

SENATE NO. 220

AN ACT RELATIVE TO THE REGISTRATION OF IRRIGATION CONTRACTORS

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. The General Laws, as appearing in the 2004 Official Editions, is hereby amended in
2 Chapter 13 by adding at the end thereof the following new sections:-

3 Section 98. There shall be a board of registration of irrigation contractors, in this section and in
4 sections ninety-nine and one hundred called the board, consisting of seven members to be appointed
5 by the governor, citizens of the commonwealth, four of whom shall have been engaged in the
6 irrigation contracting industry for a period of five years or more prior to their appointment, one of
7 whom shall have experience as manufacturer or distributor of irrigation equipment, systems or
8 components thereof, one of whom shall be a certified irrigation designer, and one of whom shall be a
9 representative of the public who is a professional engineer, subject to the provisions of section nine B.
10 As the term of office of a member of the board expires, his successor shall be appointed in like manner
11 for a term of four years. Any vacancy in the membership occurring other than by expiration of a term

12 shall be filled in the same manner as the original appointment, but for the expired term only. Each
13 member shall continue to serve until the qualification of his successor. The governor may also fill any
14 vacancy in the board for the unexpired portion of the term.

15 Section 99. The board shall hold at least two regular meetings each year and may hold such
16 special meetings as it may determine. At the first regular meeting each year, the board shall organize
17 and choose a chairman who shall be a member of the board and a secretary who may, but need not, be
18 a member of the board. At all meetings of the board a quorum shall consist of four members.

19 Section 100. The members of the board shall serve without compensation, except that there
20 shall be paid by the commonwealth to the secretary, whether a member of the board or not, a salary of
21 five hundred dollars. Each member shall receive from the commonwealth the necessary travel and
22 other expenses actually incurred by him in the performance of his duties. The board may appoint such
23 clerks as may be necessary; provided that the salary of the secretary and expenses of the members of
24 the board and its employees, and the expenses of the board, shall not be in excess of the receipts for
25 registration and from other sources that have been received by the state treasurer from the board.

26 SECTION 2. The General Laws, as appearing in the 2004 Official Editions, is hereby amended
27 in Chapter 112 by adding at the end thereof the following new sections:-

28 Section 227. Definitions

29 The following words as used in this section and sections two hundred and twenty eight to two
30 hundred and thirty six, inclusive, unless the context otherwise requires, shall have the following
31 meanings:

32 "Board", the Board of Registration of Irrigation Contractors.

33 "Business permit", a business that holds a permit as approved by the board entitling it to be
34 called by the title "irrigation contracting business" and which employs at least one irrigation

35 contractor, certified under the provisions of sections two hundred and twenty eight to two hundred and
36 thirty six, inclusive.

37 “Division”, the Massachusetts Division of Insurance.

38 “Irrigation contracting”, the construction, installation, repair maintenance, improvement
39 and alteration of any portion of an irrigation system.

40 “Irrigation contractor”, a person who holds a certificate entitling him to be called by the
41 title “irrigation contractor” in the commonwealth under the authority of section two hundred and
42 twenty seven.

43 “Irrigation system”, any assemblage of components, materials or special equipment which
44 is constructed and permanently installed for predominantly underground for controlled dispersion of
45 water from any safe and suitable source, for the purpose of irrigating landscape vegetation or the
46 control of dust and erosion on landscaped areas, including integral pumping systems and including
47 required wiring within that system and connection to a public or private water supply system under the
48 terms and conditions of a contract. An irrigation system, when connected to a potable water supply,
49 shall include a connection beginning at the downstream side of a properly installed backflow
50 prevention device as required under 248 CMR 10.00. An irrigation system shall not include plumbing
51 or a plumbing system as defined in Chapter 142 of the General Laws.

52 “Under the direct supervision of a certified irrigation contractor”, an irrigation system shall
53 be considered to be properly constructed and installed if it is done by a competent person acting under
54 the specific instruction and control of an irrigation contractor, certified under the provisions of sections
55 two hundred and twenty eight to two hundred and thirty six, inclusive.

56 Section 228. Powers and Duties of the Board of Registration of Irrigation Contractors

57 The board shall review applications for certification, develop and conduct the proper
58 examinations for certification, register and issue certificates of registration, take appropriate
59 disciplinary action, including but not limited to the assessment of penalties or the suspension or
60 revocation of said certification, require continuing education requirements, and maintain a current
61 roster of certified irrigation contractors in the commonwealth.

62 The board shall review applications for business permits, issue business permits to firms,
63 partnerships or corporations engaged in the business of irrigation contracting and define any
64 restrictions or requirements regarding the use of such permit.

65 The board shall take appropriate disciplinary action, including but not limited to the assessment
66 of penalties or the suspension or revocation of said business permit, and maintain a current roster of
67 permitted irrigation contracting businesses in the commonwealth.

68 The board may adopt, amend and rescind such rules and regulations, not inconsistent with
69 other provisions of the General Laws, as it deems necessary to carry out the provisions of this chapter.

70 Section 229. Certificates of registration; necessity; display

71 No person shall construct, install, repair, improve or alter any portion of an irrigation system in
72 the commonwealth nor shall they represent themselves to be an irrigation contractor or use the title
73 irrigation contractor in the commonwealth on any advertisement, sign, title, card or other device to
74 indicate that such person is a irrigation contractor, unless such person shall have secured from the
75 board a certificate of registration as an irrigation contractor. Every holder of a certificate of such
76 registration shall display it in a conspicuous place in his principal office or place of employment, and
77 on any specifications or plans specifically used in the development, management and installation of an
78 irrigation system.

79 No firm, partnership or corporation shall represent themselves as an irrigation contracting
80 business or use the title irrigation contracting business in the commonwealth on any advertisement,
81 sign, title, card or other device to indicate that such person is an irrigation contracting business, unless
82 such firm, partnership or corporation shall have secured from the board a business permit as an
83 irrigation contracting business. Every holder of a business permit shall display it in a conspicuous
84 place in its principal office and on any vehicles used for such commercial purposes.

85 Nothing herein shall be construed to prevent a firm, partnership or corporation from using the
86 title “irrigation contractor” or “irrigation contractors”, or similar title provided that the practice of
87 irrigation contracting by such firm, partnership or corporation shall be under the professional and
88 supervisory control of a person registered as a irrigation contractor and the entity holds a valid
89 business permit.

90 Section 230. Qualifications of applicants for certification

91 Before being examined for registration as an irrigation contractor, each applicant shall submit
92 evidence to the board that they are at least eighteen years of age and of good moral character; are a
93 citizen of the United States or have legally declared their intention of so becoming; and have passed
94 the certified irrigation contractor exam as conducted by the Irrigation Association of New England.

95 Section 231. Qualifications for business permits

96 Before being examined for an original business permit or renewal of a business permit,
97 applicants are required to provide proof of liability and workers compensation policies, surety bond
98 and irrevocable letter of credit. Said proof of insurance shall be completed on a form provided or
99 approved by the Board and shall be issued in the name of the business permit holder.

100 Section 232. Examinations; rules and regulations

101 Examinations for registration as an irrigation contractor shall be held by the board at least four
102 times each year, provided that applications shall have been receiving during the time announced. The
103 board shall adopt rules and regulations covering the subjects and scope of the examinations, including
104 but not limited to the establishment of an electronic registration system, shall publish appropriate
105 announcements and shall conduct the examinations at the times designated. Except as hereinafter
106 provided, every applicant for registration as an irrigation contractor shall be required, in addition to all
107 other requirements, to establish, by written examination, his competency to plan, construct, manage,
108 install and supervise the installation of irrigation contracting systems. Each written examination may
109 be supplemented by such oral examinations as the board shall determine.

110 Section 233. Continuing education

111 The board shall establish continuing education standards and requirements for the renewal of
112 an irrigation contractor certificate, including the subject matter, type and number of credits required
113 for each renewal. The board shall approve qualifying, continuing education programs including but
114 not limited to programs provided by accredited educational institutions or relevant professional and
115 technical associations. The board may waive continuing education requirements required under this
116 act on an individual basis for reasons of illness, undue hardship, disability, retirement or other cause it
117 deems appropriate.

118 Section 234. Exemptions

119 The following shall not be required to be certified pursuant to sections two hundred and twenty
120 eight to two hundred and thirty six, inclusive:

- 121 (a) An employee working under the direct supervision of a certified irrigation contractor;
- 122 (b) A homeowner who installs an irrigation system at his or her place of residence;
- 123 (c) A business owner who installs an irrigation system at his or her place of business;

124 (d) Anyone in the employment of a golf course for the purpose of maintaining or repairing
125 an existing irrigation system; and

126 (e) Anyone installing an irrigation system to irrigate any field crops, grain, soy beans, hay,
127 fruits, vegetables, Christmas trees, horticultural specialties to be offered for sale, including nursery
128 stock, ornamental shrubs, ornamental trees, flowers, and turf on turf farms;

129 (f) Contractors engaged in the design, fabrication, installation or construction of irrigation
130 apparatus, or irrigation equipment of any type which is to be solely for agricultural purposes in the
131 production of harvestable and saleable vegetative or animal products.

132 (g) Vendors of irrigation contracting components, materials, or equipment who perform
133 only such functions as delivery, rendering of advice or assistance in the installation or normal warranty
134 service or exchange of defective or damaged goods;

135 Section 235. Certificate of registration and business permit fees

136 Applicants for certificates of registration and for business permits shall pay a fee, to be
137 established annually by the secretary for administration and finance pursuant to section three B of
138 chapter seven and shall be paid to the board on or before the thirty-first day of January of each year.
139 The board may assess a penalty to be added to the amount of the certificate for delinquent payments.

140 Failure to renew certificate of registration within sixty days after notification by the board that
141 said certificate has expired, shall require such applicant to register anew and may require re-
142 examination, subject to the discretion of the board.

143 Fees for duplicate certificates shall also be established annually by the secretary for
144 administration and finance and shall be collected at the time of the request for such documents.

145 Fees for business permits shall be determined annually by the secretary for administration and
146 finance pursuant to section three B of chapter seven and shall be paid to the board. Each initial

147 business permit issued in accordance with this act shall expire on January 31 of the second calendar
148 year following issuance. All permits issued thereafter shall remain valid for a period of two years and
149 shall expire January 31 of the second calendar year. A new permit issued anytime after the January 31
150 issuance date shall remain valid until the regular January 31 date of expiration.

151 Section 236. Suspension, revocation or refusal of certificates and business permits; re-issuance

152 The board may refuse to issue, renew, suspend or revoke the certificate of registration or
153 business permit upon proof satisfactory to the board:

154 (a) that the holder of such certificate of registration or business permit is in violation of any
155 provision of sections two hundred and twenty-seven to two hundred and thirty-five, inclusive, or of
156 any rule or regulation promulgated by the board;

157 (b) that such certificate of registration or business permit was obtained by fraud or
158 misrepresentation;

159 (c) that any money or thing of value, except fees prescribed or authorized by said sections,
160 was paid or received to secure the issuance of such certificate of registration or business permit;

161 (d) that the holder of such certificate of registration or business permit has been guilty of a
162 felony;

163 (e) that the holder of such certificate of registration or business permit has been guilty of
164 fraud or deceit, or of gross negligence, incompetence or misconduct, in the use of the title of irrigation
165 contractor; or

166 (f) that the holder of such certificate of registration or business permit has permitted or
167 suffered his certificate to be affixed to any system plans or specifications that were not prepared by
168 him or under his personal supervision by his regularly employed subordinates.

169 The board may reissue a certificate of registration or business permit to any person whose
170 certificate of registration or business permit has been revoked. Application for the re-issuance of a
171 certificate of registration or business permit shall be made in such manner as the board may direct.

172 Section 237. Unlawful conduct; penalties

173 It shall be unlawful for any person to:

174 (a) hold himself as an irrigation contractor unless he is registered under the provisions of
175 sections two hundred and twenty-seven to two hundred and thirty-five, inclusive;

176 (b) present as his own the certificate of registration of another;

177 (c) give false or forged evidence to the board of registration or any member thereof in
178 obtaining a certificate;

179 (d) falsely impersonate any other registrant of like or different name;

180 (e) use or attempt to use a certificate of registration that has been revoked; or

181 (f) otherwise violate any of the provisions of said sections.

182 A fine of not less than fifteen hundred dollars nor more than twenty five hundred dollars, or by
183 imprisonment for not more than one year, or both shall be set for a first offense. A fine of not less
184 than twenty five hundred dollars nor more than five thousand dollars, or by imprisonment for not more
185 than two year, or both shall be set for each and every subsequent offense. Violations shall be
186 considered unfair and deceptive acts and subject to the provisions of Chapter 93A of the General
187 Laws.