

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1580
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State Affairs
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Committee Report (Substituted)

DIGEST

Currently, as in the past, contractors have cost the state revenue for non-payment of appropriate taxes and insurance, while, at the same time, failing to provide adequate protection for their workers. Concerns have been raised that contractors too often protect the property owners by whom they are employed, and frequently are not in compliance with national and municipal codes with regard to certain fire and safety requirements. This legislation seeks to remedy those problems by establishing a Plastering Contractors Advisory Board, and providing for the registration of plastering contractors. In addition, C.S.S.B. 1580 would establish the requirements for registration, renewal, continuing education, suspension, and revocation of plastering contractors. and would set forth prohibited acts and penalties for violations.

PURPOSE

As proposed, C.S.S.B. 1580 provides for the regulation of plastering contractors, and establishes penalties.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Plastering Contractors Advisory Board in SECTION 2(e), to the commissioner of licensing and regulation in SECTION 3(b), and to the Texas Commission of Licensing and Regulation in SECTION 5.

SECTION BY SECTION ANALYSIS

SECTION 1. DEFINITIONS. Defines "board," "commission," "commissioner," "department," "exterior insulation finish system," "metal lathing," "plastering," "plastering contractor," "spray fireproofing," and "person."

SECTION 2. PLASTERING CONTRACTORS ADVISORY BOARD. Provides that the Plastering Contractors Advisory Board (board) is established as an advisory board to the Texas Department of Licensing and Regulation (department). Sets forth the composition of the board, terms of office for members, method of designating the board's presiding officer, procedure regarding the filling of vacancies, meeting times, and compensation and reimbursement for members. Authorizes the commissioner of licensing and regulation (commissioner) to remove a member of the board for inefficiency or neglect of duty in office. Requires the board to advise the commissioner in adopting rules, setting fees, establishing registration renewal requirements, and enforcing and administering this Act.

SECTION 3. ISSUANCE OF CERTIFICATE OF REGISTRATION; RULES. Requires the commissioner to issue a certificate of registration to an applicant for registration as a plastering contractor who possesses the necessary qualifications. Requires the commissioner to adopt rules relating to issuing a certificate of registration under this Act, and to prescribe all forms. Provides that a certificate of registration is valid for one year from the date of issuance.

SECTION 4. REGISTRATION REQUIREMENTS. Sets forth the terms by which a person, to qualify for a certificate of registration, is required to apply on a prescribed form, pay certain fees, show evidence of financial responsibility, show proof of insurance coverage, and provide the applicant's telephone number and mailing address. Requires the application to include certain other

information if the applicant is a partnership or corporation.

SECTION 5. FEES. Requires the Texas Commission of Licensing and Regulation (commission), by rule, to set application and registration fees.

SECTION 6. REGISTRATION RENEWAL; CONTINUING EDUCATION. Sets forth the terms by which a person holding a certificate of registration is authorized to renew the certificate, including presenting evidence of continuing education. Requires a holder of a certificate of registration who fails to renew the certificate before the date the registration expires to pay a late fee.

SECTION 7. COMMISSIONER AND DEPARTMENT DUTIES; INSPECTIONS. Requires the commissioner to enforce this Act. Requires the department to investigate allegations of violations of this Act, and authorizes the department to enter any place of business or other establishment at which alleged illegal activity occurs during reasonable business hours and without advance notice.

SECTION 8. SUSPENSION, REVOCATION, AND RENEWAL OF REGISTRATION; REISSUANCE. Requires the commissioner, after a hearing, to suspend or revoke a certificate of registration on a finding that a person made a material misstatement in an application; wilfully disregarded or violated this Act or a rule adopted under this Act; wilfully aided or abetted another in the violation of this Act or a rule adopted under this Act; was convicted for a crime, an essential element of which is a misstatement, fraud, or dishonesty, or a felony; or engaged in dishonorable or unethical conduct likely to deceive, defraud, or harm the public. Sets forth the terms by which the commissioner is authorized to reissue a certificate of registration to a person whose certificate of registration has been revoked.

SECTION 9. PROHIBITED ACTS. Prohibits a person from engaging in metal lathing, plastering, spray fireproofing, or the application of an exterior insulation finish system for compensation unless the person holds a plastering contractor certificate of registration, with certain exceptions. Prohibits a person from bidding on or accepting a prime contract to engage in those same activities unless the person is registered as a plastering contractor. Authorizes a person exempt from the registration requirements to be subject to any permit, inspection, or approval requirements prescribed by a municipal ordinance.

SECTION 10. OFFENSE; ADMINISTRATIVE PENALTY. Provides that a person commits a Class C misdemeanor if the person knowingly or intentionally acts as a plastering contractor without a certificate of registration. Establishes that a person who violates this Act or a rule adopted under this Act is subject to an administrative penalty assessed by the commission as provided by Section 17, Article 9100, V.T.C.S.

SECTION 11. TRANSITION. Sets forth the terms by which the commissioner is required to make initial appointments to the board.

SECTION 12. Effective date: September 1, 1997, except as provided by Subsection (b).

(b) Effective date for SECTIONS 9 and 10: March 1, 1998.

SECTION 13. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Redefines "plastering" to provide that the term does not include installing, texturing, or applying acoustical material.

SECTION 9.

Replaces the term "exterior insulation fire system" with "exterior insulation finish system."

SECTION 10.

Provides that the offense of knowingly or intentionally acting as a plastering contractor without a certificate of registration is a Class C, rather than a Class A misdemeanor.