

SUBJECT: Licensing fire protection sprinkler technicians

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 8 ayes — Hamilton, Quintanilla, Driver, Geren, Gutierrez, Harless, Kuempel, Thompson

0 nays

1 absent — Menendez

WITNESSES: For — James Finucane, Texas Fire Sprinkler Contractors Association and Western States Fire Protection; Carol McCain, Membership of Texas Fire Sprinkler Contractors Association; Calvin Speight, Plumbers Local 68; (*Registered, but did not testify:* Billy Smith, Local Union 669; Douglas Smolka)

Against — Stanley Briers, Texas Plumbing, Air Conditioning, and Mechanical Contractors Association

On — Mark Lockerman, Texas Department of Insurance – State Fire Marshal; Paul Maldonado, Texas Department of Insurance – State Fire Marshal

DIGEST: CSHB 1853 would amend the Insurance Code, sec. 6003 to require fire protection sprinkler technicians to hold a license unless directly supervised by a licensed technician. The bill would define the role of a fire protection sprinkler technician and authorize the Texas Department of Insurance (TDI) to create the specialized licensing program for the three categories of technicians.

General technician license. The bill would define a general technician license as one allowing a fire protection sprinkler technician to install, service, or maintain any fire protection sprinkler system. TDI would have to issue such a license to an applicant who:

- completed 8,000 hours of an apprenticeship program certified by the U.S. Department of Labor for the inspection, service, and maintenance of the sprinkler systems;
- had 8,000 hours of experience installing, servicing, or maintaining the sprinkler systems and who passed TDI's general technician license examination; or
- had 6,000 hours of experience installing, servicing, or maintaining the sprinkler systems and who passed the National Institute for Certification in Engineering Technologies, Level II test for inspection and testing of water-based systems.

Dwelling technician license. The bill would define a dwelling technician license as one allowing a technician to install, service, or maintain a fire protection sprinkler system in a one- or two-family residence. TDI would have to issue such a license to an applicant who had 4,000 hours of experience installing, servicing, or maintaining the sprinkler systems within such residential units and who passed TDI's dwelling technician license examination.

Underground fire main technician license. The bill would define an underground fire main technician as one allowing a technician to install, service, or maintain an assembly of underground piping or conduits carrying water (with or without other agents) as part of a fire protection sprinkler system. TDI would have to issue such a license to an applicant who had 4,000 hours of experience installing, servicing, or maintaining the sprinkler systems within this specialty area and who passed TDI's underground fire main technician license examination.

Establishing the licensing program. The TDI commissioner and the state fire marshal would have to adopt the rules and establish all procedures and examination requirements necessary to implement the licensing program by September 1, 2012. The state fire marshal would have to develop the examinations according to the latest guidelines published by the National Fire Protection Association.

TDI would have to issue a license to a qualified applicant who submitted all application materials, including the job description of the last role performed, a sworn statement verifying the job description and service hours by the applicant's employer, and all other required materials and fees by September 1, 2013. The department would have to waive any license requirement for an applicant with a license issued by another state

if the other state had a reciprocal license statute and the licensing requirements were substantially equivalent to those in Texas.

All information collected by TDI for the licensing program, including an applicant's address, phone number, driver's license number, or social security number, would have to be kept confidential.

Requirements for all contractors and licensed technicians. Each fire protection sprinkler system contractor would have to ensure that at least one licensed technician was present where a sprinkler system was being installed, maintained, repaired, or tested by one of its employees.

A licensed technician could not work on a fire protection sprinkler system unless he or she was employed by a contractor, but could not work for more than one contractor at a time. The bill would prevent an individual from using the term "licensed fire protection sprinkler technician" in his or her contracts or advertising materials unless the individual had a license.

All license holders would have to complete at least eight hours of continuing education training in accordance with TDI rules. A fire protection sprinkler technician would not be required to hold a license until September 1, 2013.

A violation of the licensing requirements could be punishable as a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

The bill would take effect September 1, 2011.

**SUPPORTERS
SAY:**

CSHB 1853 would ensure that fire protection sprinkler technicians receive adequate training and experience to keep Texans and their property safe. The bill would formally establish a high-quality licensing program and an annual continuing education program that would provide the industry with a better educated workforce and therefore enhance the quality of installations for the public. The newly licensed technicians would likely experience better job security and compensation due to the additional training required by the licensing program. Businesses also would benefit from the new provisions because a well-trained workforce would reduce on-the-job accidents and other potential liabilities while increasing productivity.

CSHB 1853 would balance the need for improved training and work experience for technicians with protection for unlicensed technicians from losing their jobs. The bill would implement the suggestions of industry stakeholders who worked for more than 18 months to iron out the concerns of unions and open-shop contractors. Contractors would not have to ensure that every staff member was licensed, but would have to ensure that each project site had at least one licensed supervisor.

Technicians could become licensed by September 1, 2013, which would provide contractors enough time to comply with the requirements. The delayed timing also would provide technicians who want to become licensed with the opportunity to earn enough work experience to start the process.

The bill would prohibit a licensed technician from working for more than one company. There have been instances involving fire sprinkler contractors who performed “freelance” inspections while using a company car and uniform. This provision would protect companies from any potential liabilities that could occur if a licensed employee performed tasks improperly and caused a lawsuit.

**OPPONENTS
SAY:**

CSHB 1853 would require contractors to have at least one licensed technician on a job site. The licensing requirement could place a financial burden on smaller contractors that have one licensed technician employed at the firm, as required by current law. The license fee would be roughly \$200 to \$300 every two years, which could take its toll on a small business operating on a tighter budget that would have to license a higher proportion of its workforce.

Under the bill, a licensed technician could not work for more than one company, but the license still would not be transferable, suggesting that the technician would have to renew it whenever changing jobs. Fire sprinkler technicians tend to follow the work, especially in tough economic times. A licensed technician would have worked hard to obtain this qualification, and it would be unfair and regressive to require the technician to pay the fees again if he or she found a better job.

**OTHER
OPPONENTS
SAY:**

CSHB 1853 would help improve industry safety standards by establishing the licensing program, but the bill would not require each fire sprinkler technician to hold a license to work on the job. This would mean that for a large-scale project involving a large team of technicians, only one licensed

supervisor would have to be on the job site. For other trades, all individuals working on a project are commonly required to be licensed at a specific level. Although this may not be practical for fire sprinkler technicians, the bill contains no language that would require a specific ratio of licensed supervising technicians to unlicensed workers. We rely on these fire sprinkler technicians to protect our buildings and our lives, so it is critical that there be a reasonable number of licensed technicians onsite to oversee unlicensed technicians and ensure that these systems are installed properly.

NOTES:

The committee substitute differs from the original bill by requiring eight hours per year of continuing education for all license holders, by prohibiting license holders from working for more than one company at a time, and by requiring at least one license holder to be present on the work site. The original bill would have permitted an applicant for a general technician license to obtain a license if he or she passed Level II or III of the National Institute for Certification in Engineering Technologies test, whereas the committee substitute would only specify the Level II exam.

According to the fiscal note, CSHB 1853 would require the hiring of no more than 3.0 FTEs for fiscal years 2012-2016 to process the additional license applications and investigate complaints for possible licensing or installation violations. The Legislative Budget Board estimates these positions would be funded by the license fees and therefore negate any costs to the state.

HB 1853 originally was placed on the Local, Consent, and Resolutions Calendar for April 21. After being withdrawn from the calendar, it was transferred to the Calendars Committee, which set the bill on today's General State Calendar.

The companion bill, SB 1748 by Gallegos, was reported favorably, as substituted, by the Senate Business and Commerce Committee on April 11.