

BILL ANALYSIS

Senate Research Center
77R12048 SMH-F

H.B. 3111
By: Zbranek (Bernsen)
Natural Resources
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Engrossed

DIGEST AND PURPOSE

Under current law, the Texas Natural Resource Conservation Commission (TNRCC) operates twelve separate programs for licensing and registration of members of various organizations. These programs were authorized at different times in the past, operated by the predecessor agencies that were consolidated to create TNRCC and include different procedural and administrative requirements of the various programs. H.B. 3111 establishes and consolidates consistent administrative requirements and procedures for all regulated occupations, enacts provisions consistent with recommendations of the Sunset Advisory Commission for licensing programs, and removes outdated and inconsistent statutory provisions.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission in SECTION 1 (Sections 37.002 and 37.006, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

H.B. 3111 amends the Water and Health and Safety codes to establish a uniform process for administering and enforcing occupational licenses and registrations under the jurisdiction of Texas Natural Resource Conservation Commission's (TNRCC) jurisdiction. The bill amends the Water Code to require TNRCC before December 1, 2001, by rule, to establish occupational licenses consistent with statutory requirements, to establish classes and terms of licenses and registrations, and to administer these provisions and other laws governing occupational licenses and registrations under TNRCC's jurisdiction (Sec. 37.002). TNRCC is authorized to establish qualifications for each occupational license or registration under its jurisdiction (Sec. 37.004). The bill requires TNRCC to establish requirements for issuing licenses and registrations and sets forth conditions under which TNRCC is authorized to deny a license or registration (Sec. 37.005). The bill sets forth requirements and uniform procedures for renewing licenses and registrations that TNRCC is required to establish. TNRCC is authorized, by rule, to adopt a system under which licenses or registrations expire on various dates during the year (Sec. 37.006).

TNRCC is required to prescribe the content of licensing examinations to be based on laws, rules, job duties, and standards relating to licenses and classes of licenses issued by TNRCC. TNRCC is required to determine the location and frequency of the examinations. Not later than the 45th day after the date a person takes a licensing examination, TNRCC is required to notify the person of the results of the examination. If requested in writing by a person who fails a licensing examination, TNRCC is required within a reasonable time period to provide the person with an analysis of the person's performance on the examination. TNRCC is required to ensure that an otherwise qualified individual who has a physical, mental, or developmental disability be provided with reasonable opportunity to take a licensing examination (Sec. 37.007).

The bill sets forth provisions requiring TNRCC to approve training programs necessary to qualify for or renew a license (Sec. 37.008). The bill requires TNRCC to establish and collect fees to cover the cost of administering and enforcing provisions relating to licenses and registrations and to deposit the fees to

the credit of the TNRCC occupational licensing account in the state treasury (Sec. 37.009). The bill sets forth provisions to prohibit TNRCC from adopting rules restricting advertising or competitive bidding by a license or registration holder, except to prohibit false, misleading, or deceptive practices (Sec. 37.010). TNRCC is required to prepare and make available to the public information describing the procedures by which a person may submit licensing and registration complaints to TNRCC (Sec. 37.011). TNRCC is authorized to require a person to provide certain information about other occupational licenses and registrations (Sec. 37.012). The bill provides that a license or registration holder must engage in the business, occupation, or profession governed by the license or registration according to applicable laws and TNRCC rule (Sec. 37.013). TNRCC is required to maintain and make available to the public, an official roster of persons who hold licenses and registrations (Sec. 37.014). TNRCC is authorized to contract with persons to provide services and to authorize contractors to collect reasonable fees for the services provided (Sec. 37.015). The bill sets forth provisions regarding violations of these provisions, prohibits the administrative penalty from exceeding \$2,500 a day for each violation, and prohibits the civil penalty from exceeding \$5,000 a day for each violation (Secs. 7.052 and 7.102).

The bill amends the Water and Health and Safety Codes to set forth license and registration requirements for persons who:

- perform process control activities at a sewage treatment facility or supervise the maintenance of a sewage collection system;
- offer to install, repair, or remove an underground storage tank or supervise the same;
- sell, design, install, alter, repair, or service an irrigation system;
- operate or perform process control duties in production or distribution of drinking water for a public water system;
- supervise solid waste facilities; and
- construct, install, repair, or extend on-site sewage disposal systems (Secs. 26.0301, 26.452, 26.456, and 34.007, Water Code and Secs. 341.034, 361.027, and 366.071, Health and Safety Code).

The bill sets forth licensing and registration and exemptions for landscape irrigators, for persons assisting a licensed person, and for owners of businesses employing licensed individuals (Secs. 34.002 and 34.006, Water Code).

The irrigator advisory council is required to provide advice to TNRCC concerning matters relating to landscape irrigation (Sec. 34.003, Water Code).

The bill authorizes TNRCC to prohibit the use of the petroleum storage tank remediation account to pay for corrective action if the action is taken by unlicensed contractors or unlicensed supervisors (Sec. 26.3573). The bill sets forth provisions authorizing TNRCC to implement a program to register engineers licensed by the Texas Board of Professional Engineers, and geoscientists licensed by the Texas Board of Professional Geoscientists who contract with an owner or operator of an underground storage tank or an above ground storage tank, or with any person, and sets forth provisions relating to such a program. The bill authorizes such engineers and geoscientists to supervise corrective action (Sec. 26.364-26.367).

The bill sets forth provisions relating to underground storage tank contractor registration and underground storage tank on-site supervisor licensing. The bill also sets forth provisions relating to the irrigator advisory council and licensing and registration of persons who perform duties relating to public water supplies.

The bill repeals provisions requiring the Texas Department of Health to issue a qualified person a certificate stating that the person is qualified to install, exchange, service, and repair residential water treatment facilities.

The bill also repeals provisions that are inconsistent and unnecessary with this Act (SECTION 25).

This bill takes effect September 1, 2001, with exceptions.