

BILL ANALYSIS

Senate Research Center
84R10565 MAW-F

S.B. 1080
By: Eltife
Business & Commerce
3/16/2015
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1080 authorizes the Texas Department of Licensing and Regulation (TDLR) to order a refund or perform a service for an aggrieved party rather than pay a fine to TDLR, as well as establish alternate means of qualifying for a license for practitioners new to Texas.

Current law does not allow TDLR to consider experience elsewhere when determining an applicant's eligibility for licensure. It does not authorize TDLR to order a refund or perform a service for an aggrieved party. S.B. 1080 authorizes TDLR to use alternative means to determine if a person qualifies for a license, removes entry barriers for persons with commensurate experience but lacking the prerequisites needed for a license, and limits a refund to the amount agreed to between the two parties.

As proposed, S.B. 1080 amends current law relating to the authority of the Texas Department of Licensing and Regulation to determine applicant eligibility for a license and to discipline license holders.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter G, Chapter 51, Occupations Code, by adding Section 51.3514, as follows:

Sec. 51.3514. ORDER FOR REFUND OR SERVICE. (a) Authorizes the Texas Commission of Licensing and Regulation (TCLR) or the executive director of the Texas Department of Licensing and Regulation (executive director), instead of or in addition to imposing an administrative penalty or other sanction, to order a license holder to pay a refund to a consumer or to perform for the consumer a service consistent with the regulatory program for which the license was issued.

(b) Requires that the amount of a refund ordered under this section be calculated based on the amount the consumer originally agreed to pay and prohibits the amount of a refund ordered under this section from exceeding the amount the consumer paid to the license holder for the service.

(c) Requires a license holder performing a service ordered under this section to perform the service in accordance with any applicable codes and standards of conduct.

(d) Requires the Texas Department of Licensing and Regulation (TDLR) to establish criteria for calculating the amount of a refund due and for determining the scope of any service ordered to be performed.

SECTION 2. Amends Subchapter H, Chapter 51, Occupations Code, by adding Section 51.4041, as follows:

Sec. 51.4041. ALTERNATIVE QUALIFICATIONS FOR LICENSE. (a) Authorizes TCLR, TDLR, or the executive director to adopt alternative means of determining or verifying a person's eligibility for a license issued by TDLR, including evaluating the person's education, training, experience, and military service.

(b) Authorizes TCLR or the executive commissioner, notwithstanding any other law, to waive any prerequisite for obtaining a license if the applicant currently holds a similar license issued by another jurisdiction that:

(1) has requirements for the license that are substantially equivalent to those of this state; or

(2) has a reciprocity agreement with this state for the license.

(c) Authorizes TDLR, with approval of the governor, to enter into an agreement with another state to allow for licensing by reciprocity.

SECTION 3. Amends Section 469.004, Government Code, to change a reference to Section 51.404 to Section 51.4041.

SECTION 4. Amends Section 754.025, Health and Safety Code, to make a conforming change.

SECTION 5. Amends Section 55.004(c), Occupations Code, to change a reference to Section 51.404 to Section 51.4041(b).

SECTION 6. Amends Section 1202.106, Occupations Code, to make a conforming change.

SECTION 7. Repealer: Section 51.404 (Endorsement; Reciprocity), Occupations Code.

SECTION 8. (a) Makes application of Section 51.3514, Occupations Code, as added by this Act, prospective.

(b) Makes application of Section 51.4041, Occupations Code, as added by this Act, prospective.

SECTION 9. Effective date: September 1, 2015.