

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 18, 2019

TO: Honorable Trey Martinez Fischer, Chair, House Committee on Business & Industry

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB2101 by Capriglione (Relating to the regulation of reroofing contractors; providing administrative and civil penalties; authorizing fees; creating a criminal offense; requiring an occupational registration.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2101, As Introduced: a positive impact of \$468,634 through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$638,238
2021	(\$169,604)
2022	\$200,896
2023	(\$195,104)
2024	\$250,396

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
2020	(\$611,762)	\$1,250,000	5.5
2021	(\$419,604)	\$250,000	5.5
2022	(\$424,104)	\$625,000	5.5
2023	(\$420,104)	\$225,000	5.5
2024	(\$424,604)	\$675,000	5.5

Fiscal Analysis

This bill would amend Title 8 of the Occupations Code, regarding the regulation of environmental

and industrial trades, to add new Chapter 1306, regarding the regulation of reroofing contractors. The bill would require the Texas Commission of Licensing and Regulation (the commission) and the Texas Department of Licensing and Regulation (TDLR) to administer and enforce the Reroofing Contractor Registration Act.

The bill requires the commission to prescribe by rule the requirements for the issuance and renewal of a registration, a code of ethics for reroofing contractors, and, with respect to reroofing projects on property located in an area for which the governor declares a state of disaster, to provide for a temporary exception to the requirements of the law and the temporary recognition of reroofing contractors licensed or registered in good standing in another state. The bill also authorizes the commission to adopt additional rules as necessary to administer the law.

The bill authorizes the commission to establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering the law, except that the adopted fees must include fees for an initial registration application in an amount not to exceed \$250, and the registration renewal in an amount not to exceed \$100.

The bill requires TDLR to make available on its website a publicly accessible list of all registered reroofing contractors who are in good standing and the list must be searchable by name and location. The bill also requires the list to contain all required information about registered reroofing contractors.

The bill prohibits a county or municipal building official from granting or approving a building or construction permit for a reroofing project unless the applicant for the permit meets all requirements under the law. The bill requires TDLR to verify the registration of an applicant on the request of a county or municipal building official and to establish a verification system to ensure a timely response to a request for the verification of a registration.

The bill authorizes the Reroofing Contractor Advisory Board to advise the commission in adopting rules under the law and sets the composition of the advisory board which is appointed by the executive director.

The bill prohibits a person from performing or otherwise engaging, soliciting, advertising, or contracting to perform a reroofing project unless the person holds a reroofing contractor registration. The bill provides certain exemptions from registration.

The bill requires TDLR to issue a registration to an applicant who complies with the registration requirements not later than the 14th day after the date the application is received. The bill states that the registration is valid for two years from the date of issuance and may be renewed before expiration by meeting the requirements for renewal.

The bill requires a registered reroofing contractor to include its registration number in each contract for a reroofing project in the required manner, and in any advertisement for a reroofing service. The bill prohibits a registered reroofing contractor from advertising or promising to pay or rebate all or part of an insurance deductible in connection with a reroofing project.

The bill requires TDLR to investigate any complaint alleging a violation of the law or an adopted rule and requires the complaint to be filed in a manner prescribed by TDLR. The bill authorizes the commission or executive director to impose an administrative penalty on a person, regardless of whether the person is registered, if the person violates the law, an adopted rule, or an order of the commission or executive director. The bill authorizes the commission to impose sanctions. The bill authorizes the executive director to issue a cease and desist order to prohibit a person from

performing or engaging in a reroofing project if the person is not in compliance with the law.

The bill makes it a Class C misdemeanor for a person to violate the Reroofing Contractors Law, and if the conduct that constitutes an offense under the Reroofing Contractors Law also constitutes an offense under the relevant Penal Code provisions against fraud, the person may be prosecuted under either law or both laws. The bill stipulates that a reroofing contractor who advertises that the contractor holds a registration, but does not actually hold a valid registration, commits a false, misleading, or deceptive act or practice within the meaning of the Deceptive Trade Practices Act.

The bill would take effect September 1, 2019, except for the requirements for a reroofing contractor to hold a registration, the practice requirements for a registration holder, and TDLR's enforcement authority, all of which would take effect March 1, 2020.

Methodology

Based on the analysis provided by TDLR, it is assumed the population of reroofing contractors that would obtain registration in the first year would be 5,000 persons, with an additional 1,000 applying for the first time the following year, and approximately 500 new registrations each year after the second year. The bill would allow the registration term to be good for two years, therefore the number of renewals will increase and decrease each year. Assuming the maximum allowable fees of \$250 for initial registrations and \$100 for renewals are assessed, this would result in a gain to General Revenue of \$1,250,000 in fiscal year 2020, \$250,000 in fiscal year 2021, \$625,000 in fiscal year 2022, \$225,000 in fiscal year 2023, and \$675,000 in fiscal year 2024.

Registration cards would be issued to registrants as evidence of their registration. TDLR reports it contracts with a vendor that produces and mails the registrations at \$1 per registration. TDLR would need \$5,000 in the first year, \$1,000 in the second year, \$5,500 in the third year, \$1,500 in the fourth year, and \$6,000 in the fifth year to pay the vendor for the cards.

Based on the analysis provided by TDLR, it is assumed the agency would require 5.5 additional full-time-equivalent (FTE) employees to administer the new registration and regulatory responsibilities established in the bill. One License and Permit Specialist II (1.0 FTE) would be needed to process initial and renewal applications and support the online process. This FTE would cost \$64,305 in the first year, with one-time expenses for computers, equipment and furniture, then cost \$55,945 each year afterward for salary, benefits and supplies.

Based on TDLR's comparison with the Air Conditioning Contractor program's customer service activity, and assuming there would be about one-third as many reroofing contractors as air conditioning contractors, TDLR expects that 6,500 contacts could be received for reroofing matters. Additionally, TDLR expects the reroof and major roof repair workload in the state could bring about 8,500 contacts. TDLR assumes there will be at least 15,000 customer service contacts annually for the reroofing contractors program. According to the agency, they would need a Customer Service Rep III (1.0 FTE) to answer phone calls and respond to emails and social media contacts from consumers, licensees, and municipalities regarding the reroofing program. This FTE would cost \$61,843 in the first year, with one-time expenses for computers, equipment and furniture, then cost \$53,483 each year afterward for salary, benefits and supplies.

Using similar-type programs as a guide, TDLR estimates there would be approximately 900 complaints received each year. The agency reports it would need one Investigator IV (1.0 FTE) to investigate complaints and background checks, collect and document evidence of violations,

gather court documents for background checks, and provide written investigation reports to a prosecuting attorney. The investigator would cost \$82,528 in the first year, with one-time expenses for computers, equipment and furniture, then cost \$73,825 each year afterward for salary, benefits and supplies. Additionally, 0.5 FTE for an Attorney IV would be needed to prosecute unregistered activity and to seek to deny applications and revoke licenses for applicants and licenses whose backgrounds make them unsuitable to hold a registration. One-half of an FTE (0.5 FTE) for a Legal Assistant III would be needed to manage the caseload for the Attorney IV. The attorney would cost \$67,396 and the legal assistant would cost \$46,196 in the first year, with one-time expenses for computers, equipment and furniture, then cost \$59,036 and \$37,836, respectively, each year afterward for salary, benefits and supplies.

TDLR reports it would need one-half of an FTE (0.5 FTE) for a Program Specialist III to serve as the agency's subject matter expert on the reroofing program and provide technical guidance for enforcement investigations. This FTE would cost \$44,576 in the first year, with one-time expenses for computers, equipment and furniture, then cost \$39,799 each year afterward for salary, benefits and supplies.

According to TDLR, the agency would need a staff augmentation contractor for the first year to build the reroofing program into the agency's licensing system, along with the reroofing contractor online registration system and the publicly accessible database at an estimated cost of \$180,000 in fiscal year 2020. Then, one Systems Analyst III (1.0 FTE) would be needed as a software developer to help complete and maintain the reroofing program in the agency's licensing system, the reroofing contractor online registration system, and the publicly accessible list on the agency's website of all registered reroofing contractors. This FTE would start midway through the first year to begin the transition of the work on the reroofing systems from the staff-augmentation contractor, and would cost \$59,918 in the first year, with one-time expenses for computers, equipment and furniture, then cost \$98,680 each year afterward for salary, benefits and supplies.

Overall, according to TDLR, the provisions of the bill would result in an increase of 5.5 FTEs and a cost to General Revenue of \$611,762 in fiscal year 2020, \$419,604 in fiscal year 2021, \$424,104 in fiscal year 2022, \$420,104 in fiscal year 2023, and \$424,604 in fiscal year 2024. This analysis assumes that any increased cost to TDLR, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue.

Local Government Impact

Although a county or municipal building official must determine before granting or approving a building or construction permit for a reroofing project if the applicant for the permit meets all requirements as a reroofing contractor, there should not be a cost to determine if the applicant meets the requirements.

A Class C misdemeanor is punishable by a fine of not more than \$500. In addition to the fine, punishment can include up to 180 days of deferred disposition. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts, 452 Department of Licensing and
Regulation

LBB Staff: WP, CLo, SGr, DFR, AF