

## **BILL ANALYSIS**

H.B. 636  
By: Thompson, Senfronia  
Licensing & Administrative Procedures  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Texas State Board of Plumbing Examiners (TSBPE), which oversees the roughly 60,000 licensed plumbers in Texas, underwent review by the Sunset Advisory Commission before the 86th Texas Legislature. Faced with the impending abolishment of the TSBPE, the legislature debated legislation acting on certain Sunset recommendations to modernize and continue the state licensing of plumbing but ultimately did not pass a bill. As a result, Governor Greg Abbott temporarily extended the TSBPE for two years. H.B. 636 seeks to continue the TSBPE in existence as a stand-alone agency while enacting certain statutory changes in an effort to streamline plumbing regulation and increase the number of licensed plumbers in Texas.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas State Board of Plumbing Examiners in SECTIONS 5, 7, 11, 12, 13, 14, and 15 of this bill.

### **ANALYSIS**

H.B. 636 amends the Occupations Code to continue the Texas State Board of Plumbing Examiners (TSBPE) and the Plumbing License Law until September 1, 2027.

H.B. 636 authorizes the TSBPE to adopt, recognize, develop, or contract for an examination required by the Plumbing License Law, including the administration of an examination. For each such examination, the TSBPE must do the following:

- to the extent feasible, adopt, recognize, develop, or contract for an examination that includes components that may be administered in writing or online and by a person other than certain plumbing examiners under the Plumbing License Law; and
- determine the passing score for such an examination.

The bill requires the TSBPE to employ or contract with one or more plumbing examiners to administer only the portion of an examination required for the issuance of a license, registration, or endorsement that contains a practical component.

H.B. 636 provides for a fingerprint-based criminal history record information check for license applicants. The bill requires the TSBPE to require a license applicant to submit a complete and legible set of fingerprints, on a prescribed form, to the TSBPE or to the Department of Public Safety (DPS) to obtain criminal history record information from DPS and the Federal Bureau of Investigation (FBI). The bill requires the TSBPE to conduct a criminal history record information check of each license applicant using information provided by the person under the bill's provisions and information made available by DPS, the FBI, and any other applicable

criminal justice agency. The bill authorizes the TSBPE to enter into an agreement with DPS to administer the criminal history record information check and authorizes DPS to collect from each applicant the costs incurred in doing so. The bill provides the following with respect to the requirement that the TSBPE obtain criminal history record information:

- not later than September 1, 2023, the TSBPE must obtain such information by using a person's name, date of birth, and other alphanumeric identifiers on each person who holds a license on September 1, 2021, and did not undergo a criminal history record information check based on the person's name or fingerprints on submission of the initial license application; and
- not later than September 1, 2025, the TSBPE must obtain the information by using fingerprints on each person who holds a license on September 1, 2021, and did not undergo a criminal history record information check based on the person's fingerprints on submission of the initial license application.

The TSBPE may suspend the license of a person who does not comply with a request to provide information or fingerprints, in a form and manner prescribed by the TSBPE, that would enable the TSBPE to obtain the requisite criminal history record information.

H.B. 636 authorizes the TSBPE by rule to provide for the issuance of a temporary license to certain applicants and subjects a temporary license holder to applicable laws, including municipal rules, orders, or ordinances, and TSBPE rules. A temporary license is valid for 30 days and may not be renewed.

H.B. 636 provides for the annual renewal of an endorsement or registration under the Plumbing License Law. However, a medical gas piping installation endorsement, a multipurpose residential fire protection sprinkler specialist endorsement, and a water supply protection specialist endorsement expire on the date the master plumber or journeyman plumber license of the endorsement holder expires. The bill requires the TSBPE to adopt rules to provide for such a license holder to renew the applicable endorsement in the same transaction as the license, under certain circumstances.

H.B. 636 requires the TSBPE by rule to establish both minimum curriculum standards for the respective continuing education programs and courses for persons who hold a license, endorsement, or registration issued under the Plumbing License Law and minimum qualifications for an instructor of the programs and courses. The bill requires the TSBPE executive director to approve a program or course that meets those minimum curriculum standards and an instructor who meets the minimum qualifications. Credit for participating in a continuing education program or course is contingent on executive director approval of the program or course.

H.B. 636 requires the TSBPE to adopt rules to ensure that each license, registration, or endorsement holder has at least 12 months to complete any continuing education required for the renewal of the license, registration, or endorsement. The bill specifies that the license or endorsement holder must complete at least six hours of continuing education annually to accommodate the minimum 12-month period. The bill removes the requirement for a master plumber to present evidence satisfactory to the TSBPE of successful completion of a training program approved or administered by the TSBPE regarding the laws and rules applicable to the operation of a plumbing business in Texas before working as a responsible master plumber. The bill amends the definition of "responsible master plumber" to reflect that removal.

H.B. 636 revises the grounds for disciplinary action under certain Plumbing License Law provisions to remove as a violation of the law obtaining a license, endorsement, or registration through error and to include the following as violations:

- attempting to obtain a license, endorsement, or registration through fraud;
- performing plumbing without holding the proper license, endorsement, or registration required by certain provisions of law; or
- performing plumbing in violation of certain adopted plumbing codes.

The bill repeals the requirement for the attorney general to represent the TSBPE in any action to enforce that law.

H.B. 636 requires the TSBPE by rule to assign priorities and prescribe procedures for conducting on-site license checks to determine compliance with the Plumbing License Law based on the following criteria:

- the degree of potential harm to public health, safety, or property;
- the history of previous violations of the Plumbing License Law or a rule adopted under the Plumbing License Law by a person regulated under the Plumbing License Law; and
- any other indication of increased risk to public health, safety, or property, as determined by the TSBPE.

H.B. 636 includes the following among the criteria that the TSBPE sets by rule as the basis for assigning priorities and prescribing investigative procedures for investigations of complaints:

- the history of previous violations of the Plumbing License Law by the person who is the subject of the complaint; and
- any other indication of increased risk to public health, safety, or property, as determined by the TSBPE.

H.B. 636 requires the TSBPE to make available to the public through a toll-free telephone number, website, or other easily accessible medium determined by the TSBPE certain specified information relating to a disciplinary action taken regarding a person regulated under the Plumbing License Law. The TSBPE may not include in this information the name of the person who filed the complaint and must do the following:

- present the available information in an impartial manner using commonly understood language; and
- regularly update the information made available.

H.B. 636 requires that the procedures established for conducting an informal settlement conference do the following:

- identify the types of complaints for which an informal settlement conference may be used; and
- require appropriate documentation of each informal settlement conference that is conducted, including the outcome of the conference.

The bill provides that it is the intent of the legislature in enacting the bill to amend the Plumbing License Law as continued in existence by Executive Order No. GA-06. The bill requires the TSBPE, as soon as practicable after the bill's effective date, to adopt rules necessary to implement the bill's changes to the Plumbing License Law.

H.B. 636 repeals the following provisions of the Occupations Code:

- Section 1301.356(c);
- Section 1301.3565(c);
- Section 1301.357(c);
- Section 1301.403(f); and
- Section 1301.505.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.