

## **BILL ANALYSIS**

Senate Research Center

H.B. 2155  
By: Yarbrough (Harris)  
State Affairs  
5/12/1999  
Engrossed

### **DIGEST**

Currently, a contractor who wishes to perform plumbing, air conditioning, refrigeration, and backflow prevention services is required to obtain several specific licenses from several different agencies. H.B. 2155 creates the Texas State Board of Mechanical Industries to consolidate certain agencies to make a more effective and efficient system of licensing and inspection.

### **PURPOSE**

As proposed, H.B. 2155 creates the Texas State Board of Mechanical Industries to consolidate certain agencies to make a more effective and efficient system of licensing and inspection.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas State Board of Mechanical Industries in SECTION 1 (Sections 12(b), 17(b), 22(e), and 23, Title 132B, Article 9150, V.T.C.S.) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends V.T.C.S. by adding Title 132B, as follows:

#### **TITLE 132B. TEXAS STATE BOARD OF MECHANICAL INDUSTRIES**

#### **ART. 9150. TEXAS STATE BOARD OF MECHANICAL INDUSTRIES**

Sec. 1. DEFINITION. Defines "board."

Sec. 2. BOARD. Sets forth the 15 members of the Texas State Board of Mechanical Industries (board). Provides that the governor appoints board members with the senate's advice and consent. Sets forth standard language developed by the Sunset Advisory Commission.

Sec. 3. OFFICERS; MEETINGS; COMPENSATION. Requires the governor to designate a presiding officer to serve at the governor's will. Requires the board to annually select an assistant presiding officer and a secretary-treasurer. Sets forth required provisions for board meetings and board member compensation.

Sec. 4. TERMS. Sets forth the staggered six-year terms of board members. Requires a member appointed to fill a vacancy to hold office for the remainder of the term.

Sec. 5. PUBLIC MEMBERSHIP RESTRICTION. Prohibits a person from being a public board member under certain conditions.

Sec. 6. CONFLICT OF INTEREST RESTRICTIONS. Defines "Texas trade association" and adds standard language developed by the Sunset Advisory Commission.

Sec. 7. EFFECT OF LOBBYING ACTIVITY. Prohibits a person from serving as a board member if that person is required to register as a lobbyist, or for certain compensation that the person receives.

Sec. 8. GROUNDS FOR REMOVAL FROM BOARD. Sets forth grounds for removal of a board member. Provides that validity of board actions is not affected by the existence of a ground

for removal of a board member. Sets forth provisions for the executive director in the case of suspected grounds for removal of a board member, including the presiding officer.

Sec. 9. STAFF. Requires the board to employ an executive director and administrative and clerical employees as necessary to carry out board functions. Requires the board to develop and implement certain policies which separate certain responsibilities.

Sec. 10. REGULATORY STATUTES ADMINISTERED. Sets forth laws which the board is required to administer and enforce.

Sec. 11. ADVISORY COMMITTEES. Sets forth matters for which the board is required to appoint a separate advisory committee. Authorizes the board to appoint additional committees as necessary. Provides that an advisory committee member serves a two-year term. Sets forth entitlement prohibitions and reimbursement authorizations for an advisory committee member.

Sec. 12. SEPARATE LICENSES. Requires the board to issue separate licenses, certificates, permits, and registrations for certain programs. Authorizes the board to issue more than one type of documentation to a person who is qualified. Requires the board to adopt rules relating to the issuance of multiple licenses, certificates, permits, or registrations.

Sec. 13. EXPENDITURES; AUDIT. Authorizes the board to authorize necessary disbursements to carry out this article and certain laws. Subjects the board's financial transactions to audit by the state auditor.

Sec. 14. ANNUAL FINANCIAL REPORT. Requires the board to file a complete and detailed written report accounting for funds during the preceding fiscal year, to certain entities. Requires the annual report to be in the form and reported in the time provided by the General Appropriations Act.

Sec. 15. PERSONNEL POLICIES. Requires the development of an intra-agency career ladder program. Sets forth program requirements. Requires the development of a system of annual performance evaluations based on measurable job tasks. Requires all merit pay for board employees to be based on this system.

Sec. 16. EQUAL EMPLOYMENT OPPORTUNITY POLICIES. Sets forth standard language developed by the Sunset Advisory Commission.

Sec. 17. PUBLIC INTEREST INFORMATION. Requires the board to prepare and make available, information describing its functions and complaint procedures. Requires the board to establish methods to notify certain entities of necessary information to direct complaints to the board. Sets forth provisions for the board or responsible licensee to provide certain notification. Requires the board to list a toll-free complaint number under certain conditions.

Sec. 18. PUBLIC PARTICIPATION IN BOARD HEARINGS. Requires the board to develop and implement policies which provide the public with reasonable opportunities to speak on any issue under board jurisdiction.

Sec. 19. PROGRAM ACCESSIBILITY. Requires the board to prepare and maintain a written plan which describes how a non-English-speaker can access board programs. Requires the board to comply with federal and state laws regarding program and facility accessibility.

Sec. 20. BOARD MEMBER TRAINING; STANDARDS OF CONDUCT INFORMATION. Requires completion of a certain training program by a board member prior to taking certain actions, and sets forth training program requirements. Entitles a board member to travel expenses. Requires certain entities to provide information regarding requirements, responsibilities, and standards of conduct.

Sec. 21. SUNSET PROVISION. Provides that the board is subject to Chapter 325, Government Code. Provides that the board is abolished and this article expires September 1, 2011.

Sec. 22. PENALTIES. Requires the board to revoke or suspend certain documentation, or reprimand any regulated entity which violates certain statutes or this article. Creates violations of this article. Authorizes grounds for revocation to be determined through retesting procedures. Authorizes the board to assess a maximum \$1,000 administrative penalty against certain entities, and sets forth provisions for the violation. Entitles a person upon whom the board proposes to take certain actions, to a hearing. Requires certain entities to oversee and conduct matters involving violations. Subjects certain proceedings to the Administrative Procedure Act. Requires an entity charged with a penalty to complete certain action within a certain deadline. Sets forth provisions for a person who is financially unable to satisfy requirements of a penalty. Requires judicial review to be under the substantial evidence rule and requires the filing of a petition. Requires the board to take certain actions if the penalty is reduced or not assessed by the court. Requires a collected administrative penalty to be deposited in the general revenue fund. Creates a Class C misdemeanor offense for violating this article, certain statutes, and rules, and sets forth activities which are violations. Authorizes certain entities to issue citations to certain individuals participating in violation-related activities.

Sec. 23. EFFECT OF FEDERAL REGULATIONS. Requires the board to adopt rules that impose standards or requirements on regulated laws or programs.

SECTION 2. Amends Article 6243-101, V.T.C.S. (The Plumbing License Law), by adding Section 1A, as follows:

Sec. 1A. FUNCTIONS TRANSFERRED; BOARD ABOLISHED. Provides that this Act is administered by the board. Provides that Article 9150, V.T.C.S., prevails in the case of a conflict. Establishes that any reference to the Texas State Board of Plumbing Examiners means the board. Abolishes the State Board of Plumbing Examiners and transfers its functions to the board.

SECTION 3. Amends Article 8861, V.T.C.S. (The Air Conditioning and Refrigeration Contractor License Law), by adding Section 1A, as follows:

Sec. 1A. FUNCTIONS TRANSFERRED; ADVISORY BOARD ABOLISHED. Provides that any reference to the Texas Department of Licensing and Regulation, the commissioner of licensing and regulation, or the Air Conditioning and Refrigeration Contractors Advisory Board, means the board. Makes conforming changes.

SECTION 4. Amends Section 341.033(f), Health and Safety Code, to provide that any reference to the Texas Natural Resource Conservation Commission means the board. Makes conforming changes.

SECTION 5. Amends Chapter 372, Health and Safety Code, by adding Section 372.0015, as follows:

Sec. 372.0015. FUNCTIONS TRANSFERRED. Makes conforming changes.

SECTION 6. Amends Chapter 34, Water Code, by adding Section 34.0015, as follows:

Sec. 34.0015. FUNCTIONS TRANSFERRED; COUNCIL ABOLISHED. Provides that any reference to the Texas irrigators advisory council means the board. Makes conforming changes.

SECTION 7. Requires the governor to appoint the initial members of the board. Provides that if a person meets certain qualifications and is serving on an agency abolished by this Act immediately before the effective date, that person is eligible for appointment to the board. Sets forth requirements for the governor in the process of designating members for initial appointments. Prohibits the board from taking any action and existing before the initial board has unanimously taken office. Sets forth provisions for the board and certain agencies on the day of the board's creation. Requires certain agencies to exist until their abolishment. Requires the board to adopt rules by December 1, 1999.

SECTION 8. Repealers:

- (1) Sections 4, 4a, 5A, 6, and 7, Article 6243-101, V.T.C.S. (State Board of Plumbing Examiners, Sunset Provision, Personnel Policies, and Compensation of Board).
- (2) Section 3A, Article 8861, V.T.C.S. (Advisory Board).

(3) Section 34.003, Water Code (Irrigation Advisory Council).

SECTION 9. Effective date: September 1, 1999.

SECTION 10. Emergency clause.