

## **BILL ANALYSIS**

C.S.S.B. 1244  
By: Carona  
Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

According to interested parties, the heating, ventilating, and air conditioning industry has undergone many changes over recent years, and they assert that statutes governing the licensing and regulation of air conditioning and refrigeration contractors need revision to reflect those changes. C.S.S.B. 1244 makes changes relating to the licensing and regulation of air conditioning and refrigeration contractors and contracting companies.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTIONS 2, 3, 8, and 20 of this bill.

### **ANALYSIS**

C.S.S.B. 1244 amends the Occupations Code to require the Texas Commission of Licensing and Regulation to adopt rules providing for the licensing and registration of persons under the Air Conditioning and Refrigeration Contractor License Law, including requirements for the issuance and renewal of an air conditioning and refrigeration contractor license and an air conditioning and refrigeration technician registration; establishing fees necessary for the administration of the law, including fees for issuance and renewal of a contractor license and a technician registration; and implementing the requirements of the act as applicable to persons, entities, and activities regulated under the law. The bill requires the commission by rule to set insurance requirements for a license holder under the law, rather than requiring the executive director of the Texas Department of Licensing and Regulation (TDLR) to set those requirements. The bill removes a requirement that TDLR employ at least two full-time air conditioning and refrigeration contractors to serve as examiners.

C.S.S.B. 1244 exempts the public member of the air conditioning and refrigeration contractors advisory board from the requirement that each appointed advisory board member be experienced in the design, installation, construction, maintenance, service, repair, or modification of equipment used for environmental air conditioning, commercial refrigeration, or process cooling or heating and from other requirements relating to the composition of the advisory board. The bill specifies that the requirement that at least one appointed advisory board member be an air conditioning and refrigeration contractor who employs organized labor refers to at least one of the four appointed members who are required to be full-time licensed air conditioning and refrigeration contractors. The bill removes the requirement that at least two appointed members be air conditioning and refrigeration contractors who are licensed engineers.

C.S.S.B. 1244 specifies that a person holding an air conditioning and refrigeration contractor license is authorized to assign that license to only one permanent office of one air conditioning and refrigeration contracting company.

C.S.S.B. 1244 establishes eligibility requirements for an applicant for an air conditioning and refrigeration contractor license under provisions of law regulating such licenses and removes

eligibility requirements for an applicant for a license under the Air Conditioning and Refrigeration Contractor License Law. The bill requires an applicant for an air conditioning and refrigeration contractor license to have 48 months of practical experience in air conditioning and refrigeration-related work under the supervision of a licensed air conditioning and refrigeration contractor in the preceding 72 months and authorizes an applicant who has equivalent experience in another state or who held an equivalent license in another state to receive credit for the experience as determined by the executive director. The bill authorizes an applicant to satisfy a portion of the practical experience requirement by obtaining a degree or diploma or completing a certification program from an institution of higher education that holds a certificate of authority issued by the Texas Higher Education Coordinating Board, or an equivalent governing body in another state as approved by the executive director, and specifies the portion of the practical experience requirement satisfied by completing certain degrees or programs, including the completion of a program resulting in an applicable degree, diploma, or certification that is required to be equivalent to the amount of practical experience determined by TDLR under commission rule. The bill establishes that every 2,000 hours of on-the-job training in an apprenticeship program is equivalent to 12 months of practical experience and that certain military service and other specified experience qualifies as practical experience for purposes of satisfying the 48-month requirement. The bill defines "apprenticeship program."

C.S.S.B. 1244 specifies that an application for an air conditioning and refrigeration contractor license must be accompanied by the required fees, rather than only the examination fee. The bill includes among the requirements for TDLR's issuance of such a license to an applicant the applicant's submission of a verified application; meeting the requirements of Air Conditioning and Refrigeration Contractor License Law and rules adopted under the law, rather than meeting the requirements of provisions of law relating to the license; and payment of the required fees, rather than payment only of the license fee. The bill establishes that a license issued under the law expires on the first anniversary of the date of issuance, rather than at the end of the license period set by the commission.

C.S.S.B. 1244 establishes that certain limitations on a license holder refer to a person licensed as a contractor under provisions of law relating to the licensing requirements for an air conditioning and refrigeration contractor, rather than a person licensed under the Air Conditioning and Refrigeration Contractor License Law. The bill expands the circumstances under which a person commits a Class C misdemeanor offense under the Air Conditioning and Refrigeration Contractor License Law to include knowingly engaging in air conditioning and refrigeration maintenance work without holding an air conditioning and refrigeration contractor license or air conditioning and refrigeration technician registration issued under that law.

C.S.S.B. 1244 establishes that a person is not required to obtain an air conditioning and refrigeration technician registration if the person only assists a licensed contractor in performing the total replacement of a system or the installation or repair of a boiler or pressure vessel that must be installed in accordance with rules adopted under statutory provisions governing boilers. The bill sets the minimum age for such an applicant at 18 years of age and establishes that the applicant is not required to have practical experience or take an examination to obtain the registration. The bill specifies that the application a registration applicant is required to submit is a verified application and is on a form prescribed by the executive director of TDLR, rather than by the commission. The bill requires the completed application to be accompanied by the required fees, rather than the application fee. The bill requires TDLR to issue an air conditioning and refrigeration technician registration to an applicant who submits a verified application, meets the requirements of the Air Conditioning and Refrigeration Contractor License Law and rules adopted under the law, and pays the required fees. The bill removes a provision requiring TDLR, on receipt of a completed application, to register an applicant who meets the requirements under provisions of law governing air conditioning and refrigeration technicians.

C.S.S.B. 1244 prohibits a person registered as an air conditioning and refrigeration technician from assisting a person who is not a licensed air conditioning and refrigeration contractor in the

performance of air conditioning and refrigeration maintenance work or from performing, offering to perform, or attempting to perform an act that is defined as the practice of engineering under The Texas Engineering Practice Act, unless the person holds a license under that act; regulated under the Liquefied Petroleum Gas Code, unless the person holds a license under those provisions or is exempt by rule adopted under those provisions; or defined as plumbing under the Plumbing License Law, unless the person holds a license under that law.

C.S.S.B. 1244 repeals provisions of law providing a license exemption for certain persons who assist in air conditioning and refrigeration contracting; relating to a directory of holders of air conditioning and refrigeration contractor licenses; relating to the requirement for an affirmative vote by the air conditioning and refrigeration contractors advisory board for certain actions; relating to the frequency and locations of examinations for an air conditioning and refrigeration contractor license; requiring the executive director of TDLR to adopt certain rules relating to the registration of air conditioning and refrigeration technicians; and relating to the renewal of an air conditioning and refrigeration technician registration.

C.S.S.B. 1244 requires the commission, not later than March 1, 2012, to adopt rules to implement the Air Conditioning and Refrigeration Contractor License Law as amended by the bill. The bill makes its provisions relating to the eligibility requirements for an applicant for an air conditioning and refrigeration contractor license applicable only to an application for a license or registration under those provisions submitted to TDLR on or after November 1, 2012.

C.S.S.B. 1244 repeals the following provisions of the Occupations Code:

- Section 1302.062
- Section 1302.106
- Section 1302.209
- Sections 1302.257(c) and (d)
- Section 1302.502
- Section 1302.507

#### **EFFECTIVE DATE**

September 1, 2011.

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

C.S.S.B. 1244 omits a provision contained in the original changing the short title for statutory provisions governing air conditioning and refrigeration contractors.

C.S.S.B. 1244 contains a provision not included in the original defining "apprenticeship program" and omits provisions included in the original defining "air conditioning and refrigeration trainee" and redefining "advisory board" and "air conditioning and refrigeration technician." The substitute omits provisions included in the original redesignating an "air conditioning and refrigeration contractor" as an "air conditioning and refrigeration master" and making conforming changes in accordance with that redesignation.

C.S.S.B. 1244 omits a provision included in the original expanding the rulemaking authority of the Texas Commission of Licensing and Regulation to include rules for the practice of air conditioning and refrigeration maintenance work that are at least as strict as the standards provided by the Uniform Mechanical Code and the International Mechanical Code.

C.S.S.B. 1244, in the requirement that the commission adopt certain rules relating to licensing, fees, and the implementation of provisions relating to air conditioning and refrigeration

contractors, contains a specification not included in the original that those rules include rules providing for the registration of air conditioning and refrigeration technicians and omits a specification included in the original that those rules include rules providing for the licensing of entities under those provisions.

C.S.S.B. 1244, in the requirement that the commission by rule set certain insurance requirements for a license holder under provisions of law governing air conditioning and refrigeration contractors, omits a specification included in the original that the insurance requirements are for an air conditioning and refrigeration contracting company licensed under those provisions. The substitute omits a provision included in the original removing an authorization for the executive director to waive the insurance requirements for a license holder who does not engage in air conditioning and refrigeration contracting for the public.

C.S.S.B. 1244 omits a provision included in the original changing the name of the air conditioning and refrigeration contractors advisory board to the air conditioning and refrigeration advisory board.

C.S.S.B. 1244 omits a provision included in the original authorizing an air conditioning and refrigeration master to engage in air conditioning and refrigeration contracting only for certain licensed air conditioning and refrigeration contracting companies and omits a provision included in the original removing the requirement that an air conditioning and refrigeration contracting company must employ full time in each permanent office a license holder who holds an appropriate license assigned to that company.

C.S.S.B. 1244 differs from the original by authorizing a person holding an air conditioning and refrigeration contractor license to assign that license to only one permanent office of one air conditioning and refrigeration contracting company, whereas the original makes that authorization applicable to an air conditioning and refrigeration master assigning the master's license.

C.S.S.B. 1244 differs from the original by requiring an applicant for an air conditioning and refrigeration contractor license to have at least 48 months of practical experience in air conditioning and refrigeration-related work under the supervision of a licensed air conditioning and refrigeration contractor in the preceding 72 months, whereas the original requires an applicant to have held an air conditioning and refrigeration technician license for at least 36 months in the preceding 48 months under the supervision of a licensed air conditioning and refrigeration master or contractor. The substitute, in a provision establishing that every 2,000 hours of on-the-job training in an apprenticeship program is equivalent to 12 months of practical experience, omits the specification included in the original that the program relates to air conditioning and refrigeration and is registered with the United States Department of Labor Office of Apprenticeship.

C.S.S.B. 1244 differs from the original by including among the requirements for TDLR's issuance of an air conditioning and refrigeration contractor license that the license applicant provide evidence of insurance coverage required by rule under provisions of law governing air conditioning and refrigeration contractors, whereas the original removes that requirement.

C.S.S.B. 1244 omits provisions included in the original expanding certain notice requirements to include a person or entity that obtains a license as an air conditioning and refrigeration contractor under provisions of law or as an air conditioning and refrigeration contracting company under the original's provisions.

C.S.S.B. 1244, in the provision prohibiting a person licensed as an air conditioning and refrigeration contractor from using the services of certain persons to assist in the performance of air conditioning and refrigeration maintenance work, retains the specification removed in the original that such persons include a person who is not a registered air conditioning and

refrigeration technician and omits the specification included in the original that such persons include a person who is not a licensed air conditioning and refrigeration master, a licensed air conditioning and refrigeration technician, or a licensed air conditioning and refrigeration trainee. The substitute omits a provision included in the original prohibiting a licensed air conditioning and refrigeration contractor from working with a person or entity that is not a licensed air conditioning and refrigeration contracting company in the performance of air conditioning and refrigeration contracting.

C.S.S.B. 1244 omits provisions included in the original relating to municipal licenses for air conditioning and refrigeration contracting.

C.S.S.B. 1244, in a provision making it an offense under provisions of law relating to air conditioning and refrigeration contracts to knowingly engage in air conditioning and refrigeration maintenance work without holding certain certification, contains a specification not included in the original that such certification includes an air conditioning and refrigeration technician registration issued under those provisions of law.

C.S.S.B. 1244 omits provisions included in the original that change the credentialing for an air conditioning and refrigeration technician from a registration to a license and establishing eligibility, application, and examination requirements relating to that change.

C.S.S.B. 1244 contains a provision not included in the original establishing that a person is not required to obtain an air conditioning and refrigeration technician registration if the person only assists a licensed contractor in performing specified work. The substitute contains a provision not included in the original establishing that an applicant for an air conditioning and refrigeration technician registration is not required to have practical experience or to take an examination to obtain the registration.

C.S.S.B. 1244 omits a provision included in the original prohibiting a person licensed as an air conditioning and refrigeration technician from working with a person or entity that is not a licensed air conditioning and refrigeration contracting company in the performance of air conditioning and refrigeration maintenance work.

C.S.S.B. 1244 omits provisions included in the original establishing licensing requirements for air conditioning and refrigeration trainees and air conditioning and refrigeration contracting companies.

C.S.S.B. 1244 omits provisions included in the original repealing provisions of the Occupations Code relating to a temporary air conditioning and refrigeration contracting license, a temporary air conditioning and refrigeration technician registration, the certification of a registered technician, and definitions for "certified technician" and "registered technician."

C.S.S.B. 1244 differs from the original by requiring the commission to adopt rules to implement the substitute's provisions not later than March 1, 2012, whereas the original requires the commission to adopt such rules no later than February 1, 2012.

C.S.S.B. 1244 omits provisions included in the original establishing rulemaking deadlines for converting and renewing certain air conditioning and refrigeration licenses, registrations, and certificates.

C.S.S.B. 1244 differs from the original by making the substitute's provisions applicable to an application for a license or registration submitted to TDLR on or after November 1, 2012, whereas the original makes its provisions applicable to an application for a license submitted to TDLR on or after March 1, 2012.

C.S.S.B. 1244 differs from the original by making the substitute effective September 1, 2011,

whereas the original specifies an effective date of March 1, 2012, with the exception of the original's provisions establishing rulemaking deadlines, which are effective September 1, 2011.

C.S.S.B. 1244 differs from the original in nonsubstantive ways by making certain conforming changes.