

BILL ANALYSIS

Senate Research Center
78R17396 JMM-D

C.S.H.B. 1487
By: Driver (Armbrister)
State Affairs
5/23/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

Licensing and regulation of electrical work currently is a local responsibility in Texas. Some municipalities and regions have licensing and regulatory programs for electrical work, while others do not. C.S.H.B. 1487 enacts the Texas Electrical Safety and Licensing Act, creating a state license for six classes of electricians and two classes of contractors and adopting statewide standards for electrical workers in Texas.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive director of the Texas Department of Licensing and Regulation or to the Texas Commission of Licensing and Regulation in SECTION 1 (Section 1305.101, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the executive director of the Texas Department of Licensing and Regulation in SECTION 1 (Section 1305.102, 1305.152, 1305.167, and 1305.168, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the executive director of the Texas Department of Licensing and Regulation and to the Texas Commission of Licensing and Regulation as appropriate in SECTION 2 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 8, Occupations Code, by adding Chapter 1305, as follows:

CHAPTER 1305. ELECTRICIANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1305.001. **SHORT TITLE.** Authorizes this chapter to be cited as the Texas Electrical Safety and Licensing Act.

Sec. 1305.002. **DEFINITIONS.** Defines “advisory board,” “commission,” “department,” “electrical code,” “electrical contracting,” “electrical contractor,” “electrical engineer,” “electrical inspector,” “electrical work,” “executive director,” and “residential wireman.”

Sec. 1305.003. **EXEMPTIONS; APPLICATION OF CHAPTER.** (a) Provides that this chapter does not apply to: the design, installation, erection, repair, alteration, or maintenance of certain electrical equipment or to certain persons.

(b) Provides that this chapter applies to all premises wiring that originates where an electric utility's facilities end and a nonutility customer's electric facilities begin, except as permitted by Section 161.123(2)(A), Utilities Code.

(c) Provides that this chapter applies to an installation in a building used by a utility for purposes other than a purpose listed in this section, including an office building, warehouse, garage, machine shop, or recreational building that is not an integral part of a generating plant, substation, or control center.

[Reserves Sections 1305.004-1305.050 for expansion.]

SUBCHAPTER B. ADVISORY BOARD

Sec. 1305.051. ELECTRICAL SAFETY AND LICENSING ADVISORY BOARD. (a) Provides that the advisory board consists of nine certain members appointed by the presiding officer of the Texas Commission of Licensing and Regulation (TCLR) with the approval of TCLR.

(b) Requires the advisory board members to include certain members.

(c) Authorizes a licensed electrical engineer or an electrical inspector to be appointed as a public member of the advisory board.

(d) Requires an appointment to the advisory board to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 1305.052. TERMS; VACANCIES. (a) Provides that advisory board members serve terms of six years, with the terms of three members expiring on February 1 of each odd-numbered year.

(b) Prohibits a member from consecutively serving more than two full terms.

(c) Requires the presiding officer of TCLR, if a vacancy occurs during a term, to appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

Sec. 1305.053. PRESIDING OFFICER. Requires the presiding officer of TCLR to appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. Authorizes the presiding officer of the advisory board may vote on any matter before the advisory board.

Sec. 1305.054. COMPENSATION; REIMBURSEMENT OF EXPENSES. Provides that advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Sec. 1305.055. MEETINGS. Requires the advisory board to meet twice annually and authorizes the advisory board to meet at other times at the call of the presiding officer of TCLR.

[Reserves Sections 1305.056-1305.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 1305.101. GENERAL POWERS AND DUTIES. (a) Requires the executive director or TCLR, as appropriate, to: by rule establish the financial responsibility requirements for electrical contractors; and after publication of the National Electrical Code by the National Fire Protection Association every three years, adopt the revised National Electrical Code as the electrical code for the state.

(b) Authorizes the executive director or commissioner, as appropriate, to: establish reciprocity agreements with other states that have licensing requirements substantially equivalent to the requirements of this chapter; and take other action as necessary to administer and enforce this chapter.

Sec. 1305.102. RULES. (a) Requires the executive director to adopt rules for the licensing of electricians and electrical contractors as prescribed by this chapter.

(b) Requires the executive director by rule to prescribe descriptions of the types of activities that may be performed by each class of license holder under this chapter.

(c) Requires the executive director by rule to adopt standards of conduct requirements for license holders under this chapter.

Sec. 1305.103. FEES. Requires TCLR to establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 1305.104. POWERS AND DUTIES OF ADVISORY BOARD. Requires the advisory board to provide advice and recommendations to the Texas Department of Licensing and Regulation (TDLR) on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, electrical code requirements, and continuing education requirements.

Sec. 1305.105. PERSONNEL. Authorizes TDLR to employ personnel necessary to administer and enforce this chapter. Requires TDLR to employ an electrical occupations and code specialist to oversee the electrical licensing and safety program.

[Reserves Sections 1305.106-1305.150 for expansion.]

SUBCHAPTER D. LICENSE REQUIREMENTS

Sec. 1305.151. LICENSE REQUIRED. Prohibits a person from performing electrical work unless the person holds an appropriate license issued or recognized under this chapter, except as provided by Section 1305.003.

Sec. 1305.152. APPLICATION REQUIREMENTS. (a) Requires an applicant for a license under this chapter to meet certain requirements.

(b) Requires the executive director to adopt rules to establish a process by which TDLR shall evaluate the experience required of applicants for a license under this chapter.

(c) Authorizes TDLR to conduct an examination of any criminal conviction of an applicant, including obtaining any criminal history record information permitted by law.

Sec. 1305.153. REQUIREMENTS FOR MASTER ELECTRICIAN. Requires an applicant for a license as a master electrician to: have at least 12,000 hours of on-the-job training under the supervision of a master electrician; and pass a master electrician examination administered under this chapter.

Sec. 1305.154. MASTER SIGN ELECTRICIAN. Requires an applicant for a license as a master sign electrician to: have at least 12,000 hours of on-the-job training under the supervision of a master sign electrician; and pass a master sign electrician examination administered under this chapter.

Sec. 1305.155. JOURNEYMAN ELECTRICIAN. Requires an applicant for a license as a journeyman electrician to: have at least 8,000 hours of on-the-job training under the supervision of a master electrician; and pass a journeyman electrician examination administered under this chapter.

Sec. 1305.156. JOURNEYMAN SIGN ELECTRICIAN. Requires an applicant for a license as a journeyman sign electrician to: have at least 8,000 hours of on-the-job training under the supervision of a master sign electrician; and pass a journeyman sign electrician examination administered under this chapter.

Sec. 1305.157. RESIDENTIAL WIREMAN. Requires an applicant for a license as a residential wireman to: have at least 4,000 hours of on-the-job training under the supervision of a master electrician or residential wireman; and pass a residential wireman examination administered under this chapter.

Sec. 1305.158. MAINTENANCE ELECTRICIAN. Requires an applicant for a license as a maintenance electrician to: have at least 8,000 hours of on-the-job training under the supervision of a master electrician or maintenance electrician; and pass a maintenance electrician examination administered under this chapter.

Sec. 1305.159. ELECTRICAL CONTRACTOR. (a) Requires an applicant for a license as an electrical contractor to: be licensed under this chapter as a master electrician or employ a person licensed under this chapter as a master electrician; establish proof of financial responsibility in the manner prescribed by the executive director; and maintain workers' compensation coverage for the contractor's employees through an insurance company authorized to engage in the business of insurance in this state or through self-insurance, or elect not to obtain workers' compensation coverage, as provided by Subchapter A, Chapter 406, Labor Code.

(b) Provides that a person who holds a master electrician license issued or recognized by this chapter may only be assigned to a single electrical contractor, unless the master electrician owns more than 50 percent of the electrical contracting business.

Sec. 1305.160. ELECTRICAL SIGN CONTRACTOR. (a) Requires an applicant for a license as an electrical sign contractor to: be licensed under this chapter as a master sign electrician or employ a person licensed under this chapter as a master sign electrician; establish proof of financial responsibility in the manner prescribed by the executive director; and maintain workers' compensation coverage for the contractor's employees through an insurance company authorized to engage in the business of insurance in this state or through self-insurance, or elect not to obtain workers' compensation coverage, as provided by Subchapter A, Chapter 406, Labor Code.

(b) Provides that a person who holds a master sign electrician license issued or recognized by this chapter may only be assigned to a single electrical contractor, unless the master sign electrician owns more than 50 percent of the electrical sign contracting business.

Sec. 1305.161. ELECTRICAL APPRENTICE. Requires an applicant for a license as an electrical apprentice to be at least 16 years of age and be engaged in the process of learning and assisting in the installation of electrical work under the supervision of a licensed master electrician.

Sec. 1305.162. EXAMINATIONS. (a) Requires examinations required by this subchapter to be conducted throughout the state.

(b) Requires TDLR to accept, develop, or contract for the examinations required by this chapter, including the administration of the examinations. Requires each examination to test the knowledge of the applicant about materials and methods used in electrical installations and the standards prescribed by the National Electrical Code as adopted by the executive director.

(c) Requires the executive director to determine uniform standards for acceptable performance on an examination.

Sec. 1305.163. EXAMINATION RESULTS. (a) Requires TDLR, not later than the 30th day after the date on which an examination is administered under this chapter, to notify each examinee of the results of the examination. Requires TDLR, if an examination is graded or reviewed by a national testing service, to notify examinees of the result of the examination not later than the 14th day after the date on which TDLR receives the results from the testing service.

(b) Requires TDLR, if the notice of the examination results will be delayed for more than 60 days after the examination date, to notify each examinee of the reason for the delay before the 60th day.

(c) Requires TDLR, if requested in writing by a person who fails an examination administered under this chapter, to provide to the person an analysis of the person's performance on the examination.

Sec. 1305.164. NONRESIDENT LICENSE APPLICANT. Authorizes the executive director to issue a license under this chapter to an applicant who holds a license in another state and who submits a proper application and pays the required fees if the executive director determines that the applicant is licensed in a state with which there is an agreement to recognize licenses issued under this chapter.

Sec. 1305.165. LICENSE ISSUANCE; NONTRANSFERABILITY. (a) Requires the executive director, not later than the 30th day after the date on which TDLR determines that an applicant has passed the examination required under this chapter, to issue a license to the applicant if the applicant has complied with the application requirements and paid the fees required by this chapter.

(b) Provides that a license issued by the executive director is valid throughout this state and is not transferable.

Sec. 1305.166. DISPLAY OF LICENSE. (a) Requires an electrical contractor and electrical sign contractor to display the contractor's business name and the number of the license issued by the executive director on each vehicle owned by the contractor.

(b) Requires the information required to be displayed to be: printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and permanently affixed in conspicuous places on both sides of the vehicle.

Sec. 1305.167. LICENSE RENEWAL. (a) Provides that except as provided by Subsection (b), a license expires annually on December 31 and may be renewed annually on payment of the required renewal fee.

(b) Authorizes the executive director by rule to adopt a system under which licenses expire on various dates during the year. Requires, for the year in which the license expiration date is changed, renewal fees payable on or before December 31 to be

prorated on a monthly basis so that each license holder pays only that portion of the renewal fee that is applicable to the number of months during which the license is valid. Provides that on renewal of the license on the new expiration date, the total renewal fee is due.

(c) Requires TDLR, not later than the 30th day preceding the expiration date of a person's license, to notify the person in writing, at the person's last known mailing address, of the impending license expiration. Authorizes a person to renew an unexpired license by paying to TDLR, before the license expiration date, the required renewal fee.

(d) Authorizes a person whose license has been expired for 90 days or less to renew the license by paying to TDLR the required renewal fee and a late fee in an amount equal to half of the license fee. Authorizes a person whose license has been expired for more than 90 days but less than two years to renew the license by paying to TDLR all unpaid renewal fees and a late fee in an amount equal to the license fee. Prohibits a person whose license has been expired for more than two years from renewing the license. Authorizes the person to obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

Sec. 1305.168. CONTINUING EDUCATION. (a) Provides that to renew a master electrician, journeyman electrician, master sign electrician, journeyman sign electrician, maintenance electrician, or residential wireman license, the license holder must complete four hours of continuing education annually.

(b) Requires continuing education courses that satisfy the requirements of this section to address the National Electrical Code, as adopted under Section 1305.101, and state laws and rules that regulate the conduct of license holders under this chapter.

(c) Requires the executive director by rule to approve continuing education courses, course content, and course providers. Authorizes TDLR to adopt a fee for the administration of TDLR's duties regarding continuing education.

[Reserves Sections 1305.169-1305.200 for expansion.]

SUBCHAPTER E. REGULATION OF ELECTRICIANS BY LOCAL GOVERNMENTS

Sec. 1305.201. MUNICIPAL OR REGIONAL REGULATION. (a) Provides that this chapter does not prohibit a municipality or region from regulating electricians by: enacting an ordinance requiring inspections; offering examinations; issuing municipal or regional licenses; or collecting permit fees for municipal or regional licenses and examinations from electricians for work performed in the municipality or region.

(b) Prohibits a municipality or region from requiring a person to take a municipal or regional examination if that person holds the appropriate license issued under this chapter and is working within the scope of that license.

(c) Authorizes a municipality to adopt procedures for the:
(1) adoption of local amendments to the National Electrical Code; and
(2) administration and enforcement of that code.

(d) Requires electrical work performed within the corporate limits of a municipality to be installed in accordance with all applicable local ordinances.

(e) Requires electrical work performed in an unincorporated area of the state to be

installed in accordance with standards at least as stringent as the requirements of the state electrical code as adopted under Section 1305.101.

Sec. 1305.202. SCOPE OF MUNICIPAL OR REGIONAL LICENSE. Provides that a license to perform electrical work issued by a municipality or region is valid only in the municipality or region or in another municipality or region under a reciprocal agreement.

[Reserves Sections 1305.203-1305.250 for expansion.]

SUBCHAPTER F. LICENSE DENIAL AND DISCIPLINARY ACTIONS

Sec. 1305.251. GROUNDS FOR DENIAL OR DISCIPLINARY ACTION. Provides that a person is subject to denial of a license application or disciplinary action under Section 51.353 if the person violates: this chapter or a rule adopted under this chapter; or a rule or order of the executive director or commission.

Sec. 1305.252. REQUESTED SUSPENSION BY LOCAL GOVERNMENT. Authorizes a municipality or region to request suspension for just cause of the license under this chapter of a license holder working in its jurisdiction.

Sec. 1305.253. HEARINGS; ADMINISTRATIVE PROCEDURE. (a) Provides that if TDLR proposes to deny a license or take disciplinary action against a license holder, the license holder is entitled to a hearing.

(b) Provides that the proceedings relating to a license denial and disciplinary action by TDLR under this chapter are governed by Chapter 2001, Government Code. Authorizes a hearing under this chapter to be conducted by a hearings officer designated by TDLR.

Sec. 1305.254. NEW APPLICATION BY HOLDER OF REVOKED LICENSE. Authorizes a license holder whose license has been revoked to apply for a new license after the first anniversary of the date of the revocation.

[Reserves Sections 1305.255-1305.300 for expansion.]

SUBCHAPTER G. ENFORCEMENT

Sec. 1305.301. ADMINISTRATIVE PENALTY. (a) Authorizes the executive director to impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a license under this chapter, if the person violates: this chapter or a rule adopted under this chapter; or a rule or order of the executive director or commission.

(b) Prohibits an administrative penalty from being imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 1305.302. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) Authorizes the executive director to issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) Authorizes the attorney general or executive director to institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 1305.303. CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person: violates the licensing requirements of this chapter; performs electrical work without

a license to perform electrical work in this state; or employs an individual who does not hold the appropriate license required by this chapter.

(b) Provides that an offense under this section is a Class C misdemeanor.

SECTION 2. (a) Effective date: September 1, 2003, except as otherwise provided by this section.

(b) Provides that Sections 1305.151 and 1305.303, Occupations Code, as added by this Act, take effect September 1, 2004.

(c) Requires the presiding officer of the Texas Commission of Licensing and Regulation, in making the initial appointments to the Electrical Safety and Licensing Advisory Board, to appoint:

- (1) three members for terms expiring February 1, 2005;
- (2) three members for terms expiring February 1, 2007; and
- (3) three members for terms expiring February 1, 2009.

(d) Requires the executive director of the TDLR and the Texas Commission of Licensing and Regulation, as appropriate, to adopt rules under Chapter 1305, Occupations Code, as added by this Act, relating to an original application for a license under that chapter not later than March 1, 2004, and adopt rules under Chapter 1305, Occupations Code, as added by this Act, relating to renewal of a license and continuing education requirements not later than January 1, 2005.

SECTION 3. (a) Requires the Texas Department of Licensing and Regulation to issue a license to a qualified applicant under this section who meets certain criteria.

(b) Provides that an applicant for a license under this section as a master electrician who works in an area in which a municipal or regional licensing program exists is required to have met certain criteria.

(c) Provides that an applicant for a license under this section as a master electrician working in an area in which a municipal or regional licensing program does not exist is required to have completed at least 20,000 hours of on-the-job training under the supervision of a master electrician.

(d) Provides that an applicant for a license under this section as a master sign electrician working in an area in which a municipal or regional licensing program exists is required to have met certain criteria.

(e) Provides that an applicant for a license under this section as a master sign electrician working in an area in which a municipal or regional licensing program does not exist is required to have met certain criteria.

(f) Provides that an applicant for a license under this section as a journeyman electrician is required to have met certain criteria.

(g) Provides that an applicant for a license under this section as a journeyman sign electrician is required to have met certain criteria.

(h) Provides that an applicant for a license under this section as a residential wireman is required to have met certain criteria.

(i) Provides that an applicant for a license under this section as a maintenance electrician is required to have met certain criteria.

(j) Provides that this section expires September 1, 2005.