

By: Hamilton

H.B. No. 3377

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the licensing and registration of installers of on-site
3 sewage disposal systems by the Texas Department of Licensing and
4 Regulation.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 366.002, Health and Safety Code, is
7 amended by adding Subdivision (2-a) to read as follows:

8 (2-a) "Department" means the Texas Department of
9 Licensing and Regulation.

10 SECTION 2. Section 366.0515(m), Health and Safety Code, is
11 amended to read as follows:

12 (m) If a maintenance company violates an order, resolution,
13 or rule described by Subsection (k) three or more times, the
14 commission, in the manner provided by Subchapter G, Chapter 7,
15 Water Code, or the department, as appropriate, may revoke the
16 license or registration of the maintenance company or any person
17 employed by the maintenance company issued under:

- 18 (1) Section 26.0301, Water Code;
19 (2) Chapter 37, Water Code; or
20 (3) Section 366.071 of this code.

21 SECTION 3. Section 366.071, Health and Safety Code, is
22 amended to read as follows:

23 Sec. 366.071. OCCUPATIONAL LICENSING AND REGISTRATION. (a)
24 A person who constructs, installs, alters, extends, services,

1 maintains, or repairs an on-site sewage disposal system or any part
2 of an on-site sewage disposal system for compensation must hold a
3 license or registration issued by the department [~~commission~~]
4 under this subchapter [~~Chapter 37, Water Code~~].

5 (b) A person designated by an authorized agent under Section
6 366.014 must hold a license issued by the department [~~commission~~]
7 under this subchapter [~~Chapter 37, Water Code~~].

8 (c) A person who conducts preconstruction site evaluations,
9 including visiting a site and performing a soil analysis, a site
10 survey, or other activities necessary to determine the suitability
11 of a site for an on-site sewage disposal system must hold a license
12 issued by the department [~~commission~~] under this subchapter
13 [~~Chapter 37, Water Code~~,] unless the person is licensed by the Texas
14 Board of Professional Engineers as an engineer.

15 (d) The department [~~commission~~] may implement a program
16 [~~under Chapter 37, Water Code~~] to register persons who service or
17 maintain on-site sewage disposal systems for compensation.

18 SECTION 4. Subchapter E, Chapter 366, Health and Safety
19 Code, is amended by adding Section 366.072 to read as follows:

20 Sec. 366.072. ISSUANCE OF LICENSE OR REGISTRATION. (a)
21 Notwithstanding Section 366.002, in this section, "commission"
22 means the Texas Commission of Licensing and Regulation.

23 (b) The department shall license and register persons who
24 construct, install, alter, extend, service, maintain, or repair an
25 on-site sewage disposal system or any part of an on-site sewage
26 disposal system for compensation.

27 (c) The commission shall adopt any rules necessary to:

1 (1) establish occupational licenses and registrations
2 under this subchapter;

3 (2) establish classes and terms of occupational
4 licenses and registrations; and

5 (3) administer the provisions of this subchapter.

6 (d) The commission may establish qualifications for each
7 license and registration issued under this subchapter.

8 (e) The department shall establish requirements and uniform
9 procedures for issuing licenses and registrations under this
10 chapter.

11 (f) The department shall establish requirements and uniform
12 procedures for renewing licenses and registrations.

13 (g) The department shall prescribe the content, location,
14 and frequency of licensing examinations.

15 SECTION 5. Section 1305.003(a), Occupations Code, is
16 amended to read as follows:

17 (a) This chapter does not apply to:

18 (1) the installation of electrical equipment in a
19 ship, watercraft other than a floating building, railway rolling
20 stock, aircraft, motor vehicle, or recreational vehicle;

21 (2) the installation of electrical equipment
22 underground in a mine and in self-propelled mobile surface mining
23 machinery and its attendant electrical trailing cable;

24 (3) the installation of electrical equipment for
25 generation, transformation, transmission, or distribution of power
26 used exclusively to operate railway rolling stock or exclusively
27 for signaling and communications purposes;

1 (4) the installation, maintenance, alteration, or
2 repair of communications equipment provided by a
3 telecommunications provider;

4 (5) the installation, maintenance, alteration, or
5 repair of electrical equipment under the exclusive control of an
6 electric utility, power generation company as defined by Sections
7 31.002(1) and (10), Utilities Code, electric cooperative, or
8 municipally owned utility and used for communications or metering,
9 or for the generation, control, transformation, transmission, and
10 distribution of electrical energy, and located:

11 (A) in a building used exclusively by a utility
12 or power generation company for those purposes;

13 (B) outdoors on property owned or leased by the
14 utility or power generation company;

15 (C) on public highways, streets, roads, or other
16 public rights-of-way; or

17 (D) outdoors by established rights in vaults or
18 on private property;

19 (6) work not specifically regulated by a municipal
20 ordinance that is performed in or on a dwelling by a person who owns
21 and resides in the dwelling;

22 (7) work involved in the manufacture of electrical
23 equipment that includes the on-site and off-site manufacturing,
24 commissioning, testing, calibrating, coordinating,
25 troubleshooting, or evaluating of electrical equipment, the
26 repairing or retrofitting of electrical equipment with components
27 of the same ampacity, and the maintenance and servicing of

1 electrical equipment within the equipment's enclosure that is
2 performed by an authorized employee or authorized representative of
3 an electrical equipment manufacturer and limited to the type of
4 products manufactured by the manufacturer;

5 (8) electrical work if:

6 (A) the work is performed by a person who does not
7 engage in electrical work for the public;

8 (B) the work is performed by a person regularly
9 employed as a maintenance person or maintenance electrician for a
10 business; and

11 (C) the electrical work does not involve the
12 installation of electrical equipment during new construction as
13 defined by rules adopted under Chapter 151, Tax Code;

14 (9) the installation, maintenance, alteration, or
15 repair of electrical equipment or associated wiring under the
16 exclusive control of a gas utility and used for communications or
17 metering or for the control, transmission, or distribution of
18 natural gas;

19 (10) thoroughfare lighting, traffic signals,
20 intelligent transportation systems, and telecommunications
21 controlled by a governmental entity;

22 (11) electrical connections supplying heating,
23 ventilation, and cooling and refrigeration equipment, including
24 any required disconnect exclusively for the equipment, if the
25 service is performed by a licensed air conditioning and
26 refrigeration contractor under Chapter 1302;

27 (12) the design, installation, erection, repair, or

1 alteration of Class 1, Class 2, or Class 3 remote control,
2 signaling, or power-limited circuits, fire alarm circuits, optical
3 fiber cables, or communications circuits, including raceways, as
4 defined by the National Electrical Code;

5 (13) landscape irrigation installers, as necessary to
6 perform the installation and maintenance of irrigation control
7 systems, and landscapers, as necessary to perform the installation
8 and maintenance of low-voltage exterior lighting and holiday
9 lighting excluding any required power source;

10 (14) electrical work performed at a business that
11 operates:

12 (A) a chemical plant, petrochemical plant,
13 refinery, natural gas plant, natural gas treating plant, pipeline,
14 or oil and gas exploration and production operation by a person who
15 works solely for and is employed by that business; or

16 (B) a chemical plant, petrochemical plant,
17 refinery, natural gas plant, or natural gas treatment plant by a
18 person who under a contract of at least 12 months' duration performs
19 electrical work for that plant and:

20 (i) the electrical work is not performed
21 during new construction as defined by rules adopted under Chapter
22 151, Tax Code; or

23 (ii) the person is not working for a
24 contractor that has a principal place of business in another state
25 or territory of the United States or a foreign country;

26 (15) the installation, maintenance, alteration, or
27 repair of elevators, escalators, or related equipment, excluding

1 any required power source, regulated under Chapter 754, Health and
2 Safety Code;

3 (16) the installation, maintenance, alteration, or
4 repair of equipment or network facilities provided or utilized by a
5 cable operator, as that term is defined by 47 U.S.C. Section 522, as
6 amended;

7 (17) the location, design, construction, extension,
8 maintenance, and installation of on-site sewage disposal systems in
9 accordance with Chapter 366, Health and Safety Code, or an on-site
10 sewage facility installer licensed under Chapter 366, Health and
11 Safety Code [~~37, Water Code~~];

12 (18) electrical work performed on a building,
13 structure, or equipment in agricultural use as defined by Section
14 11.002, Water Code, other than the processing of an agricultural
15 commodity;

16 (19) the installation, maintenance, alteration, or
17 repair of well pumps and equipment in accordance with Chapter 1902;

18 (20) electrical work required for the construction and
19 assembly of HUD-code manufactured housing or modular housing and
20 building units, other than the installation of service entrance
21 conductors, that is performed by a licensed manufacturer or
22 installer under Chapter 1201 or 1202, as applicable, if work
23 performed is within the scope of the license as defined by
24 applicable statutes and administrative rules;

25 (21) work performed by a plumber who holds a license or
26 endorsement or is registered under Chapter 1301 that is necessary
27 to install, service, maintain, repair, or replace any type of

1 plumbing fixture or appliance, as described by Section 1301.002(7),
2 including a water heater, food disposer, garbage disposal, water
3 softener, dishwashing machine, and clothes washing machine on
4 existing electrical circuits only;

5 (22) the maintenance or repair of a residential
6 appliance by a residential appliance dealer or manufacturer or a
7 person authorized by a residential appliance dealer or manufacturer
8 using only components of the same type and ampacity as the original
9 components; and

10 (23) the maintenance, alteration, or repair of a
11 pool-related electrical device by, or pool-related electrical
12 maintenance performed by, an employee of a municipality on a pool
13 owned or operated by the municipality.

14 SECTION 6. Section 37.002, Water Code, is amended to read as
15 follows:

16 Sec. 37.002. RULES. The commission shall adopt any rules
17 necessary to:

18 (1) establish occupational licenses and registrations
19 prescribed by Sections 26.0301, 26.3573, 26.452, and 26.456 of this
20 code, Sections 341.033, 341.034, and 361.027, [~~and 366.071~~] Health
21 and Safety Code, and Section 1903.251, Occupations Code;

22 (2) establish classes and terms of occupational
23 licenses and registrations; and

24 (3) administer the provisions of this chapter and
25 other laws governing occupational licenses and registrations under
26 the commission's jurisdiction.

27 SECTION 7. Section 37.003, Water Code, is amended to read as

1 follows:

2 Sec. 37.003. LICENSE OR REGISTRATION REQUIRED. A person
3 may not engage in a business, occupation, or profession described
4 by Section 26.0301, 26.3573, 26.452, or 26.456 of this code,
5 Section 341.033, 341.034, or 361.027, [~~366.014, or 366.071,~~] Health
6 and Safety Code, or Section 1903.251, Occupations Code, unless the
7 person holds the appropriate license or registration issued by the
8 commission.

9 SECTION 8. Chapter 37, Water Code, is amended by adding
10 Section 37.016 to read as follows:

11 Sec. 37.016. LICENSING OF INSTALLERS OF ON-SITE SEWAGE
12 DISPOSAL SYSTEMS BY TEXAS DEPARTMENT OF LICENSING AND REGULATION.
13 Notwithstanding any other law:

14 (1) the Texas Department of Licensing and Regulation
15 and the Texas Commission of Licensing and Regulation, as
16 appropriate, shall exercise all powers and duties formerly
17 exercised by the commission under this chapter in relation to the
18 licensing or registration of a person who constructs, installs,
19 alters, extends, services, maintains, or repairs an on-site sewage
20 disposal system;

21 (2) a reference in this chapter to the commission in
22 relation to the licensing or registration of a person who
23 constructs, installs, alters, extends, services, maintains, or
24 repairs an on-site sewage disposal system means the Texas
25 Department of Licensing and Regulation or the Texas Commission of
26 Licensing and Regulation, as appropriate; and

27 (3) a reference in any other law to the commission in

1 relation to the licensing or registration of a person who
2 constructs, installs, alters, extends, services, maintains, or
3 repairs an on-site sewage disposal system under this chapter means
4 the Texas Department of Licensing and Regulation or the Texas
5 Commission of Licensing and Regulation, as appropriate.

6 SECTION 9. (a) Not later than September 1, 2012, all
7 powers, duties, functions, programs, and activities related to the
8 licensing and registration of installers of on-site sewage disposal
9 systems are transferred to the Texas Department of Licensing and
10 Regulation and the Texas Commission of Licensing and Regulation, as
11 appropriate.

12 (b) On the date specified by Subsection (a) of this section
13 for the transfer described by that subsection:

14 (1) all obligations and contracts of the Texas
15 Commission on Environmental Quality that are related to a power,
16 duty, function, program, or activity transferred from the Texas
17 Commission on Environmental Quality under Subsection (a) of this
18 section are transferred to the Texas Department of Licensing and
19 Regulation and the Texas Commission of Licensing and Regulation, as
20 appropriate;

21 (2) all property and records in the custody of a state
22 agency or entity that are related to a power, duty, function,
23 program, or activity transferred from the Texas Commission on
24 Environmental Quality under Subsection (a) of this section and all
25 funds appropriated by the legislature for the power, duty,
26 function, program, or activity are transferred to the Texas
27 Department of Licensing and Regulation and the Texas Commission of

1 Licensing and Regulation, as appropriate; and

2 (3) all complaints, investigations, or contested
3 cases that are pending before the Texas Commission on Environmental
4 Quality that are related to a power, duty, function, program, or
5 activity transferred from the Texas Commission on Environmental
6 Quality under Subsection (a) of this section are transferred
7 without change in status to the Texas Department of Licensing and
8 Regulation and the Texas Commission of Licensing and Regulation, as
9 appropriate.

10 (c) A rule or form adopted by the Texas Commission on
11 Environmental Quality that relates to a power, duty, function,
12 program, or activity transferred from the Texas Commission on
13 Environmental Quality under Subsection (a) of this section is a
14 rule or form of the Texas Department of Licensing and Regulation or
15 the Texas Commission of Licensing and Regulation, as appropriate,
16 and remains in effect until altered by the commission or
17 department.

18 (d) A reference in law to the Texas Commission on
19 Environmental Quality, or to the governing body of the Texas
20 Commission on Environmental Quality, that relates to a power, duty,
21 function, program, or activity transferred under Subsection (a) of
22 this section means the Texas Department of Licensing and Regulation
23 or the Texas Commission of Licensing and Regulation, as
24 appropriate.

25 (e) A license or registration in effect that was issued by
26 the Texas Commission on Environmental Quality that relates to a
27 power, duty, function, program, or activity transferred under

1 Subsection (a) of this section is continued in effect as a license
2 or registration of the Texas Department of Licensing and Regulation
3 or the Texas Commission of Licensing and Regulation, as
4 appropriate.

5 SECTION 10. This Act takes effect September 1, 2011.