

## BILL ANALYSIS

Senate Research Center  
78-R919 MXM-D

S.B. 279  
By: Jackson  
Government Organization  
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As Filed

**This analysis utilizes the Texas Sunset Advisory Commission analysis of S. B. 279 relating to the continuation and functions of the Texas Department of Licensing and Regulation.**

### DIGEST AND PURPOSE

The Texas Department of Licensing and Regulation (TDLR) was created in 1989 when the Legislature renamed the Bureau of Labor Statistics and established TDLR as an umbrella licensing agency for non-health related professions. TDLR regulates 20 different professions through examination, licensing, inspection, and enforcement. TDLR is subject to the Sunset Act and will be abolished on September 1, 2003, unless continued by the Legislature. As a result of its review of TDLR, the Sunset Advisory Commission recommended continuation of the agency and several statutory modifications. As proposed, S.B. 279 continues TDLR until September 1, 2015. S.B. 279 amends the Occupations Code, Health and Safety Code, Water Code, Labor Code, Government Code, Revised Statutes, and Chapter 376, Acts of the 77th Legislature, Regular Session, 2001, relating to the transfer of certain functions from the Texas Department of Insurance and the Texas Commission on Environmental Quality to TDLR, and the transfer certain functions from TDLR to the Department of Public Safety. The bill incorporates several standard across-the-board recommendations of the Sunset Advisory Commission and clarifies that all 11 advisory committees of TDLR exist to advise the Texas Commission on Licensing and Regulation (commission).

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Commission on Licensing and Regulation in SECTION 1.017 (Section 51.302(c), Occupations Code), SECTION 1.019 (Section 51.403, Occupations Code), SECTION 3.004, (Section 2151.1021(a), Occupations Code), SECTION 12.007 (Section 754.016, Health and Safety Code), SECTION 17.007 (Subchapter C, Chapter 1304, Section 1304.105, Occupations Code), SECTION 25.014 (Subchapter F, Chapter 1901, Section 1901.257, Occupations Code), and SECTION 28.004 (Subtitle F, Title 2, Section 38.052, Water Code). In addition, under the general rulemaking authority already granted to the Commission, rules may be developed to implement other new provisions found in this bill.

Rulemaking authority is expressly granted to the Commission on Environmental Quality in SECTION 25.014 (Subchapter F, Chapter 1901, Section 1901.257, Occupations Code)  
Modifies rulemaking authority to transfer from the executive director of the Department of Licensing and Regulation to the Commission on Licensing and Regulation in SECTION 1.014 (Section 51.203 and 51.204, Occupations Code), and SECTION 1.020 (Section 51.406, Occupations Code).

Modifies rulemaking authority to transfer from the commissioner of the Department of Licensing and Regulation to the Commission on Licensing and Regulation in SECTION 2.001 (Section 1302.002(5), Occupations Code), SECTION 2.003 (Section 1302.101, Occupations Code), SECTION 2.004 (Section 1302.103, Occupations Code), SECTION 2.006 (Section 1302.204(a), Occupations Code), SECTION 2.009 (Section 1302.261, Occupations Code), SECTION 2.010 (Section 1302.354(b), Occupations Code), SECTION 2.011 (Section 1302.355(c), Occupations Code), SECTION 3.007 (Section 2151.105(a), Occupations Code), SECTION 3.008 (Section 2151.151, Occupations Code), SECTION 3.012 (Section 2151.153(a), Occupations Code),

SECTION 4.003 (Section 5A(d), Section 5A(h), and Section 5A(j), Article 9102, Revised Statutes), SECTION 5.002 (Section 1802.059(d), Occupations Code), SECTION 5.013 (Section 1802.207, Occupations Code), SECTION 5.019 (Section 1802.303(a), Occupations Code), SECTION 7.006 (Section 755.017, Health and Safety Code), SECTION 7.007 (Section 755.030(a), Health and Safety Code), SECTION 7.008 (Section 755.032, Health and Safety Code), SECTION 7.009 (Section 755.033, Health and Safety Code), SECTION 8.002 (Section 2502.056, Occupations Code), SECTION 9.004 (Section 2052.052, Occupations Code), SECTION 9.007 (Section 2052.251, Occupations Code), SECTION 10.002 (Section 57.042(g), Government Code), SECTION 10.003 (Section 57.043(b), Government Code), SECTION 12.006 (Section 754.015, Health and Safety Code), SECTION 12.008 (Section 754.017(b), Health and Safety Code), SECTION 12.009 (Section 754.019(a), Health and Safety Code), SECTION 13.002 (Section 1202.101, Occupations Code), SECTION 13.003 (Section 1202.102, Occupations Code), SECTION 13.005 (Section 1202.202(a), Occupations Code), SECTION 13.006 (Section 1202.204, Occupations Code), SECTION 13.007 (Section 1202.205, Occupations Code), SECTION 13.008 (Section 1202.252(a), Occupations Code), SECTION 13.009 (Section 1202.301(b), Occupations Code), SECTION 13.010 (Section 1202.302, Occupations Code), SECTION 13.011 (Section 1202.351(b), Occupations Code), SECTION 16.003 (Section 1152.051, Occupations Code), SECTION 16.009 (Section 1152.160, Occupations Code), SECTION 16.013 (Section 1152.203, Occupations Code), SECTION 16.014 (Section 1152.204, Occupations Code), SECTION 16.016 (Section 1152.251, Occupations Code), SECTION 17.003 (Section 1304.052(a), Occupations Code), SECTION 17.008 (Section 1304.151(a), Occupations Code), SECTION 18.002 (Section 91.002(a) and (b), Labor Code), SECTION 18.007 (Section 91.019(a), Labor Code), SECTION 18.009 (Section 91.041(c), Labor Code), SECTION 23.003 (Section 4, Article 9035, Revised Statutes), SECTION 23.004 (Section 5(a), Article 9035, Revised Statutes), SECTION 23.005 (Section 6(d), Article 9035, Revised Statutes), SECTION 23.006 (Section 10(e), Article 9035, Revised Statutes), SECTION 25.002 (Section 1901.052, Occupations Code), SECTION 25.005 (Section 1901.109(a), Occupations Code), SECTION 25.007 (Section 1901.162, Occupations Code), SECTION 25.008 (Section 1901.251(a), Occupations Code), SECTION 25.009 (Section 1901.252(b), Occupations Code), SECTION 26.003 (Section 1902.052, Occupations Code), SECTION 26.005 (Section 1902.162, Occupations Code), SECTION 27.003 (Section 1.11, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, V.T.C.S)).

Modifies rulemaking authority to transfer from the Texas Department of Licensing and Regulation to the Texas Commission on Licensing and Regulation in SECTION 19.002 (Section 2105.002, Occupations Code), SECTION 19.005 (Section 2105.104, Occupations Code), SECTION 19.006 (Section 2105.105(b), Occupations Code), SECTION 27.008 (Section 1.32, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, V.T.C.S)), SECTION 27.009 (Section 1.41(v), Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, V.T.C.S.)), SECTION 27.010 (Section 1.64, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, V.T.C.S.)), and SECTION 27.011 (Section 1.65, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, V.T.C.S)).

## **SECTION BY SECTION ANALYSIS**

### **ARTICLE 1. TEXAS DEPARTMENT OF LICENSING AND REGULATION**

SECTION 1.001. Amends Section 51.002, Occupations Code, to continue the Texas Department of Licensing and Regulation (TDLR) and the Texas Commission of Licensing and Regulation (commission) until September 1, 2015.

SECTION 1.002. Provides that this chapter applies to each regulatory program administered by TDLR, including any program under which a license is issued by TDLR.

SECTION 1.003. Amends Section 51.052(a), Occupations Code to change the size of the Commission on Licensing and Regulation from six to five members.

SECTION 1.004 - SECTION 1.025. Adds and updates standard Sunset language regarding the

continuation of TDLR, transfers rulemaking authority for all programs from the executive director of TDLR to the commission. Requires TDLR to create a toll-free licensing hotline, and maintain a licensing information database for consumers to access information about any license issued by a state licensing entity. Requires TDLR to charge any state licensing entities fees to sufficiently cover the cost of the creation of the database and toll-free hotline. Requires TDLR by rule or procedure to develop a written enforcement plan that provides notice of the specific ranges of administrative penalties that apply to specific violations of the programs TDLR administers, and the criteria by which TDLR determines the amount of an administrative penalty. Makes conforming changes.

SECTION 1.026. Repealer: Section 51.053(c), Occupations Code.

## ARTICLE 2. AIR CONDITIONING AND REFRIGERATION CONTRACTORS

SECTION 2.001- SECTION 2.013. Authorizes the presiding officer of the commission to appoint all members of the advisory committee and to appoint a presiding officer for the committee to serve for two years. Clarifies that all TDLR advisory committees exist to advise the commission. Makes conforming changes.

## ARTICLE 3. AMUSEMENT RIDES

SECTION 3.001- SECTION 3.013. Transfers the current oversight of mobile amusement park rides from the Texas Department of Insurance to TDLR. Requires TDLR to develop rules requiring mobile amusement park ride operators to inspect their rides and file reports with TDLR. Requires TDLR to develop forms which operators must use to report to TDLR quarterly regarding any governmental action taken. Makes conforming changes.

## ARTICLE 4. ARCHITECTURAL BARRIERS

SECTION 4.001 - SECTION 4.006. Authorizes the presiding officer of the commission to appoint all members of the advisory committee and to appoint a presiding officer for the committee to serve for two years. Clarifies that all TDLR advisory committees exist to advise the commission. Makes conforming changes.

## ARTICLE 5. AUCTIONEERS

SECTION 5.001 - SECTION 5.021. Authorizes the presiding officer of the commission to appoint all members of the advisory committee and to appoint a presiding officer for the committee to serve for two years. Clarifies that all TDLR advisory committees exist to advise the commission. Makes conforming changes.

## ARTICLE 6. BACKFLOW PREVENTION ASSEMBLY TESTERS

SECTION 6.001 and SECTION 6.002. Transfers the administration of the Backflow Prevention Assembly Testers programs from the Texas Commission on Environmental Quality (TCEQ) to TDLR. Authorizes TDLR to adopt rules, and to establish license and examination requirements.

## ARTICLE 7. BOILERS

SECTION 7.001 - SECTION 7.015. Authorizes the presiding officer of the commission to appoint all members of the advisory committee and to appoint a presiding officer for the committee to serve for two years. Clarifies that all TDLR advisory committees exist to advise the commission. Makes conforming changes.

## ARTICLE 8. CAREER COUNSELING SERVICES

SECTION 8.001 - SECTION 8.008. Makes conforming changes.

## ARTICLE 9. COMBATIVE SPORTS

SECTION 9.001 - SECTION 9.008. Makes conforming changes.

## ARTICLE 10. COURT INTERPRETERS

SECTION 10.001 - SECTION 10.006. Authorizes the presiding officer of the commission to appoint all members of the advisory committee and to appoint a presiding officer for the committee to serve for two years. Clarifies that all TDLR advisory committees exist to advise the commission. Makes conforming changes.

## ARTICLE 11. CUSTOMER SERVICE INSPECTORS

SECTION 11.001 and SECTION 11.002. Transfers the administration of the Customer Service Inspectors program from TCEQ to TDLR. Authorizes TDLR to adopt rules, and to establish license and examination requirements.

## ARTICLE 12. ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

SECTION 12.001 - SECTION 12.015. Requires that elevator certificates of compliance issued by TDLR be posted in a publicly visible area within a building. Gives the commission rulemaking authority to specify what information is required on a certificate of compliance, and to determine what a publicly visible place within a building is. Repeals the provision that prohibits certificates of compliance from being publicly posted. Makes conforming changes.

## ARTICLE 13. INDUSTRIALIZED HOUSING AND BUILDINGS

SECTION 13.001 - SECTION 13.012. Makes conforming changes.

## ARTICLE 14. IRRIGATORS

SECTION 14.001 - SECTION 14.005. Transfers the administration of the Landscape Irrigators program from TCEQ to TDLR. Authorizes TDLR to adopt rules, and to establish license and examination requirements. Makes conforming changes.

## ARTICLE 15. PERSONNEL EMPLOYMENT SERVICES

SECTION 15.001 - SECTION 15.006. Makes conforming changes.

## ARTICLE 16. PROPERTY TAX CONSULTANTS

SECTION 16.001 - SECTION 16.019. Authorizes the presiding officer of the commission to appoint all members of the advisory committee and to appoint a presiding officer for the committee to serve for two years. Clarifies that all TDLR advisory committees exist to advise the commission. Makes conforming changes.

## ARTICLE 17. SERVICE CONTRACT PROVIDERS

SECTION 17.001 - SECTION 17.011. Authorizes the presiding officer of the commission to appoint all members of the advisory committee and to appoint a presiding officer for the committee to serve for two years. Clarifies that all TDLR advisory committees exist to advise the commission. Repeals non-standard administrative penalty amounts in the service contract providers programs. Makes conforming changes.

## ARTICLE 18. STAFF LEASING SERVICES

SECTION 18.001 - SECTION 18.011. Repeals non-standard administrative penalty amounts. Makes conforming changes.

## ARTICLE 19. TALENT AGENCIES

SECTION 19.001 - SECTION 19.007. Makes conforming changes.

## ARTICLE 20. TEMPORARY COMMON WORKER EMPLOYERS

SECTION 20.001 - SECTION 20.004. Makes conforming changes.

## ARTICLE 21. TRANSPORTATION SERVICE PROVIDERS

SECTION 21.001 - 21.007. Abolishes the registration of transportation service providers at TDLR and transfers the authority to audit transaction records of transportation service providers to the Department of Public Safety. Makes conforming changes.

## ARTICLE 22. UNDERGROUND STORAGE TANK OPERATORS

SECTION 22.001- 22.004. Transfers the administration of the Underground Storage Tank Operators program from TCEQ to TDLR. Authorizes TDLR to adopt rules, and to establish license and examination requirements.

## ARTICLE 23. VEHICLE PROTECTION PRODUCT WARRANTORS

SECTION 23.001 - SECTION 23.009. Authorizes the presiding officer of the commission to appoint all members of the advisory committee and to appoint a presiding officer of each committee to serve for two years. Clarifies that all TDLR advisory committees exist to advise the commission. Repeals non-standard administrative penalty amounts. Makes conforming changes.

## ARTICLE 24. WATER TREATMENT SPECIALISTS

SECTION 24.001- SECTION 24.007. Transfers the administration of the Water Treatment Specialists programs from TCEQ to TDLR. Authorizes TDLR to adopt rules, and to establish license and examination requirements. Makes conforming changes.

## ARTICLE 25. WATER WELL DRILLERS

SECTION 25.001 - SECTION 25.018. Authorizes the presiding officer of the commission to appoint all members of the advisory committee and to appoint a presiding officer for the committee to serve for two years. Clarifies that all TDLR advisory committees of TDLR exist to advise the commission. Transfers the enforcement of plugging abandoned water wells to local Groundwater Conservation Districts, where they exist. Maintains TDLR's authority to enforce against landowners with unplugged water wells in areas of the state that Groundwater Conservation Districts do not exist, and TDLR's authority to establish plugging standards. Requires water well drillers, pump installers, and well owners to file plugging reports with Groundwater Conservation Districts, if they exist, and with TDLR. Requires TCEQ, TDLR, and Groundwater Conservation Districts to enter into memorandums of understanding to coordinate well plugging enforcement activities. Repeals non-standard administrative penalty amounts and makes conforming changes. Eliminates the involvement of the Water Well Drillers Advisory Council in making recommendations to the commission on evaluative licensure and enforcement actions in the water well drillers program.

## ARTICLE 26. WATER WELL PUMP INSTALLERS

SECTION 26.001- SECTION 26.008. Eliminates the involvement of the Water Well Drillers Advisory Council in making recommendations to the commission on evaluative licensure and enforcement actions in the water well pump installers program. Repeals non-standard administrative penalty amounts and makes conforming changes.

## ARTICLE 27. WEATHER MODIFICATION

SECTION 27.001 - SECTION 27.013. Authorizes the presiding officer of the commission to appoint all members of the advisory committee and to appoint a presiding officer for the committee to serve for two years. Clarifies that all TDLR advisory committees exist to advise the commission. Makes conforming changes.

ARTICLE 28. CONFORMING AMENDMENTS RELATED TO CERTAIN PROGRAMS TRANSFERRED FROM THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SECTION 28.001- SECTION 28.004. Gives TDLR authority to issue and pass rules regarding the administration of the Backflow Prevention Assembly Testers, Customer Service Inspectors, Underground Storage Tank Operators, Landscape Irrigators, and Water Treatment Specialists programs transferred from TCEQ to TDLR.

ARTICLE 29. GENERAL CONFORMING AMENDMENTS

SECTION 29.001 - SECTION 29.092. Makes conforming changes changing the term "commissioner" to "executive director."

ARTICLE 30. GENERAL TRANSITION; EFFECTIVE DATE

SECTION 30.001 - SECTION 30.002. Effective date: September 1, 2003. Provides that the status of any complaint, investigation, or other proceeding initiated by the executive director of TDLR before the effective date of this Act is not affected by the transfer of certain powers and duties to TDLR. Provides that rules adopted by the executive director of TDLR remain in effect until amended or changed.