

BILL ANALYSIS

S.B. 621
By: Nichols
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas State Board of Plumbing Examiners (TSBPE) regulates plumbing in Texas by licensing and overseeing apprentices, tradesman, journeyman, and master plumbers, and plumbing inspectors. The TSBPE and the Plumbing License Law is subject to abolishment under the Sunset Act on September 1, 2019, unless continued by the Legislature. The Sunset Advisory Commission found, while there is a continued need to regulate the practice of plumbing in Texas, the TSBPE has failed to address long-standing problems and operate properly and efficiently. S.B. 621 provides for the abolishment of the TSBPE and transfers the authority to regulate plumbing to the Texas Department of Licensing and Regulation with related statutory modifications.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive director of the Texas Department of Licensing and Regulation in SECTION 14 of this bill and to the Texas Commission of Licensing and Regulation in SECTIONS 14, 16, 20, 33, 34, 35, 36 of this bill.

ANALYSIS

S.B. 621 provides for the transfer of plumbing regulation from the Texas State Board of Plumbing Examiners (TSBPE) to the Texas Department of Licensing and Regulation (TDLR) by abolishing the TSBPE and amending the Occupations Code to establish the nine-member Texas Plumbing Advisory Board to be appointed by the governor. The bill provides for:

- the continuation of the TSBPE until September 1, 2020, for the sole purpose of transferring TSBPE obligations, property, rights, powers, and duties to TDLR, which is to be completed not later than September 1, 2020;
- the transfer to TDLR of unexpended funds appropriated to the TSBPE;
- the continuation of TSBPE-issued rules, licenses, endorsements, and certificates of registration until superseded by a rule of TDLR; and
- the continuation of pending proceedings or applications for a license, endorsement, or certificate of registration without change in status after the bill's effective date.

S.B. 621 revises and updates provisions relating to the TSBPE to reflect that transfer and the establishment of the new advisory board, which must be appointed by the governor not later than December 1, 2019. A member of the abolished TSBPE is eligible for appointment to the

advisory board and continues to provide advice to TDLR until a majority of the members of the advisory board are appointed. The bill provides for the following:

- the advisory board's composition;
- the designation of a presiding officer;
- a prohibition against board members receiving compensation for advisory board service; and
- the advisory board's duties to provide advice and recommendations to TDLR on certain technical matters relating to administration of the Plumbing License Law.

The bill exempts the advisory board from Government Code provisions governing state agency advisory committees.

S.B. 621 requires the rules adopted and enforced to administer the Plumbing License Law to include requirements for the issuance and renewal of a plumbing license, endorsement, or certificate of registration and authorizes the Texas Commission of Licensing and Regulation (TCLR) to establish by rule standards of conduct for the holder of such a license, endorsement, or certificate of registration. The bill requires TDLR to recognize, prepare, administer, or arrange for the administration of an examination required under that law and sets out related provisions. The bill requires the practical portion of the examination to be administered by a licensed plumber and provides for the engagement of plumbing examiners by TDLR, including authorizing TDLR to contract with a plumbing examiner to administer the practical portion of the examination. The bill sets out certain actions TCLR must undertake by rule relating to the work of a master plumber, a plumber's apprentice, and tradesman plumber-limited license holder and to related supervision and training.

S.B. 621 requires TDLR to require an applicant for a plumbing license to submit a complete and legible set of fingerprints to TDLR or to the Department of Public Safety (DPS) for the purpose of obtaining criminal history record information from DPS and the FBI, prohibits TDLR from issuing a license to a person who does not comply with that requirement, and sets out related provisions. The bill requires TDLR to obtain by certain dates and in a certain manner criminal history record information on persons who hold a plumbing license on September 1, 2019, and who did not undergo a criminal background check on the initial license application and authorizes TDLR to suspend the license of a person who does not comply with providing information or fingerprints as requested.

S.B. 621 revises the provisions setting out the circumstances under which a plumbing license, endorsement, or registration is required and requires an individual to hold a plumbing contractor license, be employed by a plumbing contractor, or contract with a plumbing contractor to perform or offer to perform plumbing for compensation with certain exceptions for work in an unincorporated area of Texas. The bill revises applicable provisions to replace the responsible master plumber designation with a plumbing contractor license. The bill:

- establishes that the authorization of a person holding a designation on September 1, 2019, to act as a responsible master plumber continues in effect until September 1, 2020;
- expressly does not require a person to hold a plumbing contractor license to perform or offer to perform plumbing for compensation until September 1, 2020;
- authorizes a person holding a designation to act as a responsible master plumber on September 1, 2019, to apply at no cost to the person for a plumbing contractor license until September 1, 2020;
- requires a person who applies for a plumbing contractor license after September 1, 2020, to pay any fee required by law for the license; and
- eliminates the training program for a person holding a designation to act as a responsible master plumber as a prerequisite for a plumbing contractor.

The bill defines "plumbing contractor" as a person licensed as a plumbing contractor who is a

master plumber, or employs a master plumber, for the purpose of offering and performing plumbing work that will be performed or supervised by the master plumber; is authorized to obtain permits for plumbing work; assumes responsibility for plumbing work performed for compensation paid to the person; and has submitted a required certificate of insurance.

S.B. 621 revises provisions relating to the qualifications to serve as and the powers of a field representative employed to assist in enforcing the Plumbing License Law. The bill requires TDLR to employ a field representative to assist TDLR in enforcing that law and rules adopted under that law and to employ or contract with a person who holds a license under that law to conduct or assist in an inspection or investigation involving the quality of plumbing work, including whether the work complies with applicable plumbing code requirements. The bill removes provisions relating to the registration of individuals as drain cleaners, drain cleaner-restricted registrants, and residential utilities installers and authorizes a plumber's apprentice to perform those tasks after meeting certain classroom training or practical experience requirements.

S.B. 621 repeals provisions that set out procedures for licensing certain out-of-state applicants and provide for the issuance of temporary licenses. The bill authorizes TCLR or TDLR to issue a plumbing license, endorsement, or certificate of registration for an applicant who holds a similar license, endorsement, or certificate issued by another jurisdiction. The bill sets out related provisions, including provisions establishing an exemption from examination requirements for a person applicably licensed, endorsed, or certified in another jurisdiction for at least two years. The bill authorizes TDLR to issue a temporary license, endorsement, or certificate of registration that expires on the 30th day after the date of issuance and may not be renewed.

S.B. 621 authorizes TCLR to set a one- or two-year renewal period for a license or certificate of registration under the Plumbing License Law. The bill aligns the expiration date of endorsements for a medical gas pipe installer, multipurpose residential fire protection sprinkler specialist, and water supply protection specialist with that of the master plumber or journeyman plumber license of the endorsement holder and repeals related provisions. The bill revises provisions relating to the mandatory continuing professional education for all persons who hold plumbing licenses or endorsements to delineate the duties of TCLR and TDLR with respect to the continuing education required of those persons. The bill authorizes TCLR to establish by rule continuing education requirements for persons who hold a certificate of registration as a plumber's apprentice. The bill clarifies that TCLR, TDLR, or the executive director of TDLR may enforce the Plumbing License Law, a rule adopted under that law, or an order of TCLR or the executive director as provided by applicable law and revises the grounds for disciplinary action to include disciplining improperly licensed or unlicensed individuals. The bill repeals a provision authorizing investigations by an enforcement committee.

S.B. 621 amends the Education Code, Government Code, Health and Safety Code, Local Government Code, and Natural Resources Code to make conforming changes.

S.B. 621 repeals the following provisions of the Occupations Code:

- Sections 51.351(c) and (d)
- Section 1301.002(9-a)
- Section 1301.003
- Section 1301.153
- Section 1301.155
- Section 1301.156
- Section 1301.159
- Section 1301.201

- Section 1301.204
- Section 1301.205
- Section 1301.207
- Section 1301.208
- Section 1301.252
- Section 1301.254
- Section 1301.256
- Section 1301.258, as added by Chapter 1276 (H.B. 3507), Acts of the 78th Legislature, Regular Session, 2003
- Section 1301.258, as added by Chapter 819 (S.B. 282), Acts of the 78th Legislature, Regular Session, 2003
- Section 1301.259
- Section 1301.260
- Section 1301.261
- Section 1301.301
- Section 1301.3015
- Section 1301.303
- Section 1301.304
- Section 1301.351(a-2)
- Section 1301.3521
- Section 1301.355
- Section 1301.356(c)
- Section 1301.3565(c)
- Section 1301.357(c)
- Section 1301.358
- Section 1301.3585
- Section 1301.402
- Section 1301.403
- Section 1301.451
- Section 1301.4521
- Section 1301.4522
- Section 1301.453
- Section 1301.454
- Section 1301.502(b)
- Section 1301.504
- Section 1301.5045
- Section 1301.505
- Section 1301.506

- Subchapter N, Chapter 1301

EFFECTIVE DATE

September 1, 2019.