

Texas Air Conditioning Contractors Association (TACCA)
Proposals to Sunset Advisory Commission:
December 3, 2020

Proposal #1: Create a Trades Board Housed at TDLR

In the years since, TACCA has raised with TDLR and with other organizations the possibility of once again creating a trades board. The electrician and HVAC licenses are already administered at TDLR, with the assistance of advisory committees for each license type. The members of the advisory committees are appointed by the TDLR Commission.

After the Sunset Commission's vote to abolish the Plumbing Board and move that industry to TDLR in 2019, TACCA proposed as an alternative solution the creation of an independent Trades Board attached to TDLR, and was advised to wait and raise the issue when TDLR was under Sunset review.

This would fall under TDLR's Issue #1 in its Self-Evaluation Report, which would allow the agency to create interdisciplinary advisory committees. We support that Issue and take it even farther in that we advocate for the creation of an independent, interdisciplinary board administratively attached to TDLR.

Proposed Structure of Trades Board:

Create a Trades Board administratively housed at TDLR to govern electrical and HVAC (and plumbing* if moved to TDLR) contractors, with Governor-appointed board members as suggested below:

- Chair – Public Member
- Class A HVAC Contractor
- Class B HVAC Contractor
- Class A Master Electrician
- Class B Master Electrician
- *Master Plumber
- *Journeyman Plumber

This proposed Trades Board ("Board") differs from the one proposed in Chairman Nevarez' HB 4226 (86th R) in that it is not a separate agency, but would be housed at TDLR. The Board would promulgate rules governing qualifications for licensure, certification or registration within the various trades; and the scope of practice of each profession. Those rules would be subject to the oversight of the TDLR Commission ("Commission"), which is all public; this oversight satisfies the restraint of trade issues in the North Carolina Dental Board case and its progeny as well as the intent of the Sunset Commission as reflected in SB 1995 (86th R) by Sen. Birdwell.

The Commission would also be empowered to approve or reject the Board's rules. If it rejected a rule, the Commission would be required to send it back to the Board with an explanation, so that the Board could rewrite the rule accordingly. A rule could only be rejected by the Commission if it violated the underlying statute, would result in restraint of trade or was anti-competitive. There is recent precedent for

this type of structure in the newly-created Behavioral Health Executive Council (HB 1501, 86th R), which administratively houses the four independent mental health licensing agencies; as well as the Physical Therapy/Occupational Therapy Executive Council; and the State Board for Educator Certification/State Board of Education model.

Efficiencies Under the Proposed Board Structure:

- TDLR would provide administrative support to the Board, as it currently does for its licensees, in the areas of processing applications, background checks, examinations, issuing licenses, investigations and enforcement.
- Eliminating Advisory Committees for these three trades, the 1st, 2nd and 4th largest licensee groups at TDLR (if the plumbers move there), would free up staff time for TDLR.
- Staffing the Board, and reviewing, approving or rejecting the Board's rules would be less time-consuming for TDLR staff and the Commission than promulgating the rules for three separate license groups.
- The Trades Board would promote cooperation among the license groups on such areas as workforce development and code adoption.
- More consistencies can be achieved across the license types in areas such as continuing education requirements, penalty matrices, and enforcement.

Proposal #2: Prohibit Municipal Registration Fees-Solution for an Existing Inconsistency

Background: Prior to HVAC and electrical contractors being licensed statewide, each municipality had its own license requirements and issued local licenses. After the respective statewide licenses began, municipalities charged those contractors, and plumbers, "registration fees" to do business in each city, in order to replace the lost licensing revenue. In recent legislative sessions, plumbers and electricians have succeeded in prohibiting municipalities from charging registration fees. A bill to prohibit the municipal registration fees for HVAC contractors failed in 2019 (HB 4249).

Rationale: Many HVAC contractors with businesses in metropolitan areas serve customers in many different municipalities. The multiple municipal registration fees they are required to pay can add up to several thousand dollars annually, and those costs are difficult to pass on to customers. In contrast, permit fees are easily attributable to each separate job and can be added to an invoice and recouped. TACCA has no quarrel with municipalities increasing permit fees to recoup lost HVAC municipal registration fees.

The current system is unfair and penalizes HVAC contractors in comparison to electricians and plumbers in an industry with very expensive replacement costs on an essential home or commercial system, and thin margins.

We respectfully ask the Sunset Advisory Commission to add a recommendation to its TDLR decision to eliminate municipal registration fees for HVAC contractors.

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