

BILL ANALYSIS

H.B. 2458
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Agriculture & Livestock
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Structural Pest Control Board was created in 1971 to ensure that those who perform pest control activities in buildings, homes, and other structures are qualified, competent, and adhere to established professional standards. The Board has two primary functions: license commercial and non-commercial pest control professionals, and enforce the Texas Structural Pest Control Act and federal law through inspections and complaint investigations.

The Board is subject to the Sunset Act and will be abolished on September 1, 2007, unless continued by the Legislature. The Sunset review found that while the State should continue regulation of the structural pest control industry, improvements should be made to licensing and enforcement processes, and the State no longer needs an independent agency to perform this regulation. As a result, the Sunset Commission recommended abolishing the Board and transferring its functions to the Texas Department of Agriculture and making several other statutory modifications that are contained in this legislation.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Agriculture in SECTION 1.10, SECTION 1.25, SECTION 1.47, SECTION 3.01, and SECTION 3.04 of this bill.

It is the committee's opinion that the rule-making authority previously delegated to The Texas Structural Pest Control Board are transferred to the Department of Agriculture in SECTION 1.18, SECTION 1.19, SECTION 1.20, SECTION 1.22, SECTION 1.27, SECTION 1.38, SECTION 1.42, SECTION 1.56, SECTION 1.57, SECTION 1.61, SECTION 1.73 of this bill.

It is the committee's opinion rulemaking authority is expressly delegated to the Executive Commissioner of the Health and Human Services Commission in SECTION 1.22 of this bill.

ANALYSIS

Abolish and Transfer

H.B. 2458 abolishes the Texas Structural Pest Control Board and transfers its functions to the Texas Department of Agriculture. The bill creates an advisory committee and applies standard Sunset provisions regarding requirements for public members and for conflicts of interest to the committee's members. The bill establishes the duties of the committee, including advising the Department on structural pest control issues. The bill requires the Department to adopt rules governing the advisory committee, and the Commissioner of Agriculture to appoint committee members by September 1, 2008. The bill provides transition language for the abolishment of the Texas Structural Pest Control Board by continuing the agency until March 1, 2008 for the purpose of transferring obligations and duties to the new agency. The bill repeals provisions defining the Board and pertaining to the Board's sunset date, board member removal and compensation, and agency staffing.

Risk-based Enforcement

H.B. 2458 eliminates the requirement for all pest control businesses to be inspected every two years and instead allows the Department of Agriculture to determine its inspection frequency based on an assessment of risk, but at least once every four years after the first year of operation. The bill requires the Department to inspect all school districts for compliance with integrated pest management program requirements at least every five years, and more frequently according to a schedule based on risk.

Licensing Exams

H.B. 2458 requires the Department of Agriculture to develop a formal policy for developing, revising, and administering its structural pest control licensing exams.

Integrated Pest Management Program for School Districts

H.B. 2458 80(R)

H.B. 2458 removes the requirement for a list of pesticide products that school districts may use and the requirement for schools to restrict entry for 12 hours following pesticide applications. Instead, the bill requires the Department of Agriculture to establish categories of pesticides school districts may apply and to specify the requirements that pertain to each category in the Integrated Pest Management (IPM) program for school districts.

The bill requires all school districts to provide contact information for their IPM coordinators to the Department within 90 days of appointing a new coordinator.

The bill requires all IPM coordinators to complete six hours of continuing education every three years.

Beekeepers

H.B. 2458 allows beekeepers to remove bees from structures without a license from the Department of Agriculture, as long as they do not use pesticides.

Conform Licensing and Enforcement Functions to Commonly Applied Licensing Practices

H.B. 2458 eliminates licensing and administrative fee caps for structural pest control and authorizes the Department of Agriculture to set fees in rule at the level necessary to recover program costs.

The bill requires the Department of Agriculture to clearly outline the enforcement process related to structural pest control and make this information and information in complaint files accessible to licensees.

The bill authorizes agency staff to administratively dismiss structural pest control complaints and report these actions to the Commissioner of Agriculture.

The bill requires the Department of Agriculture to make information on enforcement actions related to structural pest control available to the public on the agency's website and in other appropriate publications.

The bill requires the Department of Agriculture to base delinquent structural pest control license renewal fees on the standard renewal fee.

The bill authorizes the Commissioner of Agriculture to temporarily suspend a structural pest control license.

The bill authorizes the Department of Agriculture to issue cease-and-desist orders to stop the unlicensed practice of structural pest control.

The bill grants the Department of Agriculture authority to immediately stop the use or distribution of banned pesticides for structural pest control.

EFFECTIVE DATE

September 1, 2007, except that SECTION 3.02 takes effect immediately upon passage, or, if the Act does not receive the necessary vote, SECTION 3.02 does not take effect