

From: [Sunset Advisory Commission](#)
To: [Trisha Linebarger](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Tuesday, November 20, 2018 3:50:46 PM

-----Original Message-----

From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission
Sent: Tuesday, November 20, 2018 3:13 PM
To: Sunset Advisory Commission <Sunset@sunset.texas.gov>
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS STATE BOARD PLUMBING EXAMINERS

First Name: Richmond

Last Name: Goolsby

Title: Owner

Organization you are affiliated with: RG Services

Email:

City: Gunter

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or
Opposed:

A Plumber's Response to the Sunset Commission Report on the Texas State Board of Plumbing Examiners.
November 20, 2018

Preface

I began as a Plumber's Apprentice in 1990 at the age of 16, worked my way to Journeyman status, and then became a Master Plumber sometime around 2000.

I have owned my own plumbing company and served as a general contractor for residential and light commercial construction. During other vocational pursuits I allowed my Master license to lapse around 2010. Returning to the plumbing and building trades in 2017 compelled me to regain my Master license. The process had become much more arduous due to subsequent statutes then when I had let my license lapse. Through these years TSBPE has changed in some ways beneficial, not changed in some ways that would be beneficial, and changed in some ways that don't appear to be beneficial. Changes for which I am particularly thankful include the ways with which TSBPE deal with their customers. Previous TSBPE leadership produced a hostile environment toward the plumbers they served as we were treated as a nuisance. This changed in recent years. My experience has been kindness and a spirit of servitude from current TSBPE staff. I have received prompt returned phone calls from administrative staff, especially helpful has been Lisa Guerrero.

All four of the examiners at the center have shown eagerness to help plumbers be successful. Lisa Hill has assisted me a few times through the years with issues in the field and was courteously available. These are some of the ways TSBPE has changed beneficially. The other changes and lack of changes are addressed in the following.

Issue 1

The Texas Department of Licensing and Regulation Could More Effectively Regulate Plumbers.

This issue is speculative. It is possible that the TDLR "could" more effectively regulate plumbers. Moreover, the

TDLR could also more ineffectively regulate plumbers and with some adjustments, the TSBPE could more effectively regulate plumbers.

This issue equivocally uses the term “effectively”. While stating, “the primary role of state regulation of occupations is to protect the public health, safety, or welfare (of its citizens)” there is no dispute offered regarding the TSBPE’s effectiveness in this primary role. The issue taken is one of efficiency in regulatory practices. The TSBPE has proven effective in protecting public health and safety in Texas. The problem that needs to be addressed is its lack of efficiency which has created some burdensome regulations.

Sunset Recommendation 1.1 - Transfer the regulation of plumbers to the Texas Department of Licensing and Regulation, and reconstitute the independent plumbing board as an advisory board.

This recommendation fails to resolve the issue. First, this recommendation exchanges one governmental bureaucracy for another. Other than reducing a staff of 31 down to 28 it does not produce smaller governmental oversight.

Secondly, the TDLR does not provide satisfactory customer service. Despite the glowing Sunset evaluation of TDLR, Texans do not agree. Out of 72 Google Reviews the TDLR receives 2.3 out of 5 stars including, “Staff is rude, unhelpful, unorganized....welcome to the 13th circle of hell.” I have personally spoken with friends in other trades regulated by the TDLR who agree with these negative sentiments. Thirdly, this bureaucratic exchange weakens the authoritative body. TSBPE can be frustratingly inefficient and they need help. However, one thing they do well is speak authoritatively for the plumbing trade in Texas and the citizens who receive plumbing services. The examiners are licensed plumbers who know the importance of sanitary plumbing and emphasize safe practices. The Executive Director and the Field Inspectors know plumbing. The TDLR would not be able to offer the same authoritative voice on behalf of Texas citizens. An Advisory Board is a nice idea but effective implementation is not best left to a committee. TSBPE keeps Texas safe.

My Recommendation - Provide TSBPE with specific tasks for greater efficiency.

Many of the ideas mentioned in the Sunset report are great and should be pursued. Give the current TSBPE leadership an opportunity to meet these goals. If they do not then replace them with others in the plumbing trade who will do so. Current revenue collected by TSBPE according to the Sunset report is approximately \$5 million with an operating budget of approximately \$2.5 million. There is sufficient funding to compensate the type of high quality leadership needed to execute efficient regulation.

Sunset Recommendation 1.2 - Require the agency to obtain fingerprint background checks for all applicants and licensees.

I agree.

Sunset Recommendation 1.3 - Direct the agency to work with TDLR to develop regulatory processes and rules.

My response to 1.1 applies.

Issue 2

Overregulation and Complex Licensure Requirements Inhibit Entry Into and Growth in the Plumbing Industry.

This issue is partially true but if followed through without caution will self-defeat the purpose of regulation. It is true that the TSBPE is burdensome with its statutory and regulatory practices. It is also true that some of TSBPE’s practices should be simplified. Moreover, if the licensure requirements for Plumbers becomes relaxed in the wrong ways it will lessen the necessary licensing standards and devalue the integrity of the plumbing trade. This would result in inferior practitioners and therefore a loss of protection for the safety and general welfare of Texans.

This issue is presumptuous. It assumes that the sole reason for inhibitions to entry and growth in the plumbing trade is to be blamed on the TSBPE. There are many other reasons to blame for the current shortage of plumbers and there are many ways to help correct the problem. There is currently a shortage of skilled laborers in all of the construction trades across our state but they are not regulated by the TSBPE. Assistance is needed in multiple facets of our society to improve value for Texas consumers who are affected by the labor shortage. Expansion of educational

opportunities for those seeking employment in building trades is imperative.

Sunset Recommendation 2.1 - Eliminate the separate drain cleaner-restricted, drain cleaner, and residential utilities installer registrations.

This recommendation is headed in the right direction to reduce redundancy in regulation which appears to create more administrative burden for the agency.

There should be a simpler way to allow for drain cleaning with less categorical licensing requirements. Possibly one way to better approach this issue would be to recognize that Tradesman Plumbers are already allowed to fulfill these duties which appears to be misunderstood in the Sunset report.

Sunset states this recommendation is needed because it would “authorize apprentice and Tradesman plumbers to perform these tasks.” However, current TSBPE statute clearly states a Tradesman Plumber, “constructs and installs plumbing” which certainly includes piping associated with drain cleaning.

My Recommendation - Clarify the current allowances of TSBPE statutes.

Evaluate and recommend a simpler way to regulate plumbing safety while eliminating the administrative burden on TSBPE staff with redundant licensing. The Apprentice registration is currently quite simple requiring only a Responsible Master Plumber to take responsibility for the Apprentice’s work and a simple registration. The Tradesman license only requires 4,000 hours (2 years) experience which is a minimal amount of time considering the safety concerns involved with potential for contaminating public water supply. I recommend eliminating the drain cleaner, drain cleaner-restricted, and residential utilities installer registrations and replacing them with the Tradesman license as a minimal requirement.

Especially considering 2 years experience is already a minimal amount of time to be entrusted with such important levels of public safety. This would provide a simpler way of regulation and reduce the administrative burden on TSBPE staff.

Sunset Recommendation 2.2 - Remove statutory requirements for direct supervision and authorize the board to determine supervision requirements for specific tasks in rule.

This recommendation grants too great a responsibility for plumbing work on unqualified individuals. The recommendation allows for “general supervision” of the Apprentice’s work which places public safety in the hands of someone with only introductory knowledge of the plumbing trade.

This recommendation is misinformed. It calls for granting “general supervision” of plumbing work to Tradesmen when TSBPE statute already does so in a limited fashion. Section 1301.3576 (10C) describes a Tradesman as one who, “constructs and installs plumbing for one-family or two-family dwellings under the supervision of a responsible master plumber.”

This recommendation is self-refuting to the overall purpose of Sunset’s recommendations. It calls for the, “the board...to determine in rule specific guidelines for the type of work that may be performed by apprentice and tradesman plumbers under general supervision and when direct supervision is required.” This creates more regulatory pontification where the previous recommendation sought to remove it.

My Recommendation - Clarify current TSBPE statutes regarding the roles of Tradesmen Plumbers and keep the direct supervision requirement for Apprentices.

Sunset Recommendation 2.3 - Remove the requirement for the board to only hire licensed plumbers to administer exams.

This recommendation seems to fall short of recognizing the knowledge necessary to successfully administer an adequate plumbing exam. A thorough understanding that comes only from experience is imperative in testing minimal qualifications for such a trade. Without realizing it Texas citizens trust plumbers every day. If one drinks safe water it is because a plumber has done his or her job well. If a water heater safely operates without explosion it is because a plumber has done his or her job well. How could Texas entrust regulation of such public safety to examiners not qualified enough to even be licensed?

My Recommendation - Require licensed plumbers to administer exams. Utilize some of the approximate \$2.5

million in TSBPE revenue to hire 3 additional licensed plumbers to administer exams, preferably with experience included in some form of pedagogy. Some of the backlog will also be alleviated by following my recommendations to 2.1 and 2.2.

Sunset Recommendation 2.4 - Authorize the board to outsource the creation and administration of its exams.

This recommendation is appealing. Sunset accurately evaluates, "Antiquated exams and their administration create unnecessary burdens for licensees, contributing to the workforce shortage of plumbers." Exams need to be updated by licensed plumbing persons who also understand pedagogical approaches to exam creation. This can be done with TSBPE and private providers without transferring to TDLR. The privatization of exam administration can be good for Texas and good for the TSBPE. The requirement for licensed plumbers to administer the exams should not be removed but outsourcing to other providers who meet TSBPE requirements would be beneficial.

My Recommendation - Offering private providers to administer exams allows more flexibility for plumbers around the state without the burden of traveling to Austin. Update exam creation in consultation with a wider input from licensed plumbers, CE providers, and qualified test makers. This type of hybrid privatization also opens a competitive free market where providers including TSBPE will be forced to be more efficient. Remove the required 24 hour course for Responsible Master Plumbers. The class focuses only on business management/practices which is a private matter that should be left to a business owner without government intervention. The class I took from a licensed provider was a complete waste of time and money.

Sunset Recommendation 2.5 - Clarify the board's authority to approve continuing education course content and instructors.

I agree.

Sunset Recommendation 2.6 - Authorize the board to establish license terms in rule.

I agree.

Sunset Recommendation 2.7 - Remove the separate renewal for endorsements.

I agree.

Sunset Recommendation 2.8 - Eliminate the Responsible Master Plumber designation and create a plumbing contractor license.

This recommendation actually calls for a return to old TSBPE policy but with different terminology. This fails to recognize a significant burden placed upon licensees for which I suffered misfortune. Before the RMP designation there was only a Master Plumber which was comparable to the "licensed plumbing contractor" concept. The Master Plumber was required to maintain general liability insurance as would a plumbing contractor. Moreover, there came a time in my life that I no longer utilized my plumbing license vocationally. I sought inactive status but no such thing was available. I was left with two choices. Either maintain my license renewal and general liability insurance at significant personal cost (approximately \$2,000 per year) or allow my license to lapse. At the time the only requirement to reinstate my Master license would have been to retest for the Master license.

However, subsequent statutes added the burdens of multiple classes, retesting for Journeyman license, and retesting for the Master license. All of which cost me approximately \$5,000 (including travel) and required an almost 2 year process. This could have all been avoided if the RMP designation had existed when I first let my license lapse. I would have gladly continued paying to renew my Master license if there had not also been the accompanying insurance expense attached to RMPs. Current policy for Master licenses to be reinstated needs to be restructured and there must be an option for those previously qualified to more easily regain their license.

My Recommendation - Keep the Responsible Master Plumber designation. Provide previous license holders the opportunity to regain their licenses by passing the exam of previous license held.

Sunset Recommendation 2.9 - Authorize the agency to issue temporary licenses.

Granting a temporary license without verifying the qualifications of plumbers is dangerous to Texas citizens. This is especially concerning during times of disasters when “storm-chasers” flock to damaged areas looking for quick profit. These areas have greater potential for cross-connected lines contributing to contaminated public water supply.

My Recommendation - Update the Journeyman and Master exams and allow emergency status for test takers during times of disaster. Require all plumbers in Texas to pass the necessary exam before allowing them to do plumbing work. The expanded ability to provide exams as I recommended in 2.4 provides for this need.

Sunset Recommendation 2.10 - Direct the board to revise its exams to eliminate practical components.

Certain elements of the practical components of the exam are outdated but the method of requiring practical components is not obsolete. The practical portion of the exam needs to be updated. For example, cutting cast iron could be removed as well as calculating a rolling offset. However, basic pipefitting skills such as black iron pipe, copper, and PVC are still important skills that cannot be tested any other way. The DWV system as piped in the “dollhouse” is still essential to basic plumbing knowledge and there is no better way to test this knowledge.

My Recommendation - Update the practical components of the plumbing exams. Remove the portions of the exam that are outdated and replace them with modern plumbing techniques. Require examiners to outfit a mobile shop trailer that provides test takers to perform practical plumbing components. Based on my recommendation in 2.4 most of this expense would be the responsibility of privatized examiners.

Sunset Recommendation 2.11 - Direct the board to simplify the timeframe for obtaining continuing education.

I agree.

Issue 3

Inefficient Enforcement Processes Hinder Effective Public Protection and Fair Treatment of Licensees.

My evaluation of TSBPE’s efficiency in statutory enforcement must be limited to my experience. The inefficiency reported by Sunset indicates a need for greater prioritization by Field Inspectors. This may be the case and there also may be other factors such as the rapid growth rate of Texas and a staff shortage.

Sunset Recommendation 3.1 Eliminate statutory qualifications for field investigators.

“This recommendation would repeal statutory requirements for field investigators to hold a plumbing license or have previous plumbing training and experience.” How can someone without plumbing training and experience enforce plumbing integrity? This is analogous to allowing unlicensed persons with no previous medical training and experience to regulate field inspections of medical doctors and facilities. This is not a false comparison. Plumbing oversight is just as important considering Texas citizens depend upon plumbers every day for safe drinking water.

My Recommendation - Require plumbing field inspectors to be licensed plumbers. Also, the number of field inspectors should be commensurate to the growing population in Texas.

Sunset Recommendation 3.2 - Repeal the statutory enforcement committee.

I agree.

Sunset Recommendation 3.3 - Repeal the board’s authority to issue criminal citations.

My knowledge is insufficient to respond to this recommendation.

Sunset Recommendation 3.4 - Direct the agency to adopt a risk-based approach to investigations in rule, focusing on higher risk complaints first before other lower risk activities, such as jobsite compliance checks.

TSBPE staff should know best how to assess the risk level of complaints and the appropriate ways to prioritize their

time spent on enforcement. If current staff is deficient in these areas then they should be given an opportunity to correct the problem or they should be replaced.

Sunset Recommendation 3.5 - Direct the agency to use informal settlement conferences in appropriate circumstances and better document its use of this enforcement tool.

I agree.

Sunset Recommendation 3.6 - Direct the agency to publish disciplinary history online.

I agree.

Sunset's Conclusion -

"Fiscal Implication -

Overall, while several recommendations would allow the agency to better allocate state resources and remove administrative bottlenecks, they would not have a significant fiscal impact to the state. The recommendations focus primarily on removing unnecessary statutory requirements and adopting, clarifying, and implementing policies to create efficiencies."

My Conclusion -

TSBPE is in need of improvement. Sunset offers many helpful recommendations.

Transferring regulatory responsibility of the plumbing trade in Texas from TSBPE to TDLR would be a mistake.

Texans depend upon safe plumbing every day and this public trust is best left to qualified plumbing professionals.

Reform TSBPE. Please do not trade one bureaucratic agency that is highly knowledgeable for another bureaucratic agency that is not.

Respectfully Submitted,

Richmond Goolsby

RMP #36524

Any Alternative or New Recommendations on This Agency: Comments above

My Comment Will Be Made Public: I agree