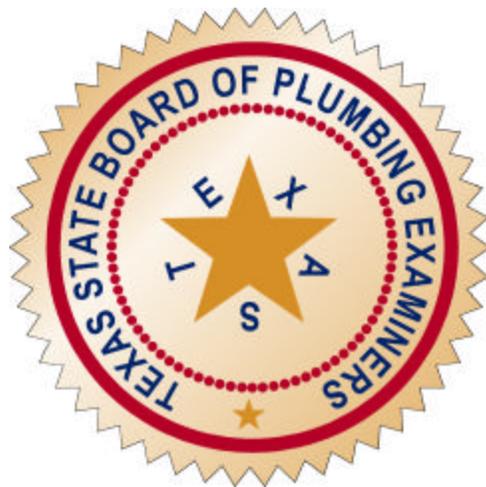


***Texas State Board of Plumbing Examiners***

***Self Evaluation Report***



***Submitted to the  
Sunset Advisory Commission***

***August 16, 2001***

TEXAS STATE BOARD OF PLUMBING EXAMINERS –  
Self Evaluation Report –

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## **Texas State Board of Plumbing Examiners Self-Evaluation Report**

### ***I. Key Functions, Powers, and Duties***

<b>A. Provide an overview of the agency's mission, key functions, powers, and duties. Specify which duties are statutory.</b>
-------------------------------------------------------------------------------------------------------------------------------

The mission of the Texas State Board of Plumbing Examiners ("Board") is to help protect the health and safety of the citizens of the State of Texas by ensuring that our drinking water, air and medical gasses are not contaminated and that we may live and work in the safe conditions that properly installed plumbing systems are designed to provide. The Board accomplishes its mission by complying with its statutory duties to examine and license plumbers and plumbing inspectors and enforce V.T.C.S. art. 6243-101, the Plumbing License Law ("Act"), the Board's enabling statute. These statutory duties include:

- administering examinations for Journeyman Plumbers, Master Plumbers, Plumbing Inspectors, Water Supply Protection Specialists and Medical Gas Piping Installers
- approving Continuing Professional Education programs
- investigation of consumer complaints
- plumbing job-site compliance monitoring
- issuing citations to alleged violators
- suspending and revoking licenses
- reviewing criminal histories of applicants
- assisting local authorities with the enforcement of the Plumbing License Law

The Board does not teach individuals how to install or repair plumbing, nor does it have authority to do so. This task is appropriately left to high schools, trade schools, community colleges, and like schools that choose to provide such training, as well as the training provided by the plumbing industry itself. However, the Board believes that to properly carry out its mission, it must endeavor to educate the industry and consumers in the requirements of the Plumbing License Law and the hazards of improperly installed plumbing. In this public awareness effort, the Board utilizes its internet web site and also conducts highly requested awareness seminars for plumbing trade schools, high schools, universities, municipal inspection departments and associations, plumbing companies and plumbing trade associations. Included in many of the seminars is the Board's unique cross-connection prevention demonstration unit that houses a display of see-through fixtures and piping which demonstrate how easily our drinking water can be contaminated by improperly installed plumbing systems. These seminars additionally serve to provide information to individuals who are making career decisions and may be encouraged to consider the plumbing industry as a career path to follow.

**B. Does the agency's enabling law correctly reflect the agency's mission, key functions, powers, and duties?**

Currently, the Plumbing License Law correctly reflects the agency's mission, key functions, powers and duties. During the 77<sup>th</sup> Legislative session, HB 2813 that was filed without the Governor's signature on June 17, 2001, to be effective on June 1, 2003, contains a non-substantive codification of the Plumbing License Law and places it in the Occupations Code under Title 8, Regulation of Environmental and Industrial Trades. The purpose of the codification is to make the statute more accessible, understandable and usable, without altering the sense, meaning, or effect of the law. The Board recognizes the excellent job that was performed by the Texas Legislative Council in codifying the Act. However, a concern exists that the placement of the statute under Title 8, Regulation of Environmental and Industrial Trades does not accurately reflect the Board's mission to protect the health and safety of the citizens by ensuring that our drinking water, air and medical gasses are not contaminated and that we may live and work in the safe conditions that properly installed plumbing systems are designed to provide. The Board's mission is well known, and the location of the Plumbing License Law in Title 8 may actually make the statute less accessible to individuals who are familiar with the Board's mission and seek to locate the statute. It appears that the Plumbing License Law would be more appropriately located in the Occupations Codes under Title 12, Practices and Trades Related to Water, Health, and Safety.

The 77<sup>th</sup> Legislative session also resulted in the passage of HB 1505 and HB 217, which significantly amended the Plumbing License Law by expanding the Board's jurisdiction and adding a new license and four new mandatory registration categories to be administered by the Board. These significant additions should be included in the codification of the Plumbing License Law that will be effective June 1, 2003.

**C. Please explain why these functions are needed. Are any of these functions required by federal law?**

Quality plumbing systems installed by qualified plumbers and inspected by qualified plumbing inspectors are critical to the health and safety of the citizens of Texas because improperly installed plumbing systems can cause and actually have caused injury and death through explosions, fires, hospital medical gas contamination, and noxious fumes. Improperly installed plumbing systems can transmit diseases that include typhoid fever, diarrhea, cholera, and amoebic and bacterial dysentery. Sickness or death can occur when noxious fumes such as carbon monoxide, methane gas, and fuel gas are not properly ventilated by our plumbing systems. Improperly installed medical gas systems can deliver contaminated or cross-connected medical gasses to hospital patients causing sickness and death. Properly installed plumbing systems must not be taken for granted simply because our citizens are no longer living in the "dark ages" when plagues of diseases were common. Rather, we must recognize that the fact that plumbing related accidents, illnesses and deaths occur less often is due, in great part, to the

continued diligence in the regulation of the plumbing industry.

**Examination and Licensing:** Section 5(a) of the Plumbing License Law states, in part, that it is one of the Board's duties to ". . . examine, as to their fitness and qualifications, all persons applying to the Board for licenses . . ." The Board takes this charge seriously. The Board's examinations and examination center are currently recognized nationwide as setting a high standard in the plumbing industry. Currently, separate examinations are given for Journeyman Plumber, Master Plumber, Medical Gas Specialist, Water Supply Specialist, and Plumbing Inspector. These examinations consist of thorough written and hands-on-practical sessions that ensure that licensed plumbers and plumbing inspectors who work with public water supplies, sewage disposal, natural gases and medical gases have the qualifications, knowledge, skills, and competencies to do their jobs properly. The life of any plumbing system, large or small, is directly related to the preparation and assembly of the materials that go into the making of the plumbing system. It is difficult to detect improper preparation of materials once the materials are assembled and installed in the plumbing system, until the system fails. The failure of a plumbing system can result in fires, explosions, serious health problems and considerable expense to the consumer. For this reason, the practical portion of a plumbing examination is critical to ensure that the applicant demonstrates his or her ability to properly prepare and assemble plumbing materials used in plumbing systems. After an applicant assembles materials during the examination, the materials are disassembled and the applicant is graded on how well the materials were prepared prior to assembly.

### **Enforcement**

Rigorous and pro-active enforcement of the plumbing regulations is critical to the health and safety of the citizens of Texas. The enforcement and regulation occurs through the receiving and investigation of complaints, checking compliance of plumbing practices and plumber and plumbing inspector licenses at job sites, issuance of reprimands, revocation or suspension of licenses, and issuance of citations against plumbers who allegedly violate the Plumbing License Law, or rules and regulations of the Board. Additionally, the Board monitors the Continuing Professional Education courses that are required for license renewal, on a random basis to ensure that the courses meet the minimum requirements of the Plumbing License Law and Board Rules. Without the objective enforcement administered by the Board, industry compliance with the Plumbing License Law could be expected to be minimal, at best, and health and safety risks would increase.

### **Indirect Administration**

Indirect administration includes supervision of all agency staff. Indirect administration performs all of the accounting, payroll, purchasing, reporting, human resource, information resource and other administrative tasks required by the state to operate properly and efficiently.

### **Public and Industry Awareness Efforts**

The Board has found that most plumbers desire to "do the right thing," by complying with the laws and rules that regulate their industry. However, without the Board's efforts to reach out to

the industry to inform it of what is expected in the way of compliance, many plumbers would find themselves in unintentional violation of the regulations. It can also be understood that an educated consumer is able to make better decisions when choosing a plumber when the consumer knows what is expected of the plumber and understands the health and safety hazards associated with improperly installed plumbing. Additionally, when the plumber knows that his or her consumer possesses such knowledge, the plumber is more likely to deliver a better service. For these reasons, the Board's awareness seminars and Internet web site are important to both the plumbing industry and the consumer.

### **Federal Requirements**

Federal law does not require state or federal licensing of plumbers or plumbing inspectors. The Federal Safe Drinking Water Act (FSDWA) was first passed in 1974 and has since been amended several times. The requirements of the FSDWA pertain primarily to public water systems, and, therefore the enforcement of the regulations are not within the purview of the Board. However, the plumbing codes adopted by the Board and political subdivisions within the state incorporate many of the requirements of the FSDWA, including the ban of plumbing materials and fixtures that contain lead. Licensed Plumbers and Plumbing Inspectors must comply with the state approved plumbing codes and the Board assists local authorities in the enforcement of the plumbing codes.

<b>D. In general, how do other states carry out similar functions?</b>
------------------------------------------------------------------------

Of the states surveyed, most license Journeyman and Master Plumbers, and many of those also license Plumbing Inspectors. In most of the states that do not regulate plumbers on the state level, plumbers are licensed and regulated by the individual cities or counties.

Of those states that license Journeyman plumbers, many conduct a "hands on" practical examination for the Journeyman license. Many of those that do not currently offer a "hands on" practical examination, have indicated that they realize the need for it, and are progressing towards the use of a practical examination. Many of the states base their examinations on a single plumbing code that has been adopted by the state.

Some of the states surveyed require that the Master Plumber or Plumbing Contractor carry liability insurance. A few of the states surveyed require Continuing Professional Education in order to renew a license. None of the states surveyed truly practice reciprocity of licenses from other states. Most accept a license from another state to satisfy experience requirements, but require the individual to be examined by their state.

Most of the states surveyed generally have enforcement programs similar to Texas. Some of the other states utilize state agency employed Field Representatives, while others rely on local Plumbing Inspectors to provide enforcement. Some of the other state agencies utilize Enforcement Committees in a similar fashion as Texas.

Throughout the years, the Board and the Board's staff have had opportunities to network with individuals representing other states on issues relating to the development of plumbing codes, enforcement and examinations. The Texas State Board of Plumbing Examiners is nationally recognized as setting standards that plumbing regulatory Boards in other states desire to follow. Texas was one of the first states to administer such a comprehensive practical examination for licensing plumbers and to implement a medical gas piping installation endorsement for licenses. On several occasions, representatives from plumbing regulatory Boards of other states have requested to tour the Board's facilities and review the Board's programs in an effort to pattern their programs after the Board's.

**E. Describe any major agency functions that are outsourced.**

Information Services

The Board contracts with Northrop Grumman Technical Services, Inc. (NGTSI), through a contract with the Department of Information Services (DIR) under the West Texas Contract, for computer services. The Board's automated system for examination, license and enforcement, is supported by NGTSI. The Board's staff works directly with NGTSI staff for information services needs. The Board contracts with a TEXAN 2000 vendor (HUB) for hosting and modifications of the agency's web site. The Board does not have a full time person assigned to IT functions, but rather has a staff member who has other primary responsibilities designated as the agency's Information Resource Manager (IRM).

Legal Representation

An Assistant Attorney General, assigned by the Office of the Attorney General, represents the Board. The Assistant Attorney General acts as General Counsel for the Board and handles all legal matters of the Board, including enforcement matters.

Other

As is common with most state agencies, the agency utilizes interagency contracts with other state agencies whenever possible. Specifically, the agency uses the General Services Commission (GSC) for mail services, telephone long distance services, and purchasing; and the Comptroller of Public Accounts for accounting, property, payroll and treasury functions, including lockbox services.

**F. Discuss anticipated changes in federal law and outstanding court cases as they impact the agency's key functions.**

At this time, the Board does not anticipate any changes in federal law that will impact the agency's key functions.

Outstanding Court Case

*Mauldin v. Texas State Board of Plumbing Examiners, et al.*

Plaintiff Benjamin Mauldin (“Mauldin”) filed a lawsuit in Travis County District Court against the Texas State Board of Plumbing Examiners and Mr. Robert Maxwell in his official capacity as Administrator for the Board. Mr. Mauldin is seeking a declaration that Texas Family Code violates the Equal Protection clause of the Texas Constitution. Mr. Mauldin is a licensed plumber in the State of Texas. Mr. Mauldin objects to the Board’s requirement that plumbers must submit their social security numbers on applications and renewals for a plumber’s license. The Board is required to solicit social security numbers from applicants for a plumber’s license under the Texas Family Code. The Texas Family Code (TEX. FAM. CODE ANN. §231.302) provides that professionals must submit their social security numbers on license applications in order to be licensed in Texas. The provision applies not only to plumbers, but also to every professional that is licensed in the State of Texas. The Texas Family Code (TEX. FAM. CODE ANN. §232.002) provision places Texas in compliance the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (“PRWORA”). PRWORA requires that states take certain actions to assist state agencies in the collection of child support as a condition for the receipt of federal funds, including social security numbers from professionals as a requirement to obtain a license. States that do not comply with PRWORA are in jeopardy of losing federal funding that is used to assist the state in the collection of child support. The State of Texas currently receives over \$121 million in federal funds for child support.

Mauldin argues that the Texas Family Code provision is constitutionally overbroad because the requirement burdens plumbers who will never be required to pay child support. Mauldin has also asserted that the Texas Family Code provision infringes on his First Amendment right to practice his religion because he believes that the social security number could be a precursor to the Biblical “mark of the beast” since it is being used as a personal identifier by the state. The Board’s position is that the social security number is the most important piece of information in the ongoing battle to locate parents who are refusing to pay their child support obligations. In addition, the threat of license suspensions is a very successful tool in motivating individuals to meet their child support obligations in the State of Texas. License suspensions are not limited just to plumbers, but include every profession and activity licensed by the State of Texas including driver’s licenses and recreational licenses such as hunting and fishing licenses.

The Plaintiff in this case is currently represented by Larry Becraft, an attorney from Huntsville, Alabama. Mr. Becraft is working with local counsel Skip Hulett from the Texas Justice Foundation on this case. Both parties have prepared motions for summary judgment. The attorneys have agreed to set a hearing on the pending motions for summary judgment in September, 2001. The Board is in a good legal position for the hearing on the motions for summary judgment. Should the Board prevail at the trial court level, Mr. Mauldin has indicated that he will appeal the case to the court of appeals.

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**G. Please fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact the agency.**

Texas State Board of Plumbing Examiners Exhibit 1: Statutes/Attorney General Opinions	
Statutes	
Citation/Title	Provides Authority To:
V.T.C.S. art. 6243-101 (The Plumbing License Law), § 5(a)	Administer examinations for Journeyman Plumber, Master Plumber, Plumbing Inspector
V.T.C.S. art. 6243-101, § 8(a)	Issue Licenses for Journeyman Plumber, Master Plumber, Plumbing Inspector
V.T.C.S. art. 6243-101, § 12	Renew licenses
V.T.C.S. art. 6243-101, § 8C	Administer examinations and issue license endorsements for Medical Gas Piping Installation
V.T.C.S. art. 6243-101, § 11A	Administer examinations and issue license endorsements for Water Supply Protection Specialist
V.T.C.S. art. 6243-101, § 12B	Adopt criteria for and approve Continuing Professional Education programs
V.T.C.S. art. 6243-101, § 5B	Adopt plumbing codes to protect the health and safety of the citizens of this state
V.T.C.S. art. 6243-101, § 5B, § 15(a)	Ensure that municipalities adopt plumbing codes and perform plumbing inspections
V.T.C.S. art. 6243-101, § 5(a)	Adopt rules for the enforcement of the Act
V.T.C.S. art. 6243-101, § 8A and § 8B	Investigate complaints
V.T.C.S. art. 6243-101, § 8B(b)(1)	Perform job-site monitoring and license checks
V.T.C.S. art. 6243-101, § 8B(b)(3)	Assist municipalities in cooperative enforcement of the Act
V.T.C.S. art. 6243-101, § 9(a)	Revoke, suspend and probate suspensions of licenses
V.T.C.S. art. 6243-101, § 9(b)	Levy civil penalties
V.T.C.S. art. 6243-101, § 8B(b)(4), § 14(c), § 14(e)	Issue citations (Class C misdemeanor)
Occupations Code, Chapter 53	Consider criminal history of applicants

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<b>Attorney General Opinions</b>	
<b>Attorney General Opinion No.</b>	<b>Impact on Agency</b>
March 8, 1999, Opinion #JC-0012	Clarified that municipalities may adopt any plumbing code other than the three plumbing codes named in Section 5B of the Plumbing License Law, provided that such codes do not substantially vary from the three named codes. The Board may not adopt any plumbing code other than the three named codes as they existed in 1993, when Section 5B was passed into law.*
May 23, 2001, Opinion #JC-0382	Clarified that a Licensed Plumbing Inspector must be an employee of the city or other political subdivision in which the Plumbing Inspector exercises authority. A city or other political subdivision may not contract with an independent contractor to perform the duties of a Licensed Plumbing Inspector.**

**\*Note** – HB 217, passed by the 77<sup>th</sup> Legislature amended Section 5B of the Plumbing License Law, in part by changing the plumbing codes approved by the state and allowing the Board to adopt later versions of the codes.

**\*\*Note** - HB 217, passed by the 77<sup>th</sup> Legislature amended Section 5B of the Plumbing License Law, in part by allowing a city or other political subdivision to contract with a Licensed Plumbing Inspector, provided that the Plumbing Inspector is paid directly by the city or other political subdivision.

It should also be noted that on July 20, 2001, the Board requested a formal opinion from the Attorney General regarding interpretation of possible conflicts between S.B. 365, HB 217 and HB 1505, which were passed by the 77<sup>th</sup> Legislature and affect the Plumbing License Law. As of this writing, the request has been assigned Request No. 0406-JC and a due date of January 21, 2002 has been set by the Office of the Attorney General.

<b>H. Please fill in the following chart:</b>
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<b>Texas State Board of Plumbing Examiners Exhibit 2: Agency Contacts</b>			
	Name	Address	Telephone Number Fax Number E-mail Address
<b>Agency Head</b>	Robert L. Maxwell Administrator	929 East 41 <sup>st</sup> St. Austin, TX 78751	(512) 458-2145 ext. 233 (512) 450-0637 bob.maxwell@tsbpe.state.tx.us
<b>Agency's Sunset Liaison</b>	Robert L. Maxwell Administrator	929 East 41 <sup>st</sup> St. Austin, TX 78751	(512) 458-2145 ext. 233 (512) 450-0637 bob.maxwell@tsbpe.state.tx.us

***II. History and Major Events***

**In 1897,**

- The 25<sup>th</sup> Legislature (SB 154) passed the first state plumbing license law requiring cities to adopt their own plumbing installation regulations and establish local examining boards for the purpose of examining and licensing Master Plumbers, Journeyman Plumbers and Plumbing Inspectors.

- A license was valid only within the city that issued it and reciprocity between cities was rare.
- Examination requirements varied widely from city to city.
- Plumbers complained that it was difficult to pass an examination that was not administered in the plumber's hometown.
- Plumbing installation regulations varied widely from city to city.

**In 1947,**

- The 50<sup>th</sup> Legislature (SB 188) passed the Plumbing License Law of 1947, which created the Texas State Board of Plumbing Examiners to provide for uniform statewide examining and licensing of Master Plumbers, Journeyman Plumbers and Plumbing Inspectors.

- Finally provided for uniform statewide license requirements and a state license that allowed plumbers to move freely from city to city in order to practice their occupation.

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- The Board consisted of six Governor appointed members, specifically a Master Plumber, a Journeyman Plumber, an architect, a sanitary engineer, a commercial builder and a homebuilder.
- The Board was self-supporting with no funds paid to or collected from the state General Fund.
- Cities of 5,000 or more inhabitants were required to adopt their own plumbing installation regulations and perform plumbing inspections using licensed Plumbing Inspectors.
- Plumbers were required to be licensed only if performing plumbing work within a city of 5,000 or more inhabitants.
- The Board had the authority to revoke a license and the penalty for working without a required license was as stated in the Penal Code of Texas.

**In 1973**, the 63<sup>rd</sup> Legislature (SB 831) gave the Board the authority to stagger the renewal of licenses.

**In 1975**, the 64<sup>th</sup> Legislature (HB 1886) provided an offense under the Plumbing License Law to be a Class C Misdemeanor.

**In 1977**,

- The 65<sup>th</sup> Legislature (SB 147) allowed individuals licensed to engage in residential water treatment installations to be specifically exempted from holding a plumbing license under the Plumbing License Law. Licensed Plumbers could continue to perform such installations without holding any additional licenses.
- The 65<sup>th</sup> Legislature (SB 54) provided that the Board be subject to the provisions of the Texas Sunset Act.

**In 1979**, the 66<sup>th</sup> Legislature (SB 259) provided that individuals licensed to engage in the installation of lawn irrigations systems were specifically exempted from holding a plumbing license under the Plumbing License Law. Licensed Plumbers could continue to perform such installations without holding any additional licenses.

**In 1981**, the 67<sup>th</sup> Legislature (SB 851)

- added two Public Members, a Plumbing Contractor Member and a Plumbing Inspector Member to the Board's composition. The Architect Member Position was eliminated from the Board's composition.
- The Board became subject to the Appropriations Act.

**In 1985**, with the automation of license renewals, the Board implemented staggering of license expirations.

**In 1987**,

- The 70<sup>th</sup> Legislature (SB 620) classified a violation of the Plumbing License Law and Board Rules as a Class B misdemeanor and authorized the Board's Field Representatives to issue citations for violations of the Plumbing License Law. However, because a violation was a Class B misdemeanor, the Field Representatives could not file the citation in local Justice of the Peace courts.
- The 70<sup>th</sup> Legislature (HB 78) provided that licensed Plumbing Inspectors may enforce the Act, in addition to enforcement by the Board.

**In 1989**, the 71<sup>st</sup> Legislature reclassified a violation of the Plumbing License Law and Board Rules as a Class C misdemeanor to allow a Field Representative to file citations in local Justice of the Peace courts.

**In 1993**,

- The 73<sup>rd</sup> Legislature (HB 740) provided the Board authority to provide examinations for and issue license endorsements for medical gas installation.
- The 73<sup>rd</sup> Legislature (SB 813) provided the Board authority to provide examinations for and issue license endorsements for water supply protection specialists.
- The 73<sup>rd</sup> Legislature (SB 137) provided that persons holding a license issued by the Board were required to complete at least six hours of Continuing Professional Education each year. The Board was given the responsibility to adopt criteria and approve individuals, businesses or associations to provide the courses.
- The 73<sup>rd</sup> Legislature (SB 815) required the Board to adopt the Southern Standard Plumbing Code, the Uniform Plumbing Code, and the National Standard Plumbing Code, as the plumbing codes to be used for the state. Municipalities or owners of a public water system may adopt standards that do not substantially vary from the three named codes.

**In 1999**,

- The 76<sup>th</sup> Legislature (SB 1421) provided that the following plumbing work is permitted to be performed without a plumbing license:

Residential potable water supply or residential sanitary sewer connection, for a project in a geographic area that is located in a county any part of which is within 50 miles of an international border that is done by an organization certified by the Texas Natural Resource

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Conservation Commission to provide “self-help” project assistance.

- Formal Attorney General Opinion #JC-0012 clarified that municipalities may adopt any plumbing code other than the three plumbing codes named in Section 5B of the Plumbing License Law, provided that such codes do not substantially vary from the three named codes. The opinion further clarified that the Board may not adopt any plumbing code other than the three named codes as they existed in 1993, when Section 5B was passed into law.

**In 2000**, the 200<sup>th</sup> Judicial District Court of Travis County ruled that the Board could not enter into an interagency contract with Texas Engineering Extension Service (TEEX) for development of Continuing Professional Education Course Materials.

**In 2001**,

- The 77<sup>th</sup> Legislature (HB 2813) – Non substantive revision and codification of the Plumbing License Law and relocation from Vernon’s Texas Civil Statutes, Article 6243-101 to the Occupations Code, Title 8, Regulation of Environmental and Industrial Trades, effective in 2003.
- The 77<sup>th</sup> Legislature (HB 1505):
  - Provides for a new license category for Tradesman Plumber-Limited Licensee
  - Provides for registrations of Residential Utilities Installer, Drain Cleaner and Drain Cleaner-Restricted.
  - Provides for mandatory registration for a Plumber’s Apprentice for all individuals whose primary occupation is learning and assisting in the installation of plumbing.
  - Master Plumbers responsible for the operation of a plumbing business are required to submit a certificate of insurance to the Board.
  - Authority to a municipality for permitting an inspection of plumbing work when a municipality and a municipal utility district’s jurisdiction overlap.
  - The Licensed Sanitary Engineer position on the Board was changed to a Licensed Professional Engineer. Clarification that the Master Plumber Position, Journeyman Plumber Position, and Plumbing Inspector position on the Board, must be licensees of the Board was also included.

- The 77<sup>th</sup> Legislature (HB 217)
  - The Board's jurisdiction was greatly expanded by requiring that all plumbing work connected to a public water system, or performed in any city in the state be performed by a licensed plumber. This eliminated the exemption, which had been in place since 1947, requiring a plumbing license in only cities with populations of 5,000 or more inhabitants.
  - The Southern Standard Plumbing Code and the National Standard Plumbing Code were eliminated from the codes adopted by the Board. The Uniform Plumbing Code was maintained and the International Plumbing Code was added, resulting in two Plumbing Codes to be adopted by the Board.
  - All plumbing installed in a political subdivision, in compliance with an adopted state approved code, must be inspected by a licensed Plumbing Inspector .
  - Licensed Plumbing Inspectors were no longer restricted to being bona fide employees of a political subdivision, but were allowed to contract with a political subdivision as long as they are paid directly by the political subdivision.

The 77<sup>th</sup> Legislature (SB 365), amends Chapter 214 of the Local Government Code and adopts the International Residential Code, which contains requirements for plumbing, and is required to be used in some instances by cities for one and two family dwellings.

The 77<sup>th</sup> Legislature (HB 1) allows for an additional FTE (Field Representative/Investigator) to be added during FY 2003.

The changes of the 77<sup>th</sup> Legislature require the Board to:

- Develop and administer the one new examination required for the new license category and implement a registration process for the mandatory Plumber's Apprentice registration and the other three new registrations.
- Modify its computer programs to automate the examination and renewal process for the new categories, and make necessary changes to other administrative functions. The Board is required to adopt rules necessary for the implementation of HB 1505, no later than January 1, 2002.
- Implement all of the new legislation, which will result in an extensive revision of the Board's rules. HB 1505 requires the Board to adopt rules no later than January 1, 2002.
- The addition of the International Plumbing Code, as a code to be adopted by the Board, will require the Board to review and make changes, as necessary, to its examinations to ensure that

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the answers to examination questions may be found in both the Uniform Plumbing Code and the International Plumbing Code. The Board was authorized to raise fees to cover the cost of implementation of HB 1505 and HB 217.

**III. Policymaking Structure**

**A. Please complete the following chart:**

<b>Texas State Board of Plumbing Examiners Exhibit 3: Policymaking Body</b>				
<b>Member Name</b>	<b>Term/ Appointment Dates/ All Members appointed by the Governor</b>	<b>Qualification (e.g., public member, industry representative)</b>	<b>Address</b>	<b>Telephone Number Fax Number E-mail Address</b>
Walter L. Borgfeld, Jr. - Chair	Term: 9/05/2003 Appt. date: 3/03/1998	Public Member Position	12 Wortham Cir. Lufkin, TX 75904	936-639-5053 936-639-5067 wlb@lcc.net
Joe Rocha, Jr. Vice-Chair	Term: 9/05/2001 Appt. date: 2/21/1996	Homebuilder Position	15490 FM 32 Blanco, TX 78606	830-833-2940 830-833-0707 rochajoe@hotmail.com
Nelda Martinez Secretary	Term: 9/05/2001 Appt. date: 2/21/1996	Public Member Position	330 Cole St. Corpus Christi, TX 78404	361-985-6336 361-985-9806 alden007@aol.com
Jose L. Cardenas	Term: 9/05/2001 Appt. date: 2/21/1996	Commercial Builder Position	807 Dickey Dr. Eules, TX 76040	817-540-2246 214-522-7209 none
Min Chu, P.E.	Term: 9/05/2005 Appt. date: 8/09/2000	Sanitary Engineer Position	5757 Woodway Houston, TX 77057	713-267-2957 713-267-3111 chum@tcbhou.com
Lawrence Lemon, Jr.	Term: 9/05/2003 Appt. date: 3/03/1998	Plumbing Contractor Position	1311 Raleigh St. Slaton, TX 79364	806-828-3836 806-828-6337 draino007@aol.com
Carol McLemore	Term: 9/05/2005 Appt. date: 8/09/2000	Plumbing Inspector Position	3115 Virginia La Marque, TX 77568	409-938-9215 409-938-9216 lynnem1107@aol.com
Terry Wayne Moore	Term: 9/05/2003 Appt. date: 3/19/1999	Journeyman Plumber Position	1507 Eastland Cir., Sachse, TX 75048	214-340-6300 214-348-1839 dallasplbg@aol.com
Michael Thamm	Term: 9/05/2005 Appt. date: 8/09/2000	Master Plumber Position	1607 N. Terrell Cuero, TX 77954	361-275-6167 361-277-6167 none

**B. How is the chair of the policymaking body appointed?**

Section 5a of the Plumbing License Law requires that the Board formally elect a Chairperson. Board Rule Section 361.29 states that the Board Chair will serve a two-year term.

**C. Describe the primary role and responsibilities of the policymaking body.**

The primary role and responsibilities of the policymaking body of the Texas State Board of Plumbing Examiners include appointing the agency head and ensuring that the agency head carries out the administrative functions of the agency. The Board proposes and adopts rules as necessary to carry out the Act. The Board considers public and industry input. The Board adopts criteria for Professional Continuing Education Programs and reviews the programs as needed. The Board is responsible for considering contested administrative enforcement cases, including Proposals for Decision from Administrative Law Judges of the State Office of Administrative Hearings.

**D. List any special circumstances or unique features about the policymaking body or its responsibilities.**

The Texas State Board of Plumbing Examiners is unique in its responsibilities from some other agencies in that it focuses on the regulation of one industry in its entirety. No other agency in the state regulates the plumbing industry. The Board is unique from some other agencies in that the public and plumbing industry input is heard by a policymaking body that is composed of seven members who are directly involved with the plumbing industry that it regulates and two members who consume the products of the plumbing industry.

**E. In general, how often does the policymaking body meet? How many times did it meet in FY 2000? In FY 2001?**

Historically, the Texas State Board of Plumbing Examiners policymaking body has met six times per year. Recently, during FY 2001, the Board amended rules that would allow it to meet quarterly, in an effort to reduce Board travel expenses. However, due to newly enacted legislation, the Board will need to meet more frequently in order to comply with the requirements to adopt rules to implement the legislation.

During FY 2000, the Board met seven times, including one special called meeting to approve changes in the Continuing Professional Education Programs. During fiscal year 2001, the Board met five times.

**F. What type of training do the agency's policymaking body members receive?**

Newly appointed members of the Board receive training at the agency's office from the Assistant Attorney General assigned to the Board. The training consists of a review of the Public Information Act, the Open Meetings Act, the litigation process and the Assistant Attorney General's role as General Counsel for the Board.

The agency's Administrator advises newly appointed members of Board history and past and current issues affecting the Board and the plumbing industry.

Newly appointed members of the Board also attend training provided by the Office of the Governor.

New and existing members of the Board have the opportunity to attend the Government Law and Liability Conference held by the Office of the Attorney General.

**G. Does the agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, please describe these policies.**

Yes. The Board carries out its primary roles and responsibilities as previously described and delegates implementation of its policies and the agency's daily operations to the head of the agency. Board Rules Sec. 361.5 states:

"The Board shall delegate to the administrative staff under the direction of its administrator those functions appropriate to the daily conduct of the Board's business of carrying out the purposes of all applicable laws and of these rules."

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**H. If the policymaking body uses subcommittees or advisory committees to carry out its duties, please fill in the following chart.**

<b>Texas State Board of Plumbing Examiners Exhibit 4: Subcommittees</b>			
<b>Name of Subcommittee</b>	<b>Size/Composition/ How members are appointed</b>	<b>Purpose/Duties</b>	<b>Legal Basis for Committee</b>
Continuing Professional Education Committee (CPE)	5 members 3 Board/2 staff Appointed by Board Chair	Reviews criteria for CPE course materials, course materials, course material providers, course providers and course instructors, as necessary. Solicits industry and public comment on CPE issues. Reviews and public comments are reported to the Board for evaluation and policy making.	TEX. GOVT CODE § 2001.031(b)
Rules Committee	6 members 4 Board/2 staff Appointed by Board Chair	Reviews existing and proposed Board rules as necessary. Solicits industry and public comment on proposed changes to Board Rules. Reviews and public comments are reported to the Board for evaluation and policy making.	TEX. GOVT CODE § 2001.031(b)
Enforcement Committee	4 members 2 Board/2 staff Appointed by Board Chair	Reviews criminal history of applicants, conducts informal conferences with alleged violators, negotiates proposed agreed settlements, oversees the preparation for contested cases and pursues cases at the State Office of Administrative Hearings. Final decisions regarding contested cases rests with the Board.	TEX. GOVT CODE § 2001.031(b)
Legislative Committee	2 Board members Appointed by Board Chair	Tracks proposed legislation and reports to the Board.	TEX. GOVT CODE § 2001.031(b)

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<b>Texas State Board of Plumbing Examiners Exhibit 4: Subcommittees (continued)</b>			
<b>Name of Subcommittee</b>	<b>Size/Composition/ How members are appointed</b>	<b>Purpose/Duties</b>	<b>Legal Basis for Committee</b>
Examination Committee	4 members 2 Board/2 staff Appointed by Board Chair	Reviews operations of the examination program, as necessary, and reports to the Board.	TEX. GOVT CODE § 2001.031(b)
Medical Gas Piping Installation Committee	4 members 2 Board/2 staff Appointed by Board Chair	Reviews requirements for the medical gas installation endorsement, as necessary, and reports to the Board.	TEX. GOVT CODE § 2001.031(b)
Water Supply Protection Specialist Committee	3 members 2 Board/1 staff Appointed by Board Chair	Reviews requirements for the water supply protection specialist endorsement, as necessary, and reports to the Board.	TEX. GOVT CODE § 2001.031(b)
Personnel Committee	4 members 3 Board and the Administrator Appointed by Board Chairman	Considers personnel matters not within the authority of the Administrator, as necessary. Reports to the Board.	TEX. GOVT CODE § 2001.031(b)

**I. How does the policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of the agency?**

The Board seeks and receives public input through its Board and Committee meetings, which are held in accordance with the Open Meetings Act. All Committee meetings, even though they do not consist of a quorum of the Board, are posted as public meetings, as are the public meetings of the full Board. Public comment is an agenda item for every meeting held by the Board. In addition to the statutory requirements for posting of public meetings with the Secretary of State, the Board maintains an extensive list of individuals, organizations, cities, and businesses to which it sends notification of all meeting agendas.

Because the composition of the Board is directly involved in the plumbing industry, many individuals from the plumbing industry feel comfortable providing their comments directly to individual Board members. In turn, the individual Board members, who have received such comments, pass the comments along to the full Board during open meetings.

Board Staff receives comments during its public and industry awareness seminars that are conducted around the state. Staff reports these comments to the Board.

Agency newsletters are mailed to all renewal and examination applicants. The newsletter is also posted on the agency's web site and distributed to industry associations and all Continuing Professional Education Providers. The purpose of the newsletter is to inform licensees of the current issues of the Board, which in itself, stimulates public comment.

The agency's website provides useful information regarding the functions of the Board to licensees and the citizens of the State of Texas. The Plumbing License Law and Board Rules are also available on the site, as well as detailed information regarding the mission of the agency, agency functions, policies and procedures. The web site contains a direct link for individuals to e-mail comments to the agency.

All examination applicants have the opportunity to comment to the Board anonymously at the conclusion of their examination, and provide suggestions for improvement.

Providers of Continuing Professional Education are required, by Board rule, to seek written comments and evaluations from all licensees who attend their courses, and provide a summary of the comments received to the Board on a quarterly basis.

During meetings of the Board's Field staff, comments received in the field by the individual Field Representative/Investigators are discussed and provided to the head of agency, who in turn, provides the information to the Board.

The input of individuals and the plumbing industry is incorporated into the operations of the agency by staff providing the information accumulated to the Board for its review and consideration.

All comments from the public and industry are considered during the Board's policymaking process, each time the Board meets in its entirety, or by Committee. Any changes made to policies or functions of the Board are delegated to the head of the agency for implementation.

#### **IV. Funding**

<b>A. Describe the agency's process for determining budgetary needs and priorities.</b>
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The Board's budget and appropriation request follow the strategic priorities and functions of the agency as outlined in the Board's Strategic Plan, and is managed along those same strategies. Performance measures and goals are used to determine where resources are needed. The Board uses legislative priorities, industry input, and consumer trends to set its operational and budgetary needs, thereby ensuring the most effective use of resources. Additionally, the Board's budget is prepared with direct input from each department, and is reviewed and approved by the

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Board before being submitted to the Legislature.

**B. Show the agency’s sources of revenue. Please include all local, state, and federal sources.**

All revenues are collected from fees, primarily from the plumbing industry. Agency revenues and expenditures are maintained at a level consistent with the size and condition of the industry. The Board must collect sufficient revenue to cover not only the cost of the expenditures, but indirect costs as well.

<b>Texas State Board of Plumbing Examiners Exhibit 5: Sources of Revenue – Fiscal Year 2000 (Actual)</b>	
Source	Amount
Examination (Testing) Fees	\$150,812
Licensing Fees	1,986,013
Administrative Penalties	21,090
Sale of Publications	4,047
Other Revenues	32,022
<b>GENERAL REVENUE TOTAL</b>	<b>\$2,193,984</b>

**C. If you receive funds from multiple federal programs, show the types of federal funding sources.**

The Board does not receive any federal funding.

<b>Texas State Board of Plumbing Examiners Exhibit 6: Federal Funds — Fiscal Year 2000 (Actual)</b>				
Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
N/A	N/A	N/A	N/A	N/A
<b>TOTAL</b>		N/A	N/A	N/A

**D. Show the agency's expenditures by strategy.**

Texas State Board of Plumbing Examiners Exhibit 7: Expenditures by Strategy — Fiscal Year 2000 (Actual)	
Goal/Strategy	Amount
A.1.1. Examine and License Plumbers	\$ 535,763
A.1.2. Inspections and Enforcement	561,379
B.1.1. Indirect Administration	340,282
<b>GRAND TOTAL</b>	<b>\$ 1,437,424</b>

Expenditures listed in Exhibit 7 and 8 do not include employee fringe benefits.

**E. Show the agency's expenditures and FTEs by program.**

Texas State Board of Plumbing Examiners Exhibit 8: Expenditures and FTEs by Program — Fiscal Year 2000 (Actual)					
Program	Budgeted FTEs, FY 2000	Actual FTEs as of August 31, 2000	Federal Funds Expended	State Funds Expended	Total Actual Expenditures
Examine and License Plumbers	7.0	7.0	N/A	\$535,763	\$535,763
Inspections and Enforcement	11.0	9.0	N/A	561,379	561,379
Indirect Administration	6.0	5.0	N/A	340,282	340,282
<b>TOTALS</b>	<b>24.0</b>	<b>21.0</b>	<b>N/A</b>	<b>\$1,437,424</b>	<b>\$1,437,424</b>

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**F. Please provide information on fees collected by the agency.**

Texas State Board of Plumbing Examiners Exhibit 9: Fee Revenue and Statutory Fee Levels — Fiscal Year 2000				
Description/ Program/ Statutory Citation	Current Fee/ Statutory maximum	Number of persons or entities paying fee	Fee Revenue	Where Fee Revenue is Deposited
<b>Examination (Testing) Fees:</b> Authorized by V.T.C.S. Article 6243-101, Plumbing License Law, §12 and §13(a)				
Master	\$150.00 No Maximum	499	\$70,771	General Revenue Fund
Journeyman	25.00 No Maximum	2,490	60,442	General Revenue Fund
Medical Gas Installation Endorsement (Master)	75.00 No Maximum	80	6,000	General Revenue Fund
Medical Gas Installation Endorsement (Journeyman)	25.00 No Maximum	159	3,925	General Revenue Fund
Plumbing Inspector	50.00 No Maximum	152	7,600	General Revenue Fund
Water Supply Protection Specialist Endorsement (Journeyman)	25.00 No Maximum	17	425	General Revenue Fund
Water Supply Protection Specialist Endorsement (Master)	75.00 No Maximum	22	1,650	General Revenue Fund
<b>Licensing Fees:</b> Authorized by V.T.C.S. Article 6243-101, Plumbing License Law, §12 and §13(a)				
Master	175.00 No Maximum	8,949	1,561,150	General Revenue Fund
Journeyman	25.00 No Maximum	10,241	262,980	General Revenue Fund

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<b>Texas State Board of Plumbing Examiners</b>				
<b>Exhibit 9: Fee Revenue and Statutory Fee Levels — Fiscal Year 2000 (continued)</b>				
<b>Description/ Program/ Statutory Citation</b>	<b>Current Fee/ Statutory maximum</b>	<b>Number of persons or entities paying fee</b>	<b>Fee Revenue</b>	<b>Where Fee Revenue is Deposited</b>
Medical Gas Installation Endorsement (Master)	50.00 No Maximum	240	11,968	General Revenue Fund
Medical Gas Installation Endorsement (Journeyman)	12.00 No Maximum	387	4,762	General Revenue Fund
Plumbing Inspector	50.00 No Maximum	1,029	51,750	General Revenue Fund
Water Supply Protection Specialist Endorsement (Journeyman)	12.00 No Maximum	15	215	General Revenue Fund
Water Supply Protection Specialist Endorsement (Master)	\$50.00 No Maximum	24	\$1,384	General Revenue Fund
<b>Penalties:</b> Authorized by V.T.C.S. Article 6243-101, Plumbing License Law, §12 and §13(a)	Varies/Late fees are one- half the exam- ination fee for less than 90 days late, and equal to the examination fee for more than 90 days late	3,408	88,575	General Revenue Fund
Late Renewal Fees				
<b>Administrative Fines:</b> Authorized by V.T.C.S. Article 6243-101, Plumbing License Law, § 9 (b)	Varies/No Maximum if by Agreement	2	21,000	General Revenue Fund
<b>Sale of Publications:</b> Authorized by General Appropriations Act, Article IX, § 9-6.18(b)	Reimbursable Cost/Cost Recovery	54	4,047	General Revenue Fund
<b>Sale of Surplus Property and Scrap Materials:</b> Authorized by General Appropriations Act, Article IX, § 9-8.04	Varies No Maximum	7	1,953	General Revenue Fund

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Texas State Board of Plumbing Examiners Exhibit 9: Fee Revenue and Statutory Fee Levels — Fiscal Year 2000 (continued)				
Description/ Program/ Statutory Citation	Current Fee/ Statutory maximum	Number of persons or entities paying fee	Fee Revenue	Where Fee Revenue is Deposited
<b>Collections for Seminars and Conferences:</b> Authorized by General Appropriations Act, Article IX, § 9-8.08	Varies/No Maximum	71	2,840	General Revenue Fund
Miscellaneous Other Revenues: Authorized by V.T.C.S. Article 6243-101, Plumbing License Law, §12 and §13(a)	Reasonable Cost/ No Maximum	311	30,547	General Revenue Fund
<b>TOTAL</b>			<b>\$2,193,984</b>	<b>Total to General Revenue Fund</b>

G. Please fill in the following chart.

Texas State Board of Plumbing Examiners Exhibit 10: Purchases from HUBs FISCAL YEAR 1998				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$ -0-	\$ -0-	N/A	11.9%
Building Construction	-0-	-0-	N/A	26.1%
Special Trade	-0-	-0-	N/A	57.2%
Professional Services	5,956	-0-	0.0%	20.0%
Other Services	82,734	31,015	37.4%	33.0%
Commodities	74,318	18,421	24.8%	12.6%
<b>TOTAL</b>	<b>\$163,008</b>	<b>\$49,436</b>	<b>30.3%</b>	
FISCAL YEAR 1999				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	\$ -0-	\$ -0-	N/A	11.9%
Building Construction	-0-	-0-	N/A	26.1%
Special Trade	-0-	-0-	N/A	57.2%
Professional Services	-0-	-0-	N/A	20.0%
Other Services	98,931	21,152	21.3%	33.0%
Commodities	96,388	25,201	26.1%	12.6%
<b>TOTAL</b>	<b>\$195,319</b>	<b>\$46,353</b>	<b>23.7%</b>	

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<b>FISCAL YEAR 2000</b>				
<b>Category</b>	<b>Total \$ Spent</b>	<b>Total HUB \$ Spent</b>	<b>Percent</b>	<b>Statewide Goal</b>
<b>Heavy Construction</b>	\$ -0-	\$ -0-	N/A	11.9%
<b>Building Construction</b>	-0-	-0-	N/A	26.1%
<b>Special Trade</b>	-0-	-0-	N/A	57.2%
<b>Professional Services</b>	13,117	-0-	0.0%	20.0%
<b>Other Services</b>	93,310	12,698	13.6%	33.0%
<b>Commodities</b>	58,658	17,959	30.6%	12.6%
<b>TOTAL</b>	\$165,085	\$30,657	18.6%	

**Factors Affecting Attainment:**

For fiscal year 1998, the Board exceeded two of three, or 67%, of the applicable statewide HUB procurement goals. During this year the agency used one vendor for financial and accounting services, which accounts for no HUB dollars spent in the Professional Services category.

For fiscal year 1999, the Board exceeded one of two, or 50%, of the applicable statewide HUB procurement goals. The agency used no professional services. The Other Services category includes \$53,829 spent with Northrop Grumman Technical Services (NGTSI) for the Board's computer services provided under the contract with NGTSI and Department of Information Services (West Texas Contract). If the amount paid to NGTSI was not used in the calculation, the Board's percentage for Other Services would be 46.9%, well above the statewide HUB procurement goal of 33%.

For fiscal year 2000, the Board exceeded one of three, or 33%, of the applicable statewide HUB procurement goals. The agency used one vendor for financial and accounting services, which accounts for no HUB dollars spent in the Professional Services category. The Other Services category includes \$51,364 spent with NGTSI for the Board's computer services provided under the contract with NGTSI and Department of Information Services (West Texas Contract). If the amount paid to NGTSI was not used in the calculation, the Board's percentage for Other Services would be 30.3%, which is very close to the statewide HUB procurement goal of 33%.

<p><b>H. Does the agency have a HUB policy? How does the agency address performance shortfalls related to the policy?</b></p>
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The Board is committed to the goal of awarding contracts and purchases whenever possible to HUB vendors. The agency uses the Centralized Master Bidders List (CMBL) as provided by the General Services Commission, which maintains the most updated list of HUB vendors.

In its procurement process, the agency has the following procedures on purchasing:

- (1) Purchases under \$2000 – The Board will purchase from a HUB vendor to the fullest extent possible.

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(2) Purchases of \$2001 - \$10,000 – Requires at least three informal bids from the CMBL, with at least two bids from GSC certified HUB vendors, one minority-owned and one woman-owned (any ethnicity).

(3) Purchases of \$2001 - \$25,000 – Requires at least three formal bids from the CMBL, with at least two bids from GSC certified HUB vendors, one minority-owned and one woman-owned (any ethnicity).

A review of HUB purchases is conducted every six months. Although the Board will continue good practices regarding its purchasing procedures, it sees the opportunity to increase HUB purchases by aggressively seeking out such businesses in instances where competitive bidding is not required.

**V. Organization**

**A. Please fill in the chart below. List field or regional offices.**

<b>Texas State Board of Plumbing Examiners Exhibit 11: FTEs by Location — Fiscal Year 2000</b>			
<b>Headquarters, Region, or Field Office</b>	<b>Location</b>	<b>Number of Budgeted FTEs, FY 2000</b>	<b>Number of Actual FTEs On August 31, 2000</b>
Headquarters	Austin	16.0	14.0
Field Representative/Investigator –Uses Personal Residence as Headquarters	Dallas –Serves Dallas, surrounding counties and northeast Texas region including Tyler/ Longview	1.0	1.0
Field Representative/Investigator –Uses Personal Residence as Headquarters	El Paso – Serves El Paso, surrounding counties including Midland and San Angelo	1.0	1.0
Field Representative/Investigator –Uses Personal Residence as Headquarters	Fort Worth – Serves Fort Worth, Tarrant and surrounding counties including Waco and Wichita Falls	1.0	1.0
Field Representative/Investigator –Uses Personal Residence as Headquarters	Harlingen – Serves Harlingen, Corpus Christi, McAllen, Laredo, and surrounding counties of Texas Coastal region	1.0	1.0
Field Representative/Investigator –Uses Personal Residence as Headquarters	Houston –Serves north Houston/ Harris County and surrounding areas including Lufkin/Kilgore and eastern Texas region	1.0	1.0

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<b>Texas State Board of Plumbing Examiners</b>			
<b>Exhibit 11: FTEs by Location — Fiscal Year 2000 (continued)</b>			
<b>Headquarters, Region, or Field Office</b>	<b>Location</b>	<b>Number of Budgeted FTEs, FY 2000</b>	<b>Number of Actual FTEs On August 31, 2000</b>
Field Representative/Investigator –Uses Personal Residence as Headquarters	Houston –Serves south Houston/Harris County and surrounding areas including Lockhart, Victoria, and Galveston region	1.0	1.0
Field Representative/Investigator –Uses Personal Residence as Headquarters	Lubbock – Serves Lubbock and surrounding counties including Odessa, Amarillo and western region	1.0	0.0
Field Representative/Investigator –Uses Personal Residence as Headquarters	San Antonio – Serves San Antonio and surrounding area including Travis County and Austin, Temple, Killeen and Eagle Pass	1.0	1.0
<b>TOTALS</b>		<b>24.0</b>	<b>21.0</b>

- These vacant positions were filled during the first few months of fiscal year 2001. At the time of this report, all 24 FTEs positions are filled.

<b>B. What was the agency’s FTE cap for FY 2000?</b>
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24.0 FTEs were authorized for fiscal year 2000. (Rider 2 in the *General Appropriations Act*, 77<sup>th</sup> Legislature, adds one additional Field Representative/Investigator in fiscal year 2003, for a total of 25.0 FTEs.)

<b>C. How many temporary or contract employees did the agency have as of August 31, 2000?</b>
-----------------------------------------------------------------------------------------------

The agency had no temporary or contract employees on August 31, 2000.

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**D. Please fill in the chart below.**

Texas State Board of Plumbing Examiners Exhibit 12: Equal Employment Opportunity Statistics							
FISCAL YEAR 1998							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
<b>Officials/Administration</b>	1	0%	5%	0%	8%	0%	26%
<b>Professional</b>	14	7%	7%	7%	7%	14%	44%
<b>Technical</b>	N/A	N/A	13%	N/A	14%	N/A	41%
<b>Protective Services</b>	N/A	N/A	13%	N/A	18%	N/A	15%
<b>Para-Professionals</b>	4	0%	25%	50%	30%	75%	55%
<b>Administrative Support</b>	3	0%	16%	67%	17%	33%	84%
<b>Skilled Craft</b>	N/A	N/A	11%	N/A	20%	N/A	8%
<b>Service/Maintenance</b>	N/A	N/A	19%	N/A	32%	N/A	27%

Continued on next page...

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Texas State Board of Plumbing Examiners Exhibit 12: Equal Employment Opportunity Statistics (continued)							
FISCAL YEAR 1999							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	1	0%	5%	0%	8%	100%	26%
Professional	13	8%	7%	8%	7%	15%	44%
Technical	N/A	N/A	13%	N/A	14%	N/A	41%
Protective Services	N/A	N/A	13%	N/A	18%	N/A	15%
Para-Professionals	5	0%	25%	40%	30%	60%	55%
Administrative Support	3	0%	16%	67%	17%	100%	84%
Skilled Craft	N/A	N/A	11%	N/A	20%	N/A	8%
Service/Maintenance	1	100%	19%	0%	32%	0%	27%
FISCAL YEAR 2000							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	1	0%	5%	0%	8%	100%	26%
Professional	13	15%	7%	15%	7%	15%	44%
Technical	N/A	N/A	13%	N/A	14%	N/A	41%
Protective Services	N/A	N/A	13%	N/A	18%	N/A	15%
Para-Professionals	4	0%	25%	25%	30%	75%	55%
Administrative Support	2*	0%	16%	0%	17%	100%	84%
Skilled Craft	N/A	N/A	11%	N/A	20%	N/A	8%
Service/Maintenance	1	100%	19%	N/A	32%	N/A	27%

\* Also includes (1) one American Indian or Alaskan native, not shown on this chart.

**E. Does the agency have an equal employment opportunity policy? How does the agency address performance shortfalls related to the policy?**

It is the policy of the Board that all employees and applicants for employment shall receive an equal opportunity for employment or advancement without regard to race, color, religion, sex, national origin, age, or physical disability.

The Affirmative Action plan for the Board ensures that all facets of employment – recruitment, selection, assignment, training, promotion, and compensation – are based solely on individual experience, education, qualifications, ability, and performance.

The Board will not discriminate against any qualified employee or job applicant with respect to any terms, privileges, or conditions of employment because of a person's physical or mental disability. The Board will also make reasonable accommodation whenever necessary for all employees or applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential duties and assignments connected with the job and provided that any accommodations made do not impose an undue hardship on the Board.

Management is primarily responsible for seeing that the Board's equal employment opportunity policies are implemented, but all of the Board staff share responsibility for assuring that by their personal actions the policies are effective and apply uniformly to everyone. Any employee, including managers, involved in discriminatory practices will be subject to disciplinary action including termination.

**VI. Guide to Agency Programs**

**Examination/Licensing**

**A. Please complete the following chart.**

Texas State Board of Plumbing Examiners Exhibit 13: Program Information — Fiscal Year 2000	
<b>Name of Program</b>	Examination & Licensing
<b>Location/Division</b>	Austin, Texas
<b>Contact Name</b>	Robert Maxwell/Mary McCallister Vernon Emken
<b>Number of Budgeted FTEs, FY 2000</b>	7.0
<b>Number of Actual FTEs as of August 31, 2000</b>	7.0

**B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.**

Currently, this program provides examinations for Master Plumber, Journeyman Plumber, Plumbing Inspector, Medical Gas Endorsements and Water Supply Protections Specialist endorsements and issues and renews licenses for the successful applicants. Under this program, the Board also administers a voluntary registration for Plumber’s Apprentices. Effective September 1, 2001, in addition to the existing examinations, this program will administer examinations, and issue and renew licenses for a Tradesman Plumber-Limited Licensee. In addition to the new license category, new functions of this program, effective September 1, 2001, include mandatory registration of Plumber’s Apprentices, Residential Utilities Installers, Drain Cleaners and Drain Cleaner-Restricted.

All licenses and registrations renew annually. License endorsements renew every three years. All licenses require six hours of Continuing Professional Education for renewal of the license.

**C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.**

The program was established in 1947 with the enactment of the Plumbing License Law of 1947. The program was created to protect the health and safety of the citizens of the state by ensuring that qualified individuals would be involved in the installation, repair and inspection of plumbing work in the State of Texas. Sec. 8(a) of the Plumbing License Law states:

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“The Board shall issue licenses to such persons as have by a uniform, reasonable examination shown themselves fit, competent and qualified to engage in the business, trade or calling of a Master Plumber or Journeyman Plumber, or Plumbing Inspector, as the case may be.”

HB 1505, 77<sup>th</sup> Legislature, will add “tradesman plumber-limited licensee, medical gas installation endorsee, or water supply protection specialists” to the verbiage in Sec. 8(a) effective September 1, 2001.

Additionally, HB 1505 amends Sec. 2, Sec. 5, and Sec. 11 of the Plumbing License Law, providing for the additional license examination and registrations and renewals therefore.

**D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?**

The original intent of the examination and licensing programs have not changed since their inception. The examination has evolved and modernized as industry practices have evolved and modernized. In the past, interpreters have always been provided upon request. Currently, the written portion of most of the examinations are written in both English and Spanish. Interpreters may still be provided upon request in other languages or for the hearing impaired.

As the need for qualified individuals to perform and inspect plumbing work will always exist, there will always be a need for the examination and licensing program.

**E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.**

This program serves not only the individuals who desire to pursue a career in the plumbing industry, but actually, and more importantly, this program serves every citizen of and visitor to the State of Texas, who need drinking water, air and medical gasses that are not contaminated and who need to live and work in the safe conditions that properly installed plumbing systems are designed to provide.

As of this writing, our records indicate that the licensing program serves the following current licensees:

Master Plumbers	<b>8,703</b>
Journeyman Plumbers	<b>12,237</b>
Plumbing Inspectors	<b>997</b>
Current total	<b>21,937</b>

Medical Gas Piping Installation endorsements are issued to 1522 licensees and Water Supply Protection Specialist endorsements are issued to 233 licensees.

The number of individuals regulated by the Board is estimated to increase by 20,000 individuals who will register as Plumber's Apprentices, increasing the total number of individuals regulated by the Board to 41,696. Of those Registered Plumber's Apprentices, many will elect to register as a Residential Utilities Installer, Drain Cleaner, or Drain Cleaner Restricted Registrant or examine to be licensed as a Tradesman Plumber-Limited Licensee.

**Current examination qualifications:**

All examination applicants must meet certain qualification and eligibility requirements, which are set by Board rule, and are subject to review of criminal history prior to examination. All examination applicants must either be a high school graduate or a General Equivalency Diploma (documents from other countries are accepted) and must be a citizen or national of the United States, or an alien or non-immigrant eligible for licensure in the State of Texas. Applicants for the Journeyman Plumber examination must have 6,000 hours experience working at the plumbing trade. Applicants for the Master Plumber examination must be licensed as a Journeyman Plumber for at least two years. Applicants for the Plumbing Inspector examination must either be licensed as a Journeyman or Master Plumber; or meet certain educational and training requirements. Individuals who have passed the Plumbing Inspector examination must be employed by a political subdivision prior to a license being issued. Applicants for Medical Gas Piping Installation and Water Supply Protection Specialist Endorsement examinations must hold a current Master or Journeyman Plumber license and must complete a Board-approved training course prior to examination.

Specifically, the requirements that examination applicant must meet for each license and endorsement categories are as stated in Board Rule Sec. 363.1:

“(a) An applicant may qualify for a Master Plumber License, Journeyman Plumber License or Plumbing Inspector License. A Master or Journeyman Plumber License may contain a Medical Gas Piping Installation Endorsement or Water Supply Protection Specialist Endorsement. In order to qualify for any of these licenses or endorsements an applicant must meet all the requirements of the Board, successfully complete the required examination and remit the appropriate fee.

(b) Master Plumber. Each applicant must:

(1) be licensed either as:

(A) a Journeyman Plumber in Texas or another state and must have held the Journeyman License for at least two years before filing the Master Plumber application; or

(B) a Master Plumber in another state in which case the applicant need not be currently licensed at the time of application if the expired license is renewable in the state that issued it;

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- and
- (2) be a high school graduate or hold a General Equivalency Diploma (GED)
  - (3) maintain a single registered mailing address that the Board shall regard as the applicant's principal business address for communication and record keeping purposes.
  - (4) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas.
- (c) Journeyman Plumber. Each applicant must:
- (1) be a high school graduate or hold a General Equivalency Diploma (GED);
  - and
  - (2) have either of the following:
    - (A) registration as a registered plumbing apprentice and at least 6,000 hours of experience working at the trade or such work experience and technical training combined to equal 6,000 hours, as verified by employers; or
    - (B) a Journeyman License from another state that need not be current at the time of application if the expired license is renewable in the state that issued it.
  - (3) meet the minimum trade experience requirements set forth in subparagraphs (A)-(G) of this paragraph.
    - (A) 1500 hours in the installation or repair of piping for waste and vent drainage systems. During this period a person should obtain the proper knowledge and skill to install or repair different types of materials used in these systems, e.g., cast iron, plastics, copper.
    - (B) 1500 hours in the installation or repair of piping for domestic hot and cold water systems. During this period a person should obtain the proper knowledge and skill to install or repair different types of materials used in these systems, e.g., cast iron, plastics, copper, steel and understand the function, difference, and proper installation of various valves, e.g., gate, globe, mixing, etc.
    - (C) 1500 hours in the installation or repair of fixtures and equipment common to plumbing systems. During this period a person should obtain the proper knowledge and skill to install or repair different types of products used, e.g., water heaters, natural and L.P. gas fired equipment, plumbing fixtures, faucets, water softeners and similar equipment and understand the proper method for sizing and installation of gas appliance vents.
    - (D) 375 hours in the installation or repair of Piping Hangers and Pipe Support systems. During this period a person should obtain the proper knowledge and skill to install different types of hangers for piping support.
    - (E) 750 hours in the installation or repair of Special Plumbing systems. During this period a person should obtain the proper knowledge and skill regarding medical gas systems, decorative fountains, lawn irrigation systems and solar panels.
    - (F) 375 hours of understanding and implementing the Americans with Disabilities Act. During this period a person should become knowledgeable in

model plumbing codes and job safety and OSHA requirements as they apply to the plumbing profession.

(G) When the registered apprentice applies to take the Journeyman examination, he/she must submit the Employer's Certification. This form certifies the applicant's work experience complies with the eligibility criteria for the Journeyman examination. If the applicant has met the criteria through employment with one employer, the Employer's Certification must be completed by that employer. However, if the applicant has met the criteria through employment with various employers, then the Employer's Certification must be submitted from each of those employers. Therefore, the Board recommends that the applicant request an employer complete the Employer's Certification each time the applicant discontinues employment with a particular employer. A licensee is required to complete the Employer's Certification form within 30 days of a request by any individual who has worked as a Plumber's Apprentice under the licensee's supervision. It is the responsibility of the Plumber's Apprentice to supply the licensee with the Employer's Certification form.

(4) be a citizen or national of the United States or an alien or non-immigrant eligible for licensure by the State of Texas.

(d) Plumbing Inspector. Each applicant must:

(1) be a high school graduate or hold a General Equivalency Diploma (GED) and

(2) have one of the following:

(A) a Journeyman or Master Plumber License issued in the state of Texas;

(B) a Journeyman or Master Plumber License issued in another state, provided he or she passes the Texas State Board of Plumbing Examiners Journeyman exam; or

(C) successful completion of the International Association of Plumbing and Mechanical Officials (IAPMO), International Conference of Building Officials (ICBO), or Southern Building Code Congress International (SBCCI) certification. and one of the following:

(i) have completed 5,000 hours of experience working at the plumbing trade or similar skilled work experience and technological training combined to equal 5,000 hours as verified by employers;

(ii) have completed 500 hours of on-the-job training in enforcement of plumbing codes, supervised under a Licensed Plumbing Inspector, plus 28 hours of approved training academy or educational sessions;

(iii) be licensed as a Plumbing Inspector by another state with licensing requirements substantially equivalent to the licensing requirements of the Texas State Board of Plumbing Examiners;

(iv) be licensed by the State of Texas as an architect or engineer.

(3) be a citizen or national of the United States or an alien or non-

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immigrant eligible for licensure by the State of Texas.

(e) Exemptions.

The Board in its discretion may waive any examination or application requirement after consideration of a written request from the applicant for an exemption due to hardship.

(f) Medical Gas Piping Installation Endorsement. Each applicant must:

- (1) hold a current Journeyman or Master Plumber License; and
- (2) have successfully completed a Board approved training program in medical gas piping installation, which includes the standards contained in the latest edition of the National Fire Protection Association (NFPA) 99C Gas and Vacuum Systems.

(g) Water Supply Protection Specialist Endorsement. Each applicant must:

- (1) hold a current Journeyman or Master Plumber License;
- (2) have successfully completed a Board approved training program in backflow prevention; and
- (3) have successfully completed a Board approved training program designed around the Federal Safe Drinking Water Act and the Federal Clean Water Act, on-site wastewater and site evaluations and graywater re-use, water quality training and water treatment, water utilities systems and regulations, water conservation, xeriscape irrigation, fire protection systems, and state laws regulating lead contamination in drinking water.”

**Qualifications under HB 1505:**

HB 1505, effective September 1, 2001, sets certain statutory requirements for the number of hours experience working at the plumbing trade that applicants must meet prior to examination or registration. HB 1505 also adds the Tradesman Plumber-Limited License examination and license and establishes a minimum of 4,000 hours experience working at the plumbing trade prior to examination. HB 1505 additionally requires that the number of hours working at the plumbing trade in order to be licensed as a Journeyman Plumber be increased from 6,000 to 8,000 hours. The new legislation will require 2,000 hours experience for the Residential Utilities Installer Registrant, 4000 hours experience for the Drain Cleaner Registrant, and no experience is required for the Plumber’s Apprentice or Drain Cleaner Restricted Registrant. The Board is currently in the process of proposing other qualification and eligibility requirements by Board rule, necessary for the implementation of HB 1505.

**License and endorsement renewal qualifications:**

Master and Journeyman Plumber, and Plumbing Inspector licenses renew annually on a staggered cycle. Medical Gas Piping Installation and Water Supply Protection Specialist Endorsements renew every three years. All applicants for renewal of Master or Journeyman Plumber, or Plumbing Inspector licenses must meet at least six hours of Continuing Professional Education each renewal period. Applicants must submit a completed renewal application, along

with the appropriate fee, and disclose whether or not they have been convicted of any felony or misdemeanor convictions since their last renewal.

**F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.**

Under the general supervision of the Board's Administrator, the Board employs an individual as Chief Examiner. The Chief Examiner supervises the Board's three Examiners, one Administrative Technician, and one Examination Center Assistant.

The Master Plumber, Journeyman Plumber, and Medical Gas Piping Installation endorsement examinations include a "hands on" practical portion, as well as a written portion. The Plumbing Inspector examination is a written examination with a "hands on" mock inspection of model plumbing systems. The Water Supply Protection Specialist examination is a written examination. All of the examinations are given at the Board's examination center, located in Austin. The Board recently began a program to establish the usefulness of administering the written portion of examinations in areas remote from Austin. In September, 2000 the Board implemented this program by administering the written portion of the Journeyman examination in El Paso and the Rio Grande Valley area, once per month. The Water Supply Protection Specialist Endorsement examinations are given in locations around the state, on an "as needed" basis. The remote examinations are given by the Board's Field Representative assigned to the respective area.

Applicants for examination submit an examination application form, other required documentation, and an examination fee. The application is reviewed for completeness. If there are any deficiencies to the application, the applicant is notified by letter. Criminal histories of applicants are reviewed by the Board's Enforcement Committee. If an applicant is denied examination due to past criminal convictions, the Administrative Procedure Act governs proceedings for the denial.

If the application is complete, the applicant is scheduled for the next available examination. Applicants are mailed examination information and their schedule dates. Examinations are given in the Austin examination center most every day of the week. Master Plumber and Plumbing Inspector applicants are allowed up to sixteen (16) hours (over two days) to complete the examination. Journeyman Plumber applicants are allowed up to eight (8) hours to complete the examination. Medical Gas Piping Installation Endorsement applicants are allowed eight (8) hours to complete the examination and Water Supply Protection Specialist Endorsement applicants are allowed up to 2-1/2 hours to complete the examination.

If an applicant fails an examination, the applicant is notified in writing and is offered an opportunity to review the portions of the examination that the applicant was deficient in. The applicant is required to train for an additional thirty days for the first failure, sixty days for a second failure and ninety days for the third and subsequent failures before the applicant can reapply for examination.

When an applicant passes the examination, the applicant is notified in writing and is informed of the fee required for the initial license. Once the applicant submits the initial fee, a license and certificate is issued to the applicant, with the exception of a Plumbing Inspector applicant, who must also provide proof of employment with a political subdivision, prior to obtaining a license.

Renewal applications are mailed to the licensee approximately ninety (90) days prior to the expiration of the license. The renewal application is reviewed for completeness. If there are any deficiencies to the application, the applicant is notified by letter. Criminal histories of applicants are reviewed by the Board's Enforcement Committee. If the Enforcement Committee determines that the applicant is not eligible for licensure, the Administrative Procedure Act governs proceedings for revocation of the license. However, if no deficiencies exist, regarding the application for renewal, a new license is mailed to the licensee.

**G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

In order for an individual to hold a Plumbing Inspector license issued by the Board, the individual must submit proof that they are employed by a political subdivision. Political subdivisions often contact the Board to determine whether or not individuals engaged in plumbing activities within their jurisdiction are properly licensed.

**H. Identify all funding sources and amounts for the program, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

The Board's only source of funding is from General Revenue, which is supported by examination and license fee revenues. Revenues collected by the Board have always exceeded appropriations.

**I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.**

Funding has been appropriate for past levels of examinations. However, due to the passage of HB 217 and HB 1505, we expect an increase in the number of applicants taking examinations, and also an increase in the number of registrations and licenses issued. The legislative changes require the Board to develop and administer the examination required for a new license category and implement a registration process for four new registrations. The Board will also have to modify its computer programs to automate the examination and renewal process for all new categories, as well as make necessary changes to current examinations and other administrative

functions.

Additionally, The Board anticipates the new license and registration categories to increase the number of licenses and registrations by approximately 20,000, effectively doubling the number of licenses and registrations currently issued. The Board has one FTE (Administrative Technician III) who processes all renewals and initial licenses, and another FTE (Administrative Technician IV) who processes the examinations and enters grades.

The Board expects to generate sufficient revenue to fund the new programs and the Legislature has appropriated funding for the new programs, provided that sufficient revenue is generated. The funding includes the salaries of two additional Administrative Technicians as full time employees (FTEs) requested for the implementation of HB 1505. However, the Board was not actually granted an increase in its FTE cap, to allow the Board to hire the two new FTEs. The Board is currently in the process of preparing a Request to Exceed the FTE Cap, which is a formal request to the Legislative Budget Board and Governor's Office of Budget and Planning, requesting the two additional FTEs using guidelines set forth by the House Committee on Appropriations and the Senate Committee on Finance.

**J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.**

Although there are other agencies that administer examinations and issue licenses, most other agencies do not administer examinations for so many different license categories within one industry. This will be particularly true, when HB 1505 is fully implemented. No other similar state issued occupational license requires such a comprehensive practical examination as is administered by this Board.

**K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.**

The nature of the Board's examination, together with the Board's mission to protect the health and safety of the citizens of the state by ensuring that plumbing systems are installed, maintained and inspected by qualified individuals sets it apart from other agencies. As long as the agency adheres to its mission, duplication will be avoided. The Board ensures that its functions of this program do not overlap with those of other entities, by maintaining an awareness of the functions of other entities.

**L. Please provide any additional information needed to gain a preliminary understanding of the program.**

Continuing Professional Education is an important aspect to the licensing renewal program. The Board utilizes the Continuing Professional Education Providers to assist in providing updated information to all licensees. The Board annually approves Continuing Education Providers, Instructors and Course Materials. The Board conducts training seminars for the Continuing

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Education Instructors.

The Board conducts seminars for plumbing trade schools, high schools, universities, municipal inspection departments and associations, plumbing companies and plumbing trade associations. Included in many of the seminars is the Board's unique cross-connection prevention demonstration unit that houses a display of see-through fixtures and piping which demonstrate how easily our drinking water can be contaminated by improperly installed plumbing systems. These seminars serve to provide information to individuals who are making career decisions and may be encouraged to consider the plumbing industry as a career path to follow. Information can be obtained, through these seminars, regarding the examination and requirements.

The Board utilizes its web site to provide information regarding the examination and licensing programs. Examination application forms are available on the web site.

### **Enforcement**

**A. Please complete the following chart.**

<b>Texas State Board of Plumbing Examiners Exhibit 13: Program Information — Fiscal Year 2000</b>	
<b>Name of Program</b>	Inspections and Enforcement
<b>Location/Division</b>	Austin, TX.
<b>Contact Name</b>	Robert Maxwell/Mary McCallister/Lisa Hill
<b>Number of Budgeted FTEs, FY 2000</b>	11.0
<b>Number of Actual FTEs as of August 31, 2000</b>	9.0

**B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.**

The key services and functions of this program are the enforcement of the Plumbing License Law and Board Rules. These functions are provided by:

- The intake and investigation of consumer complaints
- On-site monitoring of plumbing jobs
- Monitoring of Continuing Professional Education programs
- Cooperative enforcement with local municipalities and municipal Plumbing Inspectors
- Proactive enforcement through public and industry awareness
- Issuing and filing of citations in local Justice Courts

- Monitoring of repeat or serious violators of the Plumbing License Law and Board Rule; and subsequent referral to the Enforcement Committee for review
- Carrying out of administrative penalties by pursuing cases through the State Office of Administrative Hearings, including suspension and revocation of licenses and civil fines

**C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.**

In order to protect the health and safety of the citizens of the state, in 1947 the 50<sup>th</sup> Legislature of the State of Texas passed the Plumbing License Law of 1947 and under Section 4 of that Act “authorized, empowered and directed” the Board “to prescribe, amend and enforce rules and regulations consistent with this Act.”

Under the current Plumbing License Law (Act) Section 8A authorizes the Board to conduct any investigations regarding alleged violations of the Act by any licensed or unlicensed plumber. Section 8B of the Act authorizes the Board to employ Field Representatives who are:

- “(1) knowledgeable of this Act and of municipal ordinances relating to plumbing;
  - (2) qualified by experience and training in good plumbing practice; and
  - (3) designated by the Board to assist in the enforcement of this Act and rules adopted under this Act.
- (b) A field representative may:
- (1) make on-site license checks to determine compliance with this Act;
  - (2) investigate consumer complaints filed under Section 8A of this Act;
  - (3) assist municipal plumbing inspectors in cooperative enforcement of this Act; and
  - (4) issue citations as provided by Section 14 of this Act.”

In addition to the Board’s Field Representatives, Section 8B of the Act authorizes each Licensed Plumbing Inspector to enforce the Act, within the local jurisdiction that the Plumbing Inspector is employed.

Section 9 of the Act authorizes the Board to suspend or revoke licenses for violations of the Act or Board Rules, provides for civil penalties, hearings under the Administrative Procedure Act, and provides that a violation of the Act or Board Rules is a Class C misdemeanor.

Section 12B of the Act requires that Continuing Professional Education programs be provided according to the criteria adopted by the Board.

**D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?**

The original intent to enforce the Plumbing License Law has not changed since 1947. However, the implementation of the enforcement has progressed and improved since the Board's early beginnings. Historically, prior to 1993, the Board employed Field Representatives who worked out of the Board's Austin office, and performed plumbing job site monitoring and "encouraged" unlicensed individuals to become licensed. Few licenses were revoked or suspended and licensed Plumbing Inspectors handled most consumer complaints on the local level. Although the Board was authorized to issue citations in 1987, it was not until 1993 that the first citations were issued by a Field Representative and filed in the local Justice Court, where the violator was successfully prosecuted. Since then many more citations have been issued. During this time the Board established an Enforcement Committee to review the criminal history of applicants and oversee the initial proceedings for suspension and revocation of licenses in compliance with the Administrative Procedure Act. In 1993, the Board initiated a program to locate Field Representatives in areas throughout the state. It did so by locating one Field Representative in the Dallas/Fort Worth area who used his home as an office and conducted job site monitoring and complaint investigations in the Dallas/Fort Worth area. Since that time, the Legislature has appropriated the Board with additional Field Representatives, currently totaling eight, all located in areas outside of Austin. All Field Representatives use their home as an office.

The Board's enforcement program will always be needed. Without the type of enforcement administered by the Board, industry compliance with the Plumbing License Law could be expected to be minimal at best, and health and safety risks would be greatly increased.

**E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.**

This program not only serves the individuals who choose to comply with the Plumbing License Law and Board Rules, but more importantly this program serves every citizen of and visitor to the State of Texas, who needs drinking water, air and medical gasses that are not contaminated and who need to live and work in the safe conditions that properly installed plumbing systems are designed to provide.

The Board receives numerous letters from citizens who have filed complaints with the Board, who are very pleased with the Board's handling of their complaint.

**F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.**

Under the general supervision of the Board's Administrator, the Board employs an individual as Chief of Field Services/Investigations (Chief Field Representative) who works in the Board's Austin office. The Chief Field Representative supervises the Board's eight Field Representatives, who are located around the state, and two Administrative Technicians who work in the Austin office. The Field Representatives are located in the following areas:

- San Antonio
- Dallas
- Fort Worth
- Harlingen
- El Paso
- Lubbock
- Houston (east)
- Houston (west)

Please refer to the map under Attachment 12.

The Board has established an Enforcement Committee whose membership consists of two Board Members and two staff members.

Detailed information regarding the specifics of the program is included in Section M.

**G. If the program works with a federal government agency (e.g., Housing and Urban Development, Federal Deposit Insurance Corporation) or local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

The Board's Field Representatives work with local municipal and other political subdivision authorities in cooperative enforcement of the Plumbing License Law and Board Rules. Most often, the Board works closely with the Licensed Plumbing Inspectors in those jurisdictions. Licensed Plumbing Inspectors are employed by political subdivisions for the purpose of inspecting plumbing work to ensure compliance with local ordinances regulating plumbing. Plumbing Inspectors are authorized under Sec. 8B of the Plumbing License Law to enforce the Plumbing License Law within the jurisdiction of which they are employed.

The Board works with local Justices of the Peace, District Attorneys and Peace Officers in carrying out enforcement following the issuance of citations.

This cooperative enforcement includes proactive public awareness seminars conducted by the  
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Board at the request of the local jurisdictions. The Board has conducted these seminars for individual municipalities, associations of Plumbing Inspectors, and the Justices of the Peace and Constable Association.

**H. Identify all funding sources and amounts for the program, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

The Board's only source of funding is from General Revenue, which is supported by examination and license fee revenues. Revenues collected by the Board have always exceeded appropriations.

**I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.**

The past funding has been adequate to meet projected targets. The passage of HB 217 and HB 1505 will greatly increase the number of licensees and registrants, which will substantially increase the Board's enforcement jurisdiction to ensure compliance with the Plumbing License Law and Board Rules. The Board was funded and granted an additional FTE (Field Representative/Investigator) beginning in FY 2003.

**J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.**

Other agencies administer enforcement of their agency's enabling statute and rules. However, due to the complex and multifaceted aspects of the plumbing industry, this Board must employ an enforcement staff that possesses complete knowledge and expertise in the field of plumbing. Complaint investigations are not limited to simply determining whether or not an individual is licensed. For example, the Board receives a broad spectrum of complaints ranging from improperly repaired residential faucets, to improperly installed commercial and industrial plumbing systems, to improperly installed medical gas piping in major hospitals. These complaints often require on site investigation and inspection to analyze and determine whether or not the particular plumbing installation was performed in compliance with the plumbing codes and ordinances regulating sizing, hydraulics, materials, standard and alternate installation methods to ensure the protection of the health and safety of the citizens. It would be difficult for an investigator whose experience derives from that outside the plumbing industry to properly investigate and assess complaints of this nature. For this reason, the Board's entire enforcement team, with the exception of two Administrative Assistants, possess a minimum of ten years experience working in the plumbing industry and are licensed by the Board as a Journeyman or Master Plumber. In addition to the Board's enforcement staff, the Board's Administrator is also a licensed Master Plumber with Medical Gas Piping Installation and Water Supply Protection Specialist endorsements. The Board's Chief Field Representative, Field Representatives, and its Administrator are certified by the Council on Licensure, Enforcement and Regulation (CLEAR)

as Investigators.

**K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.**

The nature of the composition of the Board's enforcement team, nature and complexity of the complaints received, and the nature and complexity of the plumbing industry itself, along with the Board's mission to protect the health and safety of the citizens of the state set it apart from other agencies. As long as the agency adheres to its mission, duplication will be avoided. The Board ensures that its functions of this program do not overlap with those of other entities, by maintaining an awareness of the functions of other entities.

**L. Please provide any additional information needed to gain a preliminary understanding of the program.**

The Board's public and industry awareness efforts play a vital role in its enforcement program. The Board believes that its informative web site and public awareness seminars conducted for plumbing trade schools, high schools, universities, municipal inspection department, municipal associations, plumbing companies and plumbing trade associations result in fewer violations of the Act and Board Rules. Increased compliance with the Act and Board Rules helps to preserve public health and safety.

**M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

As previously stated, regulation of the plumbing industry will always be needed. Without enforcement of the Plumbing License Law and Board Rules, the health and safety of the citizens of the State of Texas would be at risk. Quality plumbing systems installed by qualified plumbers and inspected by qualified plumbing inspectors are critical to the health and safety of the citizens of Texas because improperly installed plumbing systems can cause and actually have caused injury and death through explosions, fires, hospital medical gas contamination, and noxious fumes. Improperly installed plumbing systems can transmit diseases that include typhoid fever, diarrhea, cholera, and amoebic and bacterial dysentery. Sickness or death can occur when noxious fumes such as carbon monoxide, methane gas, and fuel gas are not properly ventilated by our plumbing systems. Improperly installed medical gas systems can deliver contaminated or cross-connected medical gasses to hospital patients causing sickness and death.

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The Board's enforcement program is carried out in the following manner:

The Board employs eight (8) Field Representatives who work under the supervision of the Chief of Field Services/Investigations. In order to minimize travel expenditures and maximize efficiency, the Field Representatives are located around the state in locations outside of Austin. Field Representatives investigate complaints, monitor plumbing job sites, issue citations for violations of the Plumbing License Law and Board Rules, administer examinations, and conduct public awareness seminars.

Complaint Investigations: Each Field Representative has completed an investigator training program with the Council on Licensure, Enforcement and Regulation. Field Representatives must be licensed as a Journeyman or Master Plumber and knowledgeable of state approved plumbing codes, the Plumbing License Law and Board Rules. Each Field Representative works out of his or her home and is supplied with an automobile, notebook computer, printer, facsimile machine and cellular telephone. Complaints are received in the Board's Austin office and are assigned to the Field Representative located nearest to where the alleged violation occurred. A Field Representative's investigation of the complaint is thorough and includes all aspects of the work performed. The investigation may include:

- A. Determination of priority of complaint.
- B. Planning of investigation around current caseload.
- C. Initial telephone contact with Complainant and Respondent.
- D. Personal interview with Complainant.
- E. Personal interview with Respondent.
- F. Personal or telephone interview with witnesses.
- G. On-site visual inspection of the work performed to determine compliance with State approved plumbing codes.
- H. Determination of whether or not all individuals involved in offering to perform the work and actually performing the work were properly licensed as required by law.
- I. Telephone and personal contact with municipal plumbing inspectors to determine whether or not required plumbing permits and inspections were obtained.
- J. Determination of whether or not all other requirements of the Plumbing License Law and Board Rules were met.

Monitoring of Job Sites: Monitoring of job sites where plumbing work is being performed is a primary responsibility of the Field Representative. Each Field Representative is a licensed plumber and knowledgeable in all phases of plumbing. Monitoring of job sites is necessary to assure that plumbing work is not being installed in an incorrect or unsafe manner by individuals who have not been proven by examination to be qualified to install plumbing. The monitoring of job sites includes:

- A. Determining locations of plumbing work being performed.
  1. Metropolitan areas of heavy growth (residential and commercial).
  2. Contacting city officials to determine job sites with permits obtained.

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- B. Monitoring for compliance with Plumbing License Law and Board Rules regarding supervision by licensed plumbers includes contacting the Responsible Master Plumber in case of possible violation regarding supervision.
- C. Monitoring for compliance with state approved plumbing codes and industry standards includes contacting municipal inspectors for information regarding adopted codes, amendments, and permits.
- D. Issuing of citations if violations of the Plumbing License Law and/or Board Rules are discovered.
  - 1. Check identification of alleged violator.
  - 2. Verify that alleged violator is unlicensed (by use of notebook computer).
  - 3. Verify precinct of Justice of the Peace court where jurisdiction occurs.
  - 4. Explain citation process to alleged violator.

The Filing of Citations in Justice of the Peace Court: Once the citation has been issued, the Field Representative must:

- A. Prepare complaint and probable cause.
- B. File the citation with the proper precinct.
- C. Determine the status of the citation.
  - 1. Citation fine has been paid.
  - 2. Citation has been dismissed.
  - 3. If Respondent has requested a trial (judge or jury)
    - a. Interaction with the District Attorney
    - b. Interaction with JP
    - c. Interpret the Plumbing License Law and Attorney General Opinions
    - d. Subpoena witnesses
    - e. Prepare evidence
    - f. Appear for court

Reporting Requirements: The Field Representatives utilize custom programs written in Microsoft Access for entering field activity statistics, complaint investigation reports, citation data and seminar activities. The Field Representatives use word processing software to create complaint and probable cause documents, and for general correspondence. The reporting requirements may include:

- A. Creation of complaint and probable cause documents to be filed with citations.
- B. Data entry of field activity statistics in Microsoft Access.
- C. Compilation of complaint investigation reports in Microsoft Access.
- D. Data entry and tracking of citations issued in Microsoft Access
- E. Completion of state vehicle use reports.

Monitoring of Continuing Professional Education Classes: The Board requires by Rule that staff randomly monitor the Continuing Professional Education classes held statewide for the renewal of licenses. The Field Representatives are responsible for the monitoring of Continuing

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Professional Education classes.

Administer Examinations: Field Representatives are cross-trained to administer examinations given by the Board. The Field Representatives proctor the written Water Supply Protection Specialist and Journeyman Plumber examinations in different locations across the state.

Public and Industry Awareness Seminars: Field Representatives attend conferences and local meetings. Field Representatives are asked to speak and/or conduct public and industry awareness seminars at the following:

- A. Plumbing and Trade Association Training Conferences
- B. Justices of the Peace local meetings and conferences
- C. Community organization meetings
- D. Municipal entity meetings
- E. Educational organization functions

Additionally, the Board has established an Enforcement Committee. The Enforcement Committee is composed of two Board Members and two staff members. The Board's Enforcement Committee reviews the criminal histories of applicants, conducts informal conferences with alleged violators, negotiates proposed agreed settlements, oversees the preparation for contested cases and pursues cases at the State Office of Administrative Hearings. The Board's Enforcement Committee adheres to the requirements of the Administrative Procedure Act.

Negotiated agreed settlements for disciplinary action may include probated license suspensions, license suspensions, license revocation and administrative penalties. Negotiated agreed settlements may additionally include other conditions that the licensee must meet. Proposals for Decision from Administrative Law Judges may include probated license suspensions, license suspensions, license revocation and administrative penalties. A majority of the full Board makes the final determination in accepting negotiated agreed settlements and Proposals for Decision submitted by Administrative Law Judges from the State Office of Administrative Hearings.

The procedures for handling consumer complaints are as follows:

At the time that a Complainant contacts the Enforcement Department and it is determined that the complaint is within the Board's jurisdiction, information regarding the nature of the complaint will be taken, the complaint will be assigned a complaint number and a Field Representative will be assigned to investigate the complaint.

The information will be forwarded to the Field Representative assigned to the complaint and the Field Representative will contact the Complainant within a few days.

The Complainant will be sent a letter acknowledging the complaint. If the Complainant has not already provided a written statement in their own words describing the circumstances that lead to filing the complaint, the Complainant will also be sent a form to allow them to do so. The

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Complainant’s written statement, including dates, times, copies of contracts, receipts, photographs, et cetera, are very helpful in the investigation. If the Complainant needs assistance in this matter, the Field Representative will assist.

In addition to an interview by the Field Representative, the person complained against will be provided a copy of the complaint and asked to respond in writing to the Board. The Complainant will be provided a copy of that response.

The Board’s Enforcement Department or the Enforcement Committee will review the investigation report. If a violation of the Plumbing License Law or Board Rules is found, the result could be one or a combination of the following:

- A. Citation or citations issued
- B. Administrative or civil penalty.
- C. License reprimand, probation, suspension, or revocation.

**N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency’s practices.**

<b>Texas State Board of Plumbing Examiners (Regulatory Program Name)</b>		
<b>Exhibit 14: Complaints Against Regulated Entities – Fiscal Years 1999 and 2000</b>		
	<b>FY 1999</b>	<b>FY 2000</b>
<b>Number of complaints received</b>	461	542
<b>Number of complaints resolved</b>	1068	505
<b>Number of complaints dropped/found to be without merit</b>	132	130
<b>Number of sanctions:</b>		
<b>Citations issued</b>	559	386
<b>Administrative fines assessed</b>	1	2
<b>Suspensions/revocations</b>	6	14
<b>Number of complaints pending from prior years</b>	1	9
<b>Average time period for resolution of a complaint</b>	5.3 mos.	4.2 mos.
<b>Number of job sites monitored by the agency</b>	10,102	8,621
<b>Total number of licensees and endorsements issued and renewed</b>	20,144	21,930

## VII. Agency Performance Evaluation

<b>A. What are the agency's most significant accomplishments?</b>
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Since its creation in 1947, the Texas State Board of Plumbing Examiners has been continually challenged to meet the needs of the constantly evolving and modernizing industry that it serves. The most significant accomplishment of the Board is that it has been able to meet these changing needs while maintaining focus on its mission to protect the health and safety of the citizens of the state. The Board believes that this is evident when considering that the Board's regulation of the plumbing industry has kept plumbing related accidents to a minimum. One measurable statistic that the Board believes demonstrates this is the steady decrease in the number of water heater related fires in one-and-two family dwellings that occurred in Texas from 1996-1999. There have been a total of 1,883 water heater related fires that resulted in fourteen deaths that occurred between 1996-1999. The annual number of fires has steadily declined from 571 in 1996 to 394 in 1999. No deaths occurred in 1999 as a result of these fires.

Some additional examples of the Board's significant accomplishments and evolution are:

- As materials and methods for the installation of plumbing have become more sophisticated, the Board has accepted and fulfilled its responsibility to continually review the examination process and qualifications of applicants ensuring that only qualified applicants receive and maintain a license.
- Changes in the Board's enforcement program since 1993 have been significant. Prior to 1992, most complaints were handled informally on the local level. The implementation of the issuance of citations and placement of Field Representatives around the state has had a remarkable effect on enforcement and compliance with not only the Plumbing License Law and Board Rules, but local ordinances regulating plumbing as well.
- The efforts of the Board's Enforcement Committee in reviewing the criminal histories of applicants and the effects of administrative actions taken against licensees who violate the Plumbing License Law and Board Rules are far reaching. The law abiding plumbing community and the consumers who have had their complaints thoroughly investigated and fairly resolved appreciate the Board's current reputation for its enforcement practices.
- The implementation of the Continuing Professional Education (CPE) requirement for licensed Plumbers and Plumbing Inspectors has been one of the more significant accomplishments of the agency. CPE has proven to be an extremely beneficial program to the licensees, as well as the consumers of the licensee's services. Increase in the licensee's awareness of current issues, changes in the plumbing codes, and the laws and rules that regulate the plumbing industry, have been immeasurable.
- While maintaining the high standards of the Board's examination, the Board has been responsive to the plumbing industry by providing the written portion of its Journeyman and Master Plumber examinations in both English and Spanish. Many of the applicants whose preferred language is Spanish, believe this to be a major accomplishment.

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- To further accommodate applicants, the Board has recently begun offering the written portion of the Journeyman examination in El Paso and the Rio Grande Valley area.
- The implementation of the Water Supply Protection Specialist and Medical Gas Piping Installation Endorsement training and examinations for Master and Journeyman Plumbers is another example of changes in the plumbing industry that have addressed a vital health and safety need. Not a single accident stemming from an improperly installed medical gas piping system has been reported since the implementation of the Medical Gas Piping Installation Endorsement.
- The Board has increased public and industry awareness significantly with the implementation of the agency web site, newsletters and public awareness seminars conducted by the Board around the state. The Board understands the importance of industry and public outreach, in order to seek input regarding agency functions. The Board strives to go beyond meeting only the minimum requirements of law to inform the industry and public of the matters of the Board. This has resulted in a stronger relationship between the plumbing industry and the Board that regulates it.

The fact that the Board was able to achieve so many milestones, remain current with the progression of the plumbing industry and maintain its focus on its mission, while carrying out its day to day activities with only twenty-four full time employees, regulating over 20,000 licensees is an accomplishment in itself.

**B. Describe the internal process used to evaluate agency performance, including how often performance is formally evaluated and how the resulting information is used by the policymaking body, management, the public, and customers.**

Department Managers review performance measures of their respective departments on an ongoing basis. Department meetings are held by the Department Managers and respective staff to discuss performance issues. Performance measures are discussed and evaluated during meetings of the Department Managers and the Administrator. The Administrator reviews and analyzes the information provided and adjusts priorities and activities accordingly. Agency performance reports are compiled by Department Managers and provided to the Administrator prior to each Board Meeting. The reports are provided to the Board and are available to the public during each Board meeting. The reports are reviewed and evaluated by the Board. The statistical data provided regarding each Field Representative/Investigator's activities includes the number of citations issued, job sites monitored, complaints investigated and seminars conducted. Information regarding Enforcement Committee activities includes the number of applicants for examination and license renewal whose criminal histories were reviewed and the number of complaint cases reviewed. The examination and licensing information statistics reviewed by the Board include the number of each type of examination given, pass/fail rates for each type of examination and number of licenses issued and renewed. A complete report of the Board's financial status is also provided at each Board meeting. At each Board meeting the Administrator reports on other significant activities of the agency. The Board formally reviews and analyzes the information provided and adjusts priorities and activities accordingly. The

Board uses the information provided as a basis for policymaking.

Providers of Continuing Professional Education distribute information on agency performance to the licensees during the Continuing Professional Education courses. In turn, the industry utilizes the information when determining whether or not to support the Board's legislative budget requests, and in deciding what other legislation to support. The information is also used to make recommendations to the Board for rule and policy amendments.

**C. What are the agency's biggest opportunities for improvement?**

New Legislation

The recent amendments to the Plumbing License Law made by the 77<sup>th</sup> Legislature will provide the Board with perhaps the greatest opportunity for improvement since the passage of the Plumbing License Law of 1947. This new legislation will require the Board to review all of its current functions and programs. This new legislation is estimated to have the effect of doubling the number of individuals that are currently licensed and registered by the Board.

- Every agency rule must be reviewed and most will be amended as a result of this new legislation. The Board is seeking as much public input as possible during its review to help provide a smooth transition and ensure that all programs will not only perform successfully, but more efficiently than ever.
- Cities and other political subdivisions will also be impacted by this new legislation. Implementation of the new laws will require even more interaction with local governments than ever before. This interaction with cities and political subdivisions, along with their input into the ground level of the implementation of these new requirements, can only help to improve the Board's performance and relationships with local governments.

Customer Service

Customer service is an area that always provides opportunity for improvement. The implementation of the new legislation provides numerous opportunities to improve customer service. The Board must review its current policies to ensure that timely and accurate information about the new legislation is provided to the individuals who it serves.

Retention of Board Staff

Retention of Board staff is another opportunity for improvement. Although the Board is currently fully staffed, the Board has had numerous vacancies in the past. The agency sees this current level of staffing as a positive opportunity to explore new methods to increase longevity and retention of current Board staff.

Complaint Resolution Time

The agency's resolution time for complaints is a measure that is continuously monitored. Although the average complaint resolution time has reduced, the Enforcement staff continually

explores methods for reducing this time even more. As the public becomes more aware of the regulatory duties of the Board through the Board's public awareness efforts, more complaints are filed with the Board. The addition of another Field Representative in FY 2003, will help to reduce the average complaint resolution time. However, it will become even more important that the Board be diligent in monitoring its complaint resolution time when the Board's jurisdiction increases under the new mandates of HB 217, 77<sup>th</sup> Legislature. One factor that hinders the reduction of complaint resolution time, is the lengthy process for handling contested cases through the State Office of Administrative Hearings (SOAH). Complaints that cannot be resolved by the enforcement staff, must be referred to the Enforcement Committee, and possibly to SOAH. The reason that this process increases the length of time to resolve some complaints is due to the fact that the agency shares its legal counsel, who is an assigned Assistant Attorney General, with other agencies. The Board's legal counsel carries a heavy workload from the other agencies to which he is assigned.

#### Sunset Review

Additionally, one of the greatest opportunities for the Board to improve will be the Sunset Review process. The agency's review by the Sunset Advisory Commission will provide an additional opportunity for the Board to receive the Commission's input and make improvements in its operations.

<b>D. How does the agency ensure its functions do not duplicate those of other entities?</b>
----------------------------------------------------------------------------------------------

The Board's mission to protect the health and safety of the citizens of the state by ensuring that plumbing systems are installed, maintained and inspected by qualified individuals sets it apart from other agencies. As long as the agency adheres to its mission and performance goals, duplication will be avoided. The Board ensures that its functions do not overlap with those of other entities, by maintaining an awareness of the functions of other entities.

<b>E. Are there any other entities that could perform any of the agency's functions?</b>
------------------------------------------------------------------------------------------

No other agency can be as responsive to the plumbing industry as is the Texas State Board of Plumbing Examiners. The composition of the Board's policymaking body and the plumbing industry experience of the Board's staff place it at an advantage above any other agency. It is able to not only perform the functions of the agency, but is also able to totally comprehend and understand the strengths and weaknesses of the industry itself. Additionally, positive Board support received from the plumbing industry clearly shows that the industry does not believe that other entities could perform the functions of this agency.

**F. What process does the agency use to determine customer satisfaction and how does the agency use this information?**

The Board has made a commitment to pursue the highest level of customer satisfaction in the delivery of each and every service we provide. By promoting accountability, teamwork, honesty, integrity and ethical behavior within the agency, we have developed a positive atmosphere that is conducive to successful interaction with the people that we serve. We will continue to strive for excellence in this area and to improve our performance as needed.

Upon completion of all examinations, the applicant is requested to complete anonymously a questionnaire regarding their opinion of the examination and the service that they received during the examination.

Visitors to the agency's web site are encouraged to comment on the web site contents and offer suggestions for improvement.

The Board relies on feedback from the industry and public. Continuing education, trade association meetings and telephone comments received by agency staff are brought to the attention of Department Managers. Comments made to Field Representatives are a great source of feedback. The Board seriously considers the comments received, and often makes changes to agency policy based on comments regarding customer satisfaction.

The overall wide spread support from the industry is a key indicator of the satisfaction of the Board's customers for their ability to be heard and the responsiveness of the Board.

**G. Describe the agency's process for handling complaints against the agency, including the maintenance of complaint files and procedures for keeping parties informed about the process. If the agency has a division or office, such as an ombudsman, for tracking and resolving complaints from the public or other entities, please provide a description.**

If a complaint against the agency pertains to a specific department, the Department Manager responds to the complaint. If the complaint cannot be resolved by the Department Manager, the complaint is handled and responded to by the Administrator. This includes both written and verbal complaints against the agency. Most complaints are received verbally by telephone and originate because of a lack of understanding of a policy or procedure of the Board. These complaints are most often resolved in the same telephone conversation that the complaint was originally received by. If the complaint is general and does not apply to a specific department, it is handled and responded to by the Administrator. If necessary, the Administrator confers with its legal counsel and the Chairman of the Board. Files regarding written complaints against the agency are maintained by the Administrator.

**H. Please fill in the following chart. The chart headings may be changed if needed to better reflect the agency's practices.**

Texas State Board of Plumbing Examiners Exhibit 15: Complaints Against the Agency – Fiscal Years 1999 and 2000		
	FY 1999	FY 2000
Number of complaints received	1	5
Number of complaints resolved	1	4
Number of complaints dropped/found to be without merit	1	2
Number of complaints pending from prior years	0	0
Average time period for resolution of a complaint	5.5 months	1.6 months

**I. What process does the agency use to respond to requests under the Public Information (Open Records) Act?**

All requests for open records are handled in compliance with the Public Information Act. The Board has a policy for open records, which is posted on the agency's web site. The Board's open records policy follows:

**Open Records Request  
The Public Information Act**

Texas Government Code, Chapter 552, gives the public the right to access government records; and an officer for public information and the officer's agent may not ask the purpose of the request. All government information is presumed to be available to the public. Certain exceptions may apply to the disclosure of the information. Governmental bodies shall promptly release requested information that is not confidential by law, either constitutional, statutory, or by judicial decision, or information for which an exception to disclosure has not been sought.

Procedures for Obtaining Information:

1. Submit a request by mail, fax, email or in person.
2. Include enough description and detail about the information requested to enable the Texas State Board of Plumbing Examiners to accurately identify and locate the information requested.
3. The Texas State Board of Plumbing Examiners will make reasonable efforts to clarify the type or amount of information requested.

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4. The Texas State Board of Plumbing Examiners must respond to the request, according to Texas Government Code, Chapter 552, within ten (10) days.

**Public information requests may be made:**

By mail:

Texas State Board of Plumbing Examiners  
P.O. Box 4200  
Austin, TX 78765-4200

By e-mail to: info@tsbpe.state.tx.us

By fax to: (512) 450-0637

In person at: 929 East 41<sup>st</sup> St., Austin, Texas

**J. Please fill in the following chart with information that is as current and up-to-date as possible:**

<b>Texas State Board of Plumbing Examiners Exhibit 16: Contacts</b>		
<b>INTEREST GROUPS</b> (groups affected by agency actions or that represent others served by or affected by agency actions)		
<b>Group or Association Name/ Contact Person</b>	<b>Address</b>	<b>Telephone Number Fax Number E-mail Address</b>
Associated Plumbing-Heating-Cooling Contractors of Texas/ Nancy Jones	4818 E. Ben White Blvd., #104 Austin, TX 78741	Ph. 800-831-9313 Fax: 512-442-4374 e-mail: njones@phcc-tx.org
Texas Plumbing, Air Conditioning and Mechanical Contractors Association of Texas / Richard Blackmon	33112 Pecan Hill Dr. Brookshire, TX 77423	Ph. 281-682-0347 Fax: 281-533-9505 e-mail: briers@aol.com
Mechanical Contractors Association of Texas/ Jim Reynolds	1310 East 51 <sup>st</sup> St. Austin, TX 78723	Ph. 512-453-8806 Fax: 512-453-3181 e-mail: none
Mechanical Contractors Association - Houston Glenn Rex	10301 Northwest Freeway, Ste. 308 Houston, TX 77092	Ph. 713-686-7893 Fax: 713-686-7888 e-mail: glrex@swbell.net
Texas State Association of Plumbing Inspectors/ Bill White	C/O City of Amarillo P.O. Box 1971 Amarillo, TX 79105	Ph. 806-378-3041 Fax: 806-378-3085 e-mail: gwen.Gonzales@ci.amarillo.tx.us

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<b>Texas State Board of Plumbing Examiners Exhibit 16: Contacts (continued)</b>		
<b>INTEREST GROUPS</b> (groups affected by agency actions or that represent others served by or affected by agency actions)		
<b>Group or Association Name/ Contact Person</b>	<b>Address</b>	<b>Telephone Number Fax Number E-mail Address</b>
Texas Pipe Trades/ Robert Cross	P.O. Box 8653 Houston, TX 77249	Ph. 713-861-3202 Fax: 713-861-5616 e-mail: lu68hapjac@worldnet.att.net
Texas Association of Builders/ Nancy Fisher	510 West 15 <sup>th</sup> St. Austin, TX 78701	Ph. 512-476-6346 Fax: 512-476-6427 e-mail: nfisher@onr.com
Plumbers Local Union # 68/ Rick Lord	P.O. Box 8746 Houston, TX 77249	Ph. 713-869-3592 Fax: 713-869-3671 e-mail: rickl@plumbersunion68.com
Plumbers and Pipefitters Local Union # 142/ Sonny Tessmann	3630 Belgium Ln. San Antonio, TX 78219	Ph. 210-226-2661 Fax: 210-226-2596 e-mail: stessmann@local142.org
Plumbers and Pipefitters Local Union # 196 / Don Green	1505 W. 7 <sup>th</sup> Ave. Amarillo, TX 79101	Ph. 806-374-2895 Fax: 806-371-7505 e-mail: ualu196@am.net
Dallas Joint Apprentice Training Committee/ Jimmy Carroll	3541 West Miller Rd. Garland, TX 75041	Ph. 214-341-6199 Fax: 214-343-9438 e-mail: dalplumb@swbell.net
Justice of the Peace and Constables Association/ Honorable Sandy Prindle	645 Grapevine Hwy., Ste. 2 Hurst, TX 76054	Ph. 817-581-3625 Fax: 817-581-3631 e-mail: prindle@jpca.com

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<b>INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS</b> (that serve as an information clearinghouse or regularly interact with the agency)		
<b>Group or Association Name/ Contact Person</b>	<b>Address</b>	<b>Telephone Number Fax Number E-mail Address</b>
International Association of Plumbing and Mechanical Officials / Linden Raimer	21316 Pat O'Brien Rd. Covington, LA 70435	Ph. 985-871-3999 Fax: 985-871-0112 e-mail: raimer@iapmo.org
International Conference of Building Officials/ Carroll Pruitt	3355 Bee Caves Rd., #404C Austin, TX 78746	Ph. 512-306-8258 Fax: 512-306-8368 e-mail: pruittc@icbo.org
National Association of Plumbing-Heating-Cooling Contractors/ Eddie Hollub	C/O Modern Plumbing Co. 4828 Pine Ave. Pasadena, TX 77503	Ph. 281-487-8172 Fax: 281-487-1526 e-mail: eddie@modernplumbing.com
United Association of Plumbers and Pipefitters/ Phillip Lord	2302 John St. Pasadena, TX 77502	Ph. 713-472-5838 Fax: 713-472-5837 e-mail: phillipl@uanet.org
<b>LIAISONS AT OTHER STATE AGENCIES</b> (with which the agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)		
<b>Agency Name/ Relationship/ Contact Person</b>	<b>Address</b>	<b>Telephone Number Fax Number E-mail Address</b>
Office of the Attorney General Legal Counsel Robert Seibert	P.O. Box 12548 Austin, TX 78711-2548	Ph. 512-475-4300 Fax: 12-320-0167 e-mail: robert.seibert@oag.state.tx.us
Comptroller of Public Accounts Financial Reporting Analyst Kim Builta	P.O. Box 13528 Austin, TX 78711-3528	Ph. 512-936-4130 Fax: 512-475-0527 e-mail: kim.builta@cpa.state.tx.us
General Services Commission State Mail Office Contract Administrator Michael A. Guerra	P.O. Box 13047 Austin, TX 78711-3047	Ph. 512-463-2221 Fax: 512-463-3564 e-mail: michael.guerra@gsc.state.tx.us
Governor's Office of Budget and Planning Budget Analyst Smiley Garcia	P.O. Box 12428 Austin, TX 78711-2428	Ph. 512-463-1778 Fax: 512-463-1880 e-mail: sgarcia@governor.state.tx.us

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<b>LIAISONS AT OTHER STATE AGENCIES (continued)</b> (with which the agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)		
<b>Agency Name/ Relationship/ Contact Person</b>	<b>Address</b>	<b>Telephone Number Fax Number E-mail Address</b>
Legislative Budget Board Budget Analyst Ed Robertson	P.O. Box 12666 Austin, TX 78711-2666	Ph. 512-463-1184 Fax: 512-475-2902 e-mail: ed.robertson@lbb.state.tx.us
Department of Information Resources Carolyn Purcell	P.O. Box 13564 Austin, TX 78711-3564	Ph. 512-475-4720 Fax: 512-475-4759 e-mail: carolyn.purcell@dir.state.tx.us

**VIII. 77<sup>th</sup> Legislative Session Chart**

Texas State Board of Plumbing Examiners Exhibit 17: 77 <sup>th</sup> Legislative Session Chart		
Legislation Enacted in the 77 <sup>th</sup> Legislative Session		
Bill Number	Author	Summary of Key Provisions/Intent
HB 1505	Yarbrough	Updates the Plumbing License Law (Act), creates new programs and expands authority of the Board to better regulate the changing plumbing profession and protect the health and safety of the citizens of the state.
HB 217	A. Reyna	Modifies the plumbing codes adopted by the Board, requires plumbing work connected to a public water system or located within any city to be performed by a licensed plumber to protect the health and safety of the citizens of the state.
SB 365	Armbrister	Amends Chapter 214 of the Local Government Code; adopts the International Residential Code for one-and-two family dwellings
HB 3111	Zbranek	Removes outdated Section 3A of the Act
HB 2813	Wolens	Non substantive revision of the Plumbing License Law and moves it to Title 8 of the Occupations Code (not effective until 2003)
SB 187	Shapleigh	Creates the Texas Online Authority to establish and implement a common electronic infrastructure for online government
SB 645	Shapiro	Requires that DIR establish a common electronic system for occupational licensing transactions using the internet
HB 609	Hochberg	Requires internal auditing of state agencies
SB 654	Staples	Requires that registered sex offenders disclose which professional licenses they currently hold or intend to seek and requires DPS to forward the information to the appropriate licensing agency.
Legislation Not Passed in the 77 <sup>th</sup> Legislative Session		
Bill Number	Author	Summary of Key Provisions/Intent/Reason the Bill did not Pass
HB 584	Brown of Kaufman	Would have allowed Texas Engineering Extension Service (TEEX) to provide Continuing Professional Education to licensees of the Board. Would have allowed TEEX an advantage over any individual, business or association by not having to be approved by the Board.
SB 958	Buster Brown	Would have required private schools, with the exception of home schools, to test their natural gas piping systems the same as public schools are required to do.
HB 2188	Yarbrough	Would have required state agencies to expunge complaint records against a licensee if the licensee was found to have not violated a law or rule.

## **IX. Policy Issues**

### **1. Administrative Citations**

<b>A. Brief Description of Issue</b>
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Should the Board be given clear authority to issue citations for administrative penalties to alleged violators of the Plumbing License Law and Board Rules?

<b>B. Discussion</b>
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The issue has been raised that the Board does not issue administrative citations for civil violations of the Law which would result in added revenue to the state. Rather, the Board issues citations for disposition in the criminal courts, which result in the fines remaining in the local precinct where the violation occurred.

Currently, the Board has clear statutory authority to issue criminal citations (Class C Misdemeanor) for violations of the Plumbing License Law and Board Rules. This authority is found in Section 8B(b)(4), Section 9(e), Section 14(c) and Section 14(e) of the Act.

Section 8B(b)(4) states that a Field Representative of the Board may “issue citations as provided in Section 14 of this Act”.

In turn, Section 14(c) states that “an offense under this section is a Class C Misdemeanor.”

Section 14(e) states, in relevant part, “a Field Representative...may issue a citation to a person who engages in conduct described by subsection (e) of Section 9 of this Act.”

Finally, Section 9(e) states, in relevant part, “...An offense under this subsection is a Class C Misdemeanor.”

The Board has been advised by its legal counsel, an Assistant Attorney General, that the Plumbing License Law does not allow the Board to issue citations for disposition of offenses in the civil arena.

The Board has been successfully issuing citations for Class C Misdemeanor violations since 1993. As of June 30, 2001, the Board has issued 3,288 criminal citations around the state, which has resulted in a total of \$502,155 in fines paid to the local county precincts. With 169 of these cases still pending, this has resulted in an average fine of \$161.00 per citation issued.

**C. Possible Solutions and Impact**

Possible solution number 1:

Amend the Plumbing License Law to give the Board specific statutory authority to issue citations for disposition to be handled under the Administrative Procedure Act. This would result in increased revenue to the state.

Possible solution number 2:

Amend the Plumbing License Law to allow for a portion of all fines paid from criminal citations to be returned to the state. This also would result in increased revenue to the state, with the balance of the fines remaining in the county precinct where the violation occurred.

Possible solution number 3:

Do not amend the Plumbing License Law or provide an additional authority to the Board to issued criminal citations, as the current system is fair.

This issue has been discussed with some of the plumbing industry associations. The representatives of these associations have expressed opposition to solution number 1 and solution number 2. The reasoning for the opposition is that they believe that the current method for issuing citations is fair for the following reasons:

- The alleged violator has the opportunity to have a hearing before a Justice of the Peace in the local area where the alleged violator lives or works.
- Although the average fine per citation issued is \$161.00, the fines are as much as \$500.00 plus court costs, and that, together with the criminal conviction on an individual's record, represents a significant deterrent to violating the Act or rules.
- Since the purpose for issuing a citation is often as a result of wrongdoing to a consumer who has filed a complaint with the Board, the consumer benefits more when the fines remain in the jurisdiction where the violation occurred.
- Under solution number 1 or 2, the industry has expressed concern that the Board could be encouraged to issue citations without sufficient cause in an effort to receive additional revenue.
- The industry associations have expressed concern that the State Office of Administrative Hearings courts are not as geographically accessible as are the local Justices of the Peace.
- Under solution number 1, the industry has expressed concern that the Board would attempt to take advantage of alleged violators by pressuring the alleged violator to forgo a hearing before the State Office of Administrative Hearings (SOAH). The industry is concerned that the Board would accomplish this by initially setting an elevated fine amount and offering the alleged violator a lower fine amount if the alleged violator forgoes requesting a hearing.

Additional considerations regarding this issue include:

- Expediency of the handling of citations through the State Office of Administrative Hearings. The Board's legal counsel is an Assistant Attorney General who is assigned by the Office of the Attorney General to represent the Board in all matters. Due to the fact that this Assistant Attorney General also represents several other agencies, he maintains a very heavy workload. Currently, and historically, cases that the Board pursues through the State Office of Administrative Hearings, are significantly delayed due to the workload of the Board's assigned counsel. It could be expected, that if the Board began issuing administrative citations, a serious backlog could result.
- The amount of fines collected under solution number 1, would have to be weighed against the cost of pursuing cases through the State Office of Administrative Hearings process. Under the current process, the local District Attorney provides legal representation on behalf of the state, which is at no cost to the agency. The Assistant Attorney General represents the Board in SOAH proceedings.

#### **X. Comments**

No additional comments.

#### **ATTACHMENTS**

<b>Attachments Relating to Key Functions, Powers, and Duties</b>
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1. Enabling statute – The Plumbing License Law
2. N/A – Annual reports from FY 1997 - 2001.
3. Newsletters published by the agency from FY 2000 - 2001.
4. Publications and brochures describing the agency.
5. N/A - Studies required by legislation or riders adopted in the 77<sup>th</sup> Legislative Session.

**Attachments Relating to Policymaking Structure**

6. Biographical information of all policymaking body members.
7. Most recent Board Rules.

**Attachments Relating to Funding**

8. Legislative Appropriations Request for FY 2002-2003.
9. Annual financial report from FY 1998 - 2000.
10. Operating budget from FY 1999 - 2000.

**Attachments Relating to Organization**

11. Organizational chart of the agency.
12. Map illustrating Field Representative locations.

**Attachments Relating to Agency Performance Evaluation**

13. Quarterly performance reports completed by the agency in FY 1999 - 2001.
14. N/A - Studies conducted by outside management consultants or academic institutions.
15. N/A - Current internal audit plan.
16. N/A - Internal audit reports from FY 1997 - 2001 completed by or in progress at the agency.
17. N/A - State Auditor reports from FY 1997 - 2001 that relate to the agency or any of its functions.
18. N/A - Legislative or interagency studies relating to the agency that are being performed during the current interim.
19. N/A - Studies from other states, the federal government, or national groups/associations that relate to or affect the agency or agencies with similar duties or functions.