

SUBJECT: Regulation of irrigators and irrigation systems

COMMITTEE: Natural Resources — favorable, with amendments

VOTE: 8 ayes — Counts, Yost, Combs, Corte, King, R. Lewis, Puente, Stiles,
Walker

0 nays

1 absent — Stiles

WITNESSES: For — John Sofyanas, Texas Turf Irrigation Association; Joe H. Key,
Irrigator Advisory Council

Against — None

On — None

BACKGROUND: The Board of Irrigators was abolished on September 1, 1992, and its
functions transferred to the Texas Natural Resource Conservation
Commission (TNRCC) by the 72nd Legislature in SB 2 by Parker.

Under current law, members of the Texas Irrigators Advisory Council may
not receive compensation for travel expenses, including expenses for meals
and lodging, other than transportation expenses.

DIGEST: HB 2510, as amended, would overhaul the statutes relating to the licensing
of irrigators and irrigation systems.

Property owners performing or directing irrigation or yard sprinkler work
done on their premises on a system that is not connected to a private or
public water supply system would not be subject to licensure requirements.

Any person exempt from licensure requirements would have to comply
with the standards and rules relating to the regulation of irrigators and
irrigation systems in Chapter 34 of the Water Code. A licensed irrigator or
installer would be someone who has prequalified and been licensed under
Water Code, Chapter 34 relating to irrigators.

HB 2510 would provide administrative and civil penalties for a person exempt from licensure requirements who violated rules concerning irrigators and irrigation system installers. A person charged with a violation could file a petition for judicial review contesting the violation and/or the amount of the penalty without paying the penalty while the case was under judicial review. (Current law stipulates payment into an escrow account). The bill would also provide various mechanisms for staying enforcement of the penalty while the matter was under judicial review.

Members of the Texas Irrigators Advisory Council would be entitled to reimbursement for travel expenses, including meals and lodging, as provided for in the general appropriations act. Two members of the council would serve terms expiring on February 1st of each odd-numbered year.

The bill would repeal provisions in current law permitting TNRCC to prepare and administer continuing education programs for landscape irrigation.

The maximum fee that could be charged for examinations given to irrigators and irrigation system installers would be raised from \$100 to \$200 for the irrigator certificate and from \$75 to \$150 for the installer certificate of registration. The TNRCC would be required to adopt rules establishing classes of certificates and fees.

No later than the 45th day (current law specifies 30th day) after an exam was completed, the TNRCC would be required to send examination results to exam takers. No later than the 60th day (current law specifies 30th day) after a written request was received by the TNRCC, the commission would have to send that person an analysis of their performance on the exam.

The TNRCC would be required to send written notice of the impending expiration of an irrigator or irrigation system installer's certificate of registration at least a month before the date of expiration (current law specifies two months). The bill would provide for renewal of certificates and financial penalties for late renewals. If a certificate of registration had expired for over 90 days the certificate could not be renewed, and the exam would have to be retaken to obtain a new certificate.

The bill would provide that the Texas Irrigators Fund would not be subject to Government Code, secs. 404.094 and 404.095, which would provide (if a drafting error is corrected; the bill now refers to secs. 403.094 and 403.095) that the fund would be recreated rather than consolidated into the general revenue fund.

The act would take effect September 1, 1995.

**SUPPORTERS
SAY:**

HB 2510 would clean up the language of the statutes regulating irrigators and irrigation system installers.

Administrative penalties are needed for those who are exempt from licensure requirements. Under current law, those persons exempt from licensure requirements who violate irrigator rules are supposed to be referred to the attorney general's office for enforcement, but that office is usually too busy to follow up on such cases. This allows unlicensed irrigators to flaunt state rules with no fear of being caught.

It is essential that those who are exempt from licensure requirements be required to follow state rules. Installing irrigation systems incorrectly can contaminate public water supplies.

Board members should be reimbursed for travel expenses within reason. It is too expensive for board members to pay all travel expenses out of their own pockets when they must fly around the state to administer tests. They would be subject to the any travel expense limitation provided in the general appropriations act.

The bill would not increase exam fees but would raise the cap on exam fees. This would allow TNRCC latitude in the future if it found that fee revenue was no longer supporting the program.

**OPPONENTS
SAY:**

It is a mistake to repeal provisions in the bill permitting TNRCC to prepare and administer continuing education programs for landscape irrigation. In fact, continuing education should be mandatory.

Irrigation system installers can endanger and contaminate the public water supply with pesticides, for example, if they install a system incorrectly. Irrigators and irrigation system installers are often at the forefront of water conservation efforts — continuing education is necessary for them to keep up with the rapidly changing technological advances in the field and new water conservation techniques.

**OTHER
OPPONENTS
SAY:**

The provision of HB 2510 providing that the Texas Irrigators Fund would not be subject to Government Code, secs. 404.094 and 404.095 (actually secs. 403.094 and 403.095 if a drafting error is corrected) would hinder fund money from being swept into general revenue.

NOTES:

The committee amendments would delete provisions in the original version providing mandatory continuing education requirements and current law permitting continuing education programs. Property owners doing certain kinds of work on their premises would be exempt from licensure requirements.

The companion bill, SB 1639 by Sibley, which was identical to the filed version of HB 2510, was amended in a subcommittee of the Senate Natural Resources Committee and reported favorably on May 5.