master plumber, after notice from the  
380 board, to accurately designate an employment entity in his  
381 application, his renewal thereof, or upon any change in employment  
382 status with an employing entity;

383 (e) Habitual practice of a master plumber to knowingly  
384 allow any employing entity to hold itself out as engaging in the  
385 business of plumbing at a time when the employing entity does not  
386 employ the master plumber as designated to the board;

387 (f) Habitual practice of a journeyman plumber or master



388 plumber to knowingly allow any person not licensed by the board to  
389 perform plumbing work, except as otherwise authorized by the act;

390 (g) Violation of municipal or other local plumbing  
391 codes not otherwise preempted by this act or related regulations  
392 as evidenced by adjudication before local governing authorities;  
393 and

394 (h) Habitual violation of the rules and regulations  
395 adopted by the board by master plumbers, journeyman plumbers or  
396 apprentice plumbers.

397 (2) Any licensee whose license is revoked or otherwise  
398 restricted may appeal, within fifteen (15) days of written notice  
399 by the secretary of the board of the revocation, to the chancery  
400 court in the county of his residence. The chancery court shall  
401 make its ruling based on the record before the board, but shall  
402 not reverse or modify the decision of the board unless it  
403 determines that it was (a) not supported by substantial evidence,  
404 (b) arbitrary and capricious, (c) beyond the power of the board to  
405 make, or (d) in violation of some statutory or constitutional  
406 right of the appellant.

407 **SECTION 16.** A person shall be exempt from the requirements  
408 of this act if:

409 (a) The person is a property owner who is performing  
410 plumbing work in the property owner's homestead;

411 (b) The person is performing plumbing work outside a  
412 municipality, or inside a municipality with fewer than five  
413 thousand (5,000) inhabitants, unless an ordinance of the  
414 municipality requires the person to be licensed;

415 (c) The person's plumbing work is incidental to and in  
416 connection with the business in which the person is employed or  
417 engaged and the person:

418 (i) Is regularly employed as or acting as a  
419 maintenance person or maintenance engineer; and

420 (ii) Does not engage in plumbing for the public;



421 (d) The person is engaged in construction,  
422 installation, or maintenance on the premises or equipment of a  
423 railroad, if the person is an employee of the railroad who does  
424 not engage in plumbing for the public;

425 (e) The person is engaged by a public service company  
426 to:

427 (i) Lay, maintain, or operate its service mains or  
428 lines to the point of connection to the private property; and

429 (ii) Install, change, adjust, repair, remove, or  
430 renovate appurtenances, equipment, or appliances, and the person  
431 does not engage in plumbing work for the public;

432 (f) The person who performs plumbing work:

433 (i) Holds a certificate issued by the State Board  
434 of Contractors as an irrigator; or

435 (ii) Is licensed as a water well pump installer  
436 issued by the State Board of Contractors;

437 (g) The person performs plumbing work as a liquid  
438 petroleum gas installer licensed under the State Fire Marshal's  
439 office; or

440 (h) The person performing plumbing work as a fire  
441 protection installer holds a certificate of responsibility issued  
442 by the State Board of Contractors to do fire protection work.

443 **SECTION 17.** This act shall take effect and be in force from  
444 and after July 1, 2003.

