

## **BILL ANALYSIS**

C.S.H.B. 1853  
By: Hamilton  
Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

According to interested parties, there is a need to license fire protection sprinkler technicians in Texas for the installation, servicing, or maintenance of only the specific type of fire protection sprinkler system for which the individual's license or the individual's direct supervisor's license has been issued. C.S.H.B. 1853 makes certain changes relating to the licensing and regulation of certain employees of fire protection sprinkler system contractors.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTIONS 3 and 6 and to the commissioner of insurance and the state fire marshal in SECTION 11 of this bill.

### **ANALYSIS**

C.S.H.B. 1853 amends the Insurance Code to create a fire protection sprinkler technician license that authorizes the holder to install, service, or maintain only the specified type of fire protection sprinkler system for which the individual's license or the individual's direct supervisor's license has been issued. The bill defines those types of licenses as a "general technician license," which means a license authorizing the holder to install, service, or maintain any fire protection sprinkler system; a "dwelling technician license," which means a license authorizing the holder to install, service, or maintain a fire protection sprinkler system located in a one-family or two-family residence; and an "underground fire main technician license," which means a license authorizing the holder to install, service, or maintain an assembly of underground piping or conduits that convey water, with or without other agents, as part of a fire protection system.

C.S.H.B. 1853 requires the Texas Department of Insurance (TDI), under rules issued by the commissioner of insurance necessary to administer provisions of law relating to fire protection sprinkler system service and installation through the state fire marshal, to create a specialized licensing program for fire protection sprinkler technicians. The bill establishes the number of hours of experience and the examination requirements for each type of license and requires the issuance of a fire protection sprinkler technician license to be conditioned on the successful completion of the appropriate license examination and compliance with the requirements of any applicable rules adopted under the bill's provisions.

C.S.H.B. 1853 requires each fire protection sprinkler system contractor to ensure that at least one person who holds a fire protection sprinkler technician license or a responsible managing employee license is present at a location where a fire protection sprinkler system is being installed, maintained, repaired, or tested by an employee of the contractor. The bill specifies that the home address, home telephone number, driver's license number, and social security number of a license holder or an applicant for a license under the bill's provisions are confidential and not subject to disclosure under state open records law.

C.S.H.B. 1853 prohibits an individual from acting as a fire protection sprinkler technician unless

the individual holds a license issued by TDI as a fire protection sprinkler technician or as a responsible managing employee of a company that plans, sells, installs, maintains, or services fire protection sprinkler systems or unless the person is directly supervised by an individual who holds such a license and authorizes a license holder to install, service, or maintain only the type of fire protection sprinkler system for which the individual's license or the individual's direct supervisor's license has been issued. The bill prohibits an individual from using the term "licensed fire protection sprinkler technician" in the person's contracts or advertising materials unless the individual holds such a license. The bill makes it a Class B misdemeanor offense to violate these provisions.

C.S.H.B. 1853 requires the state fire marshal to develop the required license examinations under the bill's provisions based on the most recent applicable guidelines published by the National Fire Protection Association.

C.S.H.B. 1853 requires a person who holds a license as a fire protection sprinkler technician or a responsible managing employee to annually complete at least eight hours of continuing education in accordance with commissioner rules and removes a provision making licensee participation voluntary in the continuing education programs relating to fire protection sprinkler system service and installation.

C.S.H.B. 1853 requires, rather than authorizes, TDI to waive any license requirement for an applicant for a license issued under provisions of law relating to fire protection sprinkler service and installation who holds a license issued by another state if the other state has license requirements substantially equivalent to those of Texas and adds as a requirement for waiving the license requirement for such an applicant that the other state has a reciprocal license statute that is substantially equivalent to statutory provisions governing such a license for individuals licensed in Texas. The bill prohibits an individual who holds a fire protection sprinkler technician license or a responsible managing employee license from installing, servicing, or maintaining a fire protection sprinkler system unless the license holder is employed by a fire protection sprinkler system contractor and prohibits such an individual from being employed by more than one such contractor at the same time.

C.S.H.B. 1853 requires the commissioner of insurance and the state fire marshal, as soon as possible after the bill's effective date, and not later than September 1, 2012, to adopt the rules and establish the procedures and examination requirements necessary to implement the licensing of fire protection sprinkler technicians, as amended by the bill. The bill specifies that a fire protection sprinkler technician is not required to hold a license in accordance with the bill's provisions before September 1, 2013. The bill requires TDI to issue a license to a qualified applicant who applies for a fire protection sprinkler technician license under the bill's provisions or a responsible managing employee license, not later than September 1, 2013, and meets other specified requirements set forth in the bill.

C.S.H.B. 1853 defines "dwelling technician license," "fire protection sprinkler technician," "general technician license," and "underground fire main technician license"; redefines "license" to make conforming changes; and makes other conforming changes.

#### **EFFECTIVE DATE**

September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1853 differs from the original by requiring a person licensed by the Texas Department of Insurance (TDI) as a fire protection sprinkler technician or a responsible managing employee of a company that plans, sells, installs, maintains, or services fire protection sprinkler systems to annually complete at least eight hours of continuing education in accordance with commissioner

rules, whereas the original makes that requirement applicable only to a person licensed as a fire protection sprinkler technician. The substitute differs from the original by removing the provision of law making licensee participation voluntary in the continuing education programs relating to fire protection sprinkler system service and installation, whereas the original retains that statutory provision and adds an exception to it.

C.S.H.B. 1853 differs from the original by prohibiting the holder of a fire protection sprinkler technician license or a responsible managing employee license from installing, servicing, or maintaining a fire protection sprinkler system unless the license holder is employed by a fire protection sprinkler system contractor and prohibits such an individual from being employed by more than one such contractor at the same time, whereas the original makes those prohibitions applicable only to a fire protection sprinkler technician.

C.S.H.B. 1853 differs from the original by prohibiting a person from acting as a fire protection sprinkler technician unless the person holds a fire protection sprinkler technician license or a responsible managing employee license or unless the person is directly supervised by an individual who holds such a license and by authorizing a license holder to install, service, or maintain only the type of fire protection sprinkler system for which the individual's license or the individual's direct supervisor's license has been issued, whereas the original makes that prohibition and authorization applicable only to a person acting as a fire protection sprinkler technician.

C.S.H.B. 1853 differs from the original, in the certification requirements for a fire protection sprinkler technician license, by requiring the applicant to pass the National Institute for Certification in Engineering Technologies Level II test for inspection and testing of water-based systems, whereas the original permits the applicant to pass the institute's Level III test as an alternative to that requirement.

C.S.H.B. 1853 contains a provision not included in the original requiring each fire protection sprinkler system contractor to ensure that at least one person who holds a fire protection sprinkler technician license or a responsible managing employee license is present at a location where a fire protection sprinkler system is being installed, maintained, repaired, or tested by an employee of the contractor.

C.S.H.B. 1853 differs from the original by requiring the commissioner of insurance and the state fire marshal to adopt the rules and establish the procedures and examination requirements necessary to implement the licensing of fire protection sprinkler technicians, as amended by the substitute, not later than September 1, 2012, whereas the original specifies that date as not later than January 1, 2012.

C.S.H.B. 1853 differs from the original by specifying that a fire protection sprinkler technician is not required to hold a license in accordance with the substitute's provisions before September 1, 2013, whereas the original specifies that date to be before July 1, 2012.

C.S.H.B. 1853 differs from the original by requiring TDI to issue a license to a qualified applicant who, in addition to meeting other specified requirements set forth in the substitute, applies for a license under the substitute's provisions or a responsible managing employee license not later than September 1, 2013, whereas the original specifies that date as not later than September 1, 2012. The substitute differs from the original by making a conforming change.