

## **BILL ANALYSIS**

Senate Research Center

S.B. 719  
By: Duncan  
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### **DIGEST**

Currently, Texas barbers and cosmetologists are regulated by two separate state agencies. The State Board of Barber Examiners is responsible for the oversight and regulation of barbers, barber shop owners, and barber school owners. Cosmetologists, cosmetology school owners, and salon owners are regulated and overseen by the Texas Cosmetology Commission. A significant amount of duplication exists between these agencies. Each employs an executive director, administrative staff, and field inspectors. In addition, both are involved in administering licensing examinations, collecting licensing fees, processing complaints and handling the preparation and administration of board meetings. The cost of regulating the separate agencies could be reduced by combining the duplicated functions.

The Texas Sunset Advisory Commission and the Comptroller's Performance Review team have recommended that the State Board of Barber Examiners and the Texas Cosmetology Commission be merged into a single regulatory agency. This merger is estimated to save approximately \$374,000 per biennium for the state. S.B. 719 would seek to increase the efficient operation of the state agencies regulating the barber and cosmetology industries by merging the two existing agencies into a single regulatory agency.

### **PURPOSE**

As proposed, S.B. 719 outlines provisions regarding the regulation of barbers and cosmetologists under the Texas Board of Barber and Cosmetologist Examiners and the abolition of the State Board of Barber Examiners and the Texas Cosmetology Commission.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Board of Barber and Cosmetologist Examiners under SECTION 1 (Sections 5(a) and 9(b), Article 8475a, V.T.C.S.), and SECTION 17 (Section 4, Article 8451a, V.T.C.S.), the public members and the three barber members of the Texas Board of Barber and Cosmetologist Examiners under SECTION 1, (Section 5(c), Article 8475a, V.T.C.S.), and the public members, the ex officio member, and the three cosmetologist members of the board under SECTION 1 (Section 5(d), Article 8475a, V.T.C.S.) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 132, V.T.C.S., by adding Article 8475, as follows:

Art. 8475. TEXAS BOARD OF BARBER AND COSMETOLOGIST EXAMINERS

Sec. 1. DEFINITIONS. Defines "barber," "board," and "cosmetologist."

Sec. 2. BOARD. Provides that the Texas Board of Barber and Cosmetologist Examiners (board) is composed of nine members appointed by the governor. Provides that board members serve staggered six-year terms, with the terms of three members expiring on February 1 of each odd-numbered year. Sets forth guidelines by which the board members are appointed. Provides that the agency administrator of the Texas Workforce Commission or that official's designee is an ex officio member of the board with voting privileges for the purposes of Section 5(d) of this article only. Sets forth instances in which a person is

ineligible for appointment as a public board member. Outlines provisions regarding the qualifications for board members and board employees. Provides that a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest for the purposes of this section. Requires a vacancy on the board to be filled by appointment by the governor of a person with the appropriate qualifications to serve for the remainder of the term. Requires appointments to the board to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees. Provides that the board is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, the board is abolished and this article, Article 8407a, V.T.C.S., and Article 8451a, V.T.C.S., expire September 1, 2009.

Sec. 3. **GROUND FOR REMOVAL.** Sets forth grounds for the removal of a board member. Provides that the validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists. Sets forth requirements for the notification of the existence of a potential ground for removal.

Sec. 4. **OFFICERS; MEETINGS.** Sets forth requirements for the election of board officers and the scheduling of board meetings.

Sec. 5. **BOARD POWERS AND DUTIES.** Requires the board to adopt rules consistent with this article for certain purposes. Sets forth requirements and outlines provisions regarding certain fees the board is required to adopt. Authorizes certain board members to adopt rules or participate in disciplinary proceedings in administering Article 8407a, V.T.C.S. Provides that the participation of certain board members is required for a quorum under this subsection. Authorizes certain board members to adopt rules or participate in disciplinary proceedings in administering Article 8451a, V.T.C.S. Provides that the participation of certain board members is required under this subsection. Authorizes the board to appoint an executive director. Authorizes the executive director to hire other personnel as necessary for the administration of this article.

Sec. 6. **CONFLICT OF INTEREST.** Prohibits a person from serving as a board member or acting as general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 7. **ANNUAL FISCAL REPORT.** Sets forth requirements for the preparation and institution of an annual fiscal report.

Sec. 8. **PERSONNEL POLICIES.** Sets forth requirements for the establishment of personnel policies. Requires all merit pay for board employees to be based on the system established under this subsection.

Sec. 9. **PUBLIC INTEREST INFORMATION.** Sets forth requirements for the establishment of information of public interest. Requires the board, by rule, to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. Sets forth areas in which the board is authorized to provide for that notification. Requires the board to develop materials and programs to educate the public concerning the licensing requirements imposed under this article, the need of the public to conduct business only with a licensed barber or cosmetologist, and the methods for reporting unlicensed activity.

Sec. 10. **AGENCY FUNDS.** Provides that all money paid to the board is subject to Chapter 404F, Government Code.

Sec. 11. **COMPLAINTS.** Sets forth requirements regarding complaints for which the board is required to keep information.

Sec. 12. EQUAL EMPLOYMENT OPPORTUNITY. Sets forth requirements for the establishment of an equal employment opportunity policy statement. Requires the governor's office to deliver a biennial report to the legislature based on the policy statement's required annual update. Authorizes the report to be made separately or as a part of other biennial reports made to the legislature.

Sec. 13. STANDARDS OF CONDUCT. Requires the executive director or the executive director's designee to provide to board members and employees, as often as necessary, information regarding their qualification for office or employment and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 14. PUBLIC ACCESS. Sets forth requirements for the establishment policies that provide public access to the board.

Sec. 15. OPEN MEETINGS; ADMINISTRATIVE PROCEDURE. Provides that the board is subject to Chapter 551, Government Code, and Chapter 2001, Government Code.

Sec. 16. BOARD MEMBER TRAINING. Sets forth requirements for board member training.

SECTION 2. Amends Article 8402, V.T.C.S., as follows:

Art. 8402. New heading: REGISTERING NAME AND LOCATION. Requires every person, firm, or corporation owning, operating, or managing a barber or specialty shop to register his or her full name and the location of said shop with the Texas, rather than State, Board of Barber and Cosmetologist Examiners. Requires an applicant for a barber shop permit to submit an application to the board, rather than the barber board, for the appropriate permit. Outlines provisions for certain persons in order that the public may fix responsibility for services, acts, or treatments performed by a barber, rather than persons, licensed by the board vis-a-vis those performed by a cosmetologist, rather than persons, licensed by that board, rather than the Texas Cosmetology Commission. Deletes text authorizing the public to avoid conflicts of jurisdiction between such board and commission which might impede effective administration or enforcement of the laws under their respective jurisdictions. Deletes text prohibiting the State Board of Barber Examiners and the Texas Cosmetology Commission from adopting certain rules if the agencies license the same facility. Deletes text setting forth requirements for informing consumers about contacting the regulatory board having jurisdiction over those individuals licensed under this Act. Makes conforming and nonsubstantive changes.

SECTION 3. Amends Section 1, Article 8407a, V.T.C.S., to make conforming and nonsubstantive changes.

SECTION 4. Amends Sections 3(g) and (h), Article 8407a, V.T.C.S., to provide that no person may operate a barber shop unless the shop is at all times under the sole and exclusive supervision and management of a registered Class A barber, and no person is practicing on the premises by authority of a cosmetologist, rather than any, license, permit, or certificate issued by the board, rather than the Texas Cosmetology Commission. Makes conforming and substantive changes.

SECTION 5. Amends Sections 4(a)-(1), Article 8407a, V.T.C.S. to redefine "board." Makes conforming and nonsubstantive changes.

SECTION 6. Amends Section 6, Article 8407a, V.T.C.S., to exempt an inmate incarcerated in the Texas Department of Criminal Justice who performs barbering during the period of incarceration, from the provisions of this Act. Makes conforming changes.

SECTION 7. Amends Section 11(b), Article 8407a, V.T.C.S., to prohibit an examination from being held at a barber school, college, or shop owned, managed, or operated by a member of the board, rather than the State Board of Barber Examiners.

SECTION 8. Amends Section 13, Article 8407a, V.T.C.S., to make conforming changes.

SECTION 9. Amends Section 15A(f), Article 8407a, V.T.C.S., to prohibit a person who holds a license, permit, or certificate to practice cosmetology issued by the board, rather than Texas Cosmetology Commission, from practicing under that authority at a manicurist specialty shop regulated under this Act.

SECTION 10. Amends Section 16(c), Article 8407a, V.T.C.S., to make a conforming change.

SECTION 11. Amends Section 18(f), Article 8407a, V.T.C.S., to make conforming changes.

SECTION 12. Amends Section 23a, Article 8407a, V.T.C.S., to make a conforming change.

SECTION 13. Amends Section 27a(a), Article 8407a, V.T.C.S., to make a conforming change.

SECTION 14. Amends Section 28(a), Article 8407a, V.T.C.S., to make conforming changes.

SECTION 15. Amends Section 29, Article 8407a, V.T.C.S., to delete Subsections (b)-(c) regarding board records. Makes conforming changes.

SECTION 16. Amends Section 1(2), Article 8451a, V.T.C.S., to define "board," rather than "commission" as the Texas Board of Barber and Cosmetologist Examiners, rather than Cosmetology Commission.

SECTION 17. Amends Section 4, Article 8451a, V.T.C.S., as follows:

Sec. 4. New heading: POWERS AND DUTIES OF BOARD. Deletes existing Subsections (g)-(l). Makes conforming changes.

SECTION 18. Amends Sections 10(b) and (c), Article 8451a, V.T.C.S., to make conforming changes.

SECTION 19. Amends Sections 11(b) and (c), Article 8451a, V.T.C.S., to make conforming changes.

SECTION 20. Amends Sections 12(b), (c), and (e), Article 8451a, V.T.C.S., to make conforming changes.

SECTION 21. Amends Sections 13(b), (c), and (e), Article 8451a, V.T.C.S., to make conforming changes.

SECTION 22. Amends Sections 13A(b), (c), and (e), Article 8451a, V.T.C.S., to make conforming changes.

SECTION 23. Amends Section 15(b), Article 8451a, V.T.C.S., to make a conforming change.

SECTION 24. Amends Section 16, Article 8451a, V.T.C.S., to make conforming changes.

SECTION 25. Amends Section 17(b), Article 8451a, V.T.C.S., to make a conforming change.

SECTION 26. Amends Section 18(b), Article 8451a, V.T.C.S., to make a conforming change.

SECTION 27. Amends Sections 19(b)-(e), Article 8451a, V.T.C.S., to outline provisions for certain persons so that the public may fix responsibility for services performed by persons licensed as barbers by the board, rather than the State Board of Barber Examiners. Deletes text regarding avoiding confusion of the public as well as avoiding conflicts of jurisdiction between such board and commission which might impede effective administration or enforcement of the laws under their respective jurisdiction, from and after January 31, 1980. Makes a conforming change.

SECTION 28. Amends Sections 20(b)-(d), Article 8451a, V.T.C.S., to make conforming

changes.

SECTION 29. Amends Sections 20A(b)-(d), Article 8451a, V.T.C.S., to make conforming changes.

SECTION 30. Amends Sections 21(b), (c), (e), and (k), Article 8451a, V.T.C.S., to make conforming changes.

SECTION 31. Amends Sections 21A(a)-(e), Article 8451a, V.T.C.S., to make conforming changes.

SECTION 32. Amends Section 21B, Article 8451a, V.T.C.S., to make conforming changes.

SECTION 33. Amends Section 21C, Article 8451a, V.T.C.S., to make conforming changes.

SECTION 34. Amends Sections 22(b), (c), (d), (f), and (g), Article 8451a, V.T.C.S., to make conforming changes.

SECTION 35. Amends Section 29, Article 8451a, V.T.C.S., to make conforming changes.

SECTION 36. Amends section 30, Article 8451a, V.T.C.S., to make conforming changes.

SECTION 37. Amends Sections 33(d), (e), (h), and (i), Article 8451a, V.T.C.S., to make conforming changes.

SECTION 38. Amends Section 34(b), Article 8451a, V.T.C.S., to make a conforming change.

SECTION 39. Amends Section 35(a), Article 8451a, V.T.C.S., to make conforming changes.

SECTION 40. Amends Section 38(a), Article 8451a, V.T.C.S., to make conforming changes.

SECTION 41. (a) Effective date: September 1, 1997.

(b) Repealer: Sections 23, 26, 26a, 26b, 26c, 27, 29A, 29B, 29C, and 29D, Article 8407a, V.T.C.S. (Fees, State Board of Barber Examiners: Appointment; Qualifications; Term; Removal; Vacancy, Sunset Provision, Members and Employees; Notice of qualifications and responsibilities, Intraagency career ladder program, Officers of Board; Compensation of members; Compensation and Bond of Secretary, Information about complaints, Restrictions on Board Members and Employees, Open Meetings Law and Administrative Procedures and Texas Register Act Applicable, and Lobbying by General Counsel or Board Member Prohibited) and Sections 2, 3, 5, 6, 7, 8, 28, 37, and 41, Article 8451a, V.T.C.S. (Texas Cosmetology Commission, Commission Organization and Meetings, Compensation, Executive director; Staff; Biennial report, Conflict of interest, Disposition of Funds, Consumer Information, Application of the Administrative Procedure and Texas Register Act, and Complaints).

(c) and (d) Makes application of this Act prospective.

SECTION 42. (a) Requires the governor to appoint one person licensed as a barber, one person licensed as a cosmetologist, and one person licensed as a public member to serve terms expiring February 1, 1999; one person licensed as a barber, one person licensed a cosmetologist, and one person licensed as a public member to serve terms expiring February 1, 2001; and one person licensed as a barber, one person licensed as a cosmetologist and one public member to serve terms expiring February 1, 2003, in making initial appointments to the Texas Board of Barber and Cosmetologist Examiners.

(b) Provides that an initial board member appointed under this section is exempt from board member training requirements under Section 16, Article 8475, V.T.C.S., as added by this Act.

SECTION 43.           Emergency clause.