

SUBJECT: Allowing TDLR to determine alternative qualifications for certain licenses

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 9 ayes — Smith, Gutierrez, Geren, Goldman, Guillen, Kuempel, Miles, D. Miller, S. Thompson

0 nays

WITNESSES: For — (*Registered, but did not testify:* Linda Connor; Jon Fisher, Associated Builders and Contractors of Texas; Lori Henning, Texas Association of Goodwills; Douglas Smith, Texas Criminal Justice Coalition)

Against — Linda Colwell

On — (*Registered, but did not testify:* William Kuntz, Texas Department of Licensing and Regulation)

BACKGROUND: Under Occupations Code, sec. 51.404 the Texas Commission on Licensing and Regulation can waive prerequisites to obtaining a license after reviewing an applicant's credentials and determining that an applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to Texas' requirements.

The commission also can waive prerequisites to obtaining licenses for applicants holding licenses issued by a jurisdiction with which Texas has reciprocity agreements. The commission can make agreements, subject to the governor's approval, with other states for licensing reciprocity.

DIGEST: HB 3742 would authorize the Texas Commission on Licensing and Regulation, the Texas Department of Licensing and Regulation, or the agency's executive director to adopt an alternative means of determining or verifying eligibility for a license. The alternative method could include evaluating a person's education, training, experience, and military service.

The bill would repeal the current provision in Occupations Code, sec. 51.404 outlining the criteria that must be used by the Texas Commission on Licensing and Regulation to waive licensing prerequisites and to establish license reciprocity. CSHB 3742 would establish similar criteria under a new section, and would expand authority to waive prerequisites from the Texas Commission on Licensing and Regulation to include the executive director. Under certain circumstances, the commission or the executive director could waive prerequisites for obtaining a license if an applicant currently held a similar license issued by another jurisdiction. The other jurisdiction would have to have license requirements substantially similar to Texas' requirements or have a reciprocity agreement with Texas.

The bill would repeal the current authority of the commission to enter into reciprocity agreements and would give that authority to the department.

For specific licenses that currently are exempt from Occupations Code, sec. 51.404's provisions on waiving prerequisites and reciprocity, the bill would replace a reference to the repealed section with a reference to the provisions created by the bill for alternative qualifications for licenses. These licenses would be exempt from the provisions of CSHB 3742.

The bill would take effect September 1, 2015, and would apply only to license applications submitted to TDLR on or after that date.

**SUPPORTERS
SAY:**

HB 3742 is needed to give TDLR more flexibility to develop alternative means of deciding whether a person is eligible for a license issued by the department. The agency's 2015-2019 strategic planning process identified benefits to the state in allowing alternative methods to determine and verify license applicants.

Currently, the Texas Commission on Licensing and Regulation can waive prerequisites for licenses if someone has a license from another jurisdiction that has requirements substantially equivalent to Texas or if someone is from a state with a licensing reciprocity agreement with

Texas. However, not all persons who are qualified to get a license in Texas come from backgrounds that fit these circumstances. For example, an electrician may come to Texas having worked or trained in a jurisdiction under a license that does not have a title similar to a Texas license. Or, the electrician may have trained under an individual in another state but cannot receive credit for that training because the title of the person doing the training does not have a Texas equivalent or because the person who can attest to the electrician's work is a business owner and does not have a license.

HB 3742 would address this issue by authorizing the Texas Commission on Licensing and Regulation, the department, and the executive director of TDLR to adopt alternative ways of deciding whether someone was eligible for a license. Education, training, experience, and military service could be considered so that TDLR could more quickly issue licenses to appropriately skilled and experienced individuals who want to work in Texas.

The department needs flexibility to develop alternative means of issuing licenses without having a detailed process established in statutes. There could be wide variations in these cases, and any statute detailing a specific process would run the risk of excluding someone worthy of a license. To ensure the process would be fair and transparent, the department would establish general rules for the alternative methods, and there would be records to document and support licenses awarded this way.

HB 3742 also would streamline the current process for issuing licenses by waiving prerequisites under certain circumstances. The bill would authorize the executive director to waive the prerequisites, instead of the commission, to speed up the process and uncouple it from dependence on the commission, which could go months between meetings. HB 3742's provisions establishing when license prerequisites can be waived are substantially similar to current provisions, which would be repealed, but with updated language.

HB 3742 also would simplify and speed up the process of developing

license reciprocity agreements with other states by shifting the authority for developing these agreements from the commission to the TDLR.

**OPPONENTS
SAY:**

If alternative means are needed to determine or verify a person's eligibility for a license, it might be best to establish those methods in statute, rather than to give TDLR broad authority to do so.