

EXECUTIVE SUMMARY

Texas State Board of Plumbing Examiners

Project Manager: Julie Davis

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Plumbing is a cornerstone of a modern civilization but often taken for granted until disasters, such as Hurricane Harvey and the recent historic flooding across Central Texas, reveal our dependency on proper plumbing to protect our health and safety. Currently, Texas has about 58,000 licensed plumbers, but the skyrocketing population growth and recurring severe storms have driven the demand for plumbing services well beyond the industry's capacity. Difficulty meeting demand for plumbers exacerbates affordable housing shortages and increases costs for construction, repairs, and maintenance, all of which impact the state's citizens and economy. With demand increasing, but supply plateauing, the regulation of plumbing in Texas is in need of serious change.

The Sunset review of the Texas State Board of Plumbing Examiners began by observing the agency's response to licensees and consumers trying to recover from Hurricane Harvey's \$125 billion toll. The small agency struggled to allocate its already stretched staff and resources, and to navigate sometimes restrictive statutory requirements.

However, Sunset staff found many problems existed long before the storm and were within the board's control to fix, but the board and agency leadership have a track record of neglecting known deficiencies. Ongoing problems and frustrations include backlogged exams, with more than 1,400 individuals waiting to take exams; poor customer service, with the agency only able to answer about 62 percent of its calls; and growing complaint caseloads and resolution times, with each investigator handling between 45 to 100 complaints and the average complaint resolution time doubling to almost six and a half months.

Sunset staff also found a litany of constraints on plumbers that make entry into the trade and progression through a career difficult, some of which are statutorily created and others self-imposed or worsened by the agency. Further, the agency's enforcement processes fail to meet standard practices to ensure consistent, documented, and fair application of laws and rules to licensees, or transparency for the public.

Board members and agency leadership have acknowledged some of these persistent problems, but have failed to appropriately address them, and broader problems, like the workforce shortage, have been exacerbated by board inattention and unwillingness to change the status quo. Ultimately, Sunset

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staff concluded the agency's reticence to change no longer meets the expectations of the state or the growing demands of the industry and recommends transferring the regulation of plumbing to the Texas Department of Licensing and Regulation (TDLR), which has streamlined and provided more effective oversight for 24 regulatory programs transferred by the Legislature since 2001. TDLR regulates several other construction trades, including electricians and air conditioning and refrigeration technicians, and can capitalize on that experience to provide more consistent, robust oversight of plumbing in Texas. The following material summarizes Sunset staff recommendations on the Texas State Board of Plumbing Examiners.

Issues and Recommendations

Issue 1

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

Regulation of plumbing continues to be critical for the health and safety of Texans by ensuring installation, repair, and maintenance of plumbing infrastructure is only performed by qualified plumbers and inspectors. However, the independent plumbing board is struggling to meet the demand from licensees and the public. Sunset staff found the board and agency leadership have not responded effectively to problems within their control to fix, and have made changes without considering the bigger picture, misplacing efforts and resources without fully addressing core issues.

Key Recommendation

- Transfer the regulation of plumbers to TDLR, and reconstitute the independent plumbing board as an advisory board.

Issue 2

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

Several aspects of the agency's licensing processes create needless barriers to becoming a plumber or advancing in careers. For example, apprentice registrations and supervision requirements for entry-level plumbers put unnecessary burdens on the industry without clear benefit. Further, outdated exams and their administration have resulted in an unprecedented backlog — with wait times of up to eight months — that keeps plumbers from advancing in their careers, and overregulated continuing education increases costs for licensees. Sunset staff also found opportunities to modernize the regulation of plumbing contractors.

Key Recommendations

- Eliminate the responsible master plumber designation and create a plumbing contractor license.
- Eliminate the separate drain cleaner-restricted, drain cleaner, and residential utilities installer registrations.

- Remove statutory requirements for direct supervision and authorize the board to determine supervision requirements for specific tasks in rule.
- Authorize the board to outsource the creation and administration of its exams, and direct the board to revise its exams to eliminate practical components.

Issue 3

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

In reviewing the agency's enforcement functions, the review found certain processes do not match model standards or common practices observed through Sunset staff's experience in reviewing regulatory agencies. For example, inefficient and unnecessary aspects of the agency's complaint resolution processes, including a cumbersome statutory enforcement committee, risk fair and timely enforcement action. The agency's unfocused enforcement efforts and a lack of easily accessible disciplinary information further inhibit the agency's ability to protect the public effectively and transparently.

Key Recommendations

- Repeal the statutory enforcement committee.
- Direct the agency to adopt a risk-based approach to investigations in rule, focusing on higher risk complaints first before other lower risk activities, such as jobsite compliance checks.
- Direct the agency to use informal settlement conferences in appropriate circumstances and better document its use of this tool.
- Direct the agency to publish disciplinary histories online.

Fiscal Implication Summary

Overall, the recommendation to transfer plumbing regulation to TDLR would result in an estimated savings of about \$768,000 in general revenue over the next five fiscal years. The savings would result primarily from capitalizing on TDLR's size and structure, reducing the number of employees needed to regulate the industry, and eliminating administrative costs necessary for an independent agency. The transfer would also result in more efficient and focused administration of plumbing regulation. The other recommendations in this report to streamline and simplify licensure functions, including outsourcing exams, and to remove bottlenecks and shore up enforcement processes would result in efficiencies, but would not have a significant fiscal impact. Together, these recommendations would create a more transparent and efficient regulatory program for licensees and Texas.

Issue 1 — TDLR would assume responsibility for the plumbing board's functions on September 1, 2020, but would need the plumbing board's separate building and facilities for an additional year to ensure a smooth transition of licensing, examination, and enforcement functions. As such, most savings would be realized after fiscal year 2021. The plumbing board has 31 full-time equivalent positions, all of which would be necessary to administer the plumbing program through fiscal year 2021. After that, TDLR's process improvements would reduce the need for three employees who currently perform examinations.

TDLR would need start-up costs for furniture, computers, and office supplies and, after fiscal year 2021, ongoing office rental costs for the 28 employees. Costs to convert the agency’s database into TDLR’s existing database are anticipated to be \$200,000. An additional \$50,000 in one-time costs would be necessary to make other changes recommended in this report, including changes to the renewal process for endorsements and licenses, replacing the responsible master plumber designation with a contractor license, and eliminating three registration types; \$25,000 would be required each year thereafter to maintain those changes.

Texas State Board of Plumbing Examiners

Fiscal Year	Cost to the General Revenue Fund	Savings to the General Revenue Fund	Change in Number of FTEs From FY 2019
2020	\$200,000	\$8,103	0
2021	\$309,672	\$46,803	0
2022	\$134,200	\$541,735	-3
2023	\$134,200	\$541,735	-3
2024	\$134,200	\$541,735	-3