

TSBPE Sunset Actions

❖ TSBPE did not ignore the directives of Sunset in 2002.

- A review and comparison of the 2002 Sunset staff report and the 2018 Sunset staff report reveals only 3 potential “carryover” issues in common:
 - Industry Staffing Shortages:
 - The 2002 Sunset report concluded: “[TSBPE] was not well positioned to address the shortage of Licensed Plumbers in the State.”
 - Although TSBPE reports exam wait times of around 3 months existed in 2002, the 2002 Sunset report did not criticize TSBPE for exam wait times, and did not cite wait times as the source for industry staffing shortages.
 - The 2002 Sunset report recommended coordination with the Texas Workforce Commission (TWC), the agency responsible for promoting recruitment in the industry.
 - In response to the 2002 Sunset review, the 78th Legislature passed SB 282, which added Sections 1301.651 and 1301.652 to the Plumbing License Law, calling for TSBPE to assist TWC in its efforts; but, TWC, not TSBPE, is tasked with addressing industry staffing shortages.
 - The statutory duty of TSBPE is to ensure that licensed, qualified individuals are utilized by industry in the field.
 - Staffing shortages touch each of the construction trades, not just plumbing, and indicates a systemic issue greater than TSBPE’s operations.
 - However, TSBPE has requested appropriations for a new strategy to promote industry recruitment, and directly address industry staffing concerns (approved by the House in HB1).
 - Prioritization of Complaints.
 - The 2002 Sunset report recommended changes in statute for TSBPE to prioritize the investigation of complaints so those complaints with the greatest potential for harm are investigated first.
 - These recommendations led to the current Section 1301.303(e) of the Plumbing License Law.
 - TSBPE **did** adopt a rule (367.15) to implement the statute. **TSBPE did not ignore Sunset’s recommendation, or the requirements of the statute.**
 - However, TSBPE agrees with Sunset’s conclusion that the rule was not as detailed as it should be and in need of amendment.
 - As addressed below in summarizing TSBPE’s actions following the 2018 Sunset review, TSBPE has diligently responded to Sunset and adopted rule amendments to resolve any deficiency.

○ Public Disclosure of Disciplinary Actions.

- The 2002 Sunset report recommended that TSBPE “promote consumer awareness about the plumbing profession and the operations of the agency through the Internet and brochures.”
- Since 2002, TSBPE has diligently promoted consumer awareness through its website, and the materials it distributes.
- The 2002 report also required the Board to “explore the possibility of developing an online system allowing consumers to check disciplinary orders and sanctions against the Board’s licensees.”
- In February of 2003, after the 2002 Sunset review, TSBPE began compiling lists of recent disciplinary actions pertaining to contracting for plumbing without the appropriate license, which were then published on TSBPE’s website for public viewing and distributed to Continuing Education providers to disclose.
- In April of 2004, TSBPE began compiling and adopting at its Board meetings, a schedule listing and summarizing disciplinary actions taken by the Board, which it would then post to its website for review and for download, along with a copy of the agenda for the meeting.
- In July of 2018, TSBPE began compiling and adopting an additional schedule of disciplinary actions imposed by default and arising from implementation of SB 2065 from the 85th Legislature.
- Following the 2018 Sunset review, TSBPE has diligently responded to Sunset and has begun providing disciplinary history of its licensees online and available to consumers, including the ability to retrieve copies of the documents imposing the disciplinary action instantaneously. Consumers can easily review a licensee they are considering hiring and determine if they have any past disciplinary actions that might impact their decision.

❖ Sunset concluded TSBPE’s statute impeded its ability to respond during Hurricane Harvey.

- 2018 Sunset report: “While other agencies were able to leverage reciprocal agreements and temporary license authority [to respond to natural disasters], the lack of [a] similar statute impeded the plumbing board’s ability to respond quickly to the disaster recovery efforts after Hurricane Harvey in 2017.”
- Changes in statute are necessary to give TSBPE the tools needed to respond effectively to natural disasters.

- However, TSBPE, with the Governor’s approval, immediately responded to those affected by the disaster with the tools available in its statute, including by (i) extending license expiration dates, (ii) waiving license late fees, and (iii) exempting individuals from continuing education requirements in the affected areas.

❖ **TSBPE has met or exceeded Sunset’s expectations for agency action:**

- **Form a working group with TDLR by 02/01/2019 – COMPLETED**
 - TSBPE and TDLR have been meeting monthly and working closely to improve TSBPE’s processes and procedures, regardless of what occurs during the 86th Legislature.
- **Publish disciplinary history online by 05/01/2019 – COMPLETED**
 - Beginning 01/15/2019, TSBPE established the online availability of disciplinary history for its licensees, utilizing existing resources.
- **Adopt rules for risk-based prioritization of complaints by 09/1/2019 –COMPLETED**
 - On 05/15/2019, TSBPE adopted rule changes to carry out this directive.
 - TSBPE reports the rules are scheduled to be published in the 05/31/2019 edition of the *Texas Register*.
- **Adopt rules to better document the use of Informal Settlement Conferences – COMPLETED**
 - On 05/15/2019, TSBPE adopted rule changes to carry out this directive.
 - TSBPE reports the rules are scheduled to be published in the 05/31/2019 edition of the *Texas Register*.
- **Review to ensure that written exams do not favor one plumbing code over the other – COMPLETED**
 - No revisions were necessary, as TSBPE’s examinations have always been code neutral.
 - Sunset staff did not actually find that TBSPE’s examinations favored one code or created a conflict amongst the plumbing codes.
- **Adopt rules to eliminate the requirement to have a high school diploma or GED for licensure**
 - On 05/15/2019, TSBPE adopted rule changes to eliminate the high school diploma requirement for the Journeyman Plumber License.

- TSBPE reports the rules are scheduled to be published in the 05/31/2019 edition of the *Texas Register*.
- Open 7 testing facilities by 09/01/2019.
 - TSBPE is on track to meet this Directive. TSBPE has conducted examinations in Dallas, Houston and Lubbock, and exams in Corpus Christi are scheduled.
 - Since January, 2019, TSBPE has conducted **174** examinations at its testing locations outside of Austin.
 - Since January, 2019, TSBPE has also conducted **168** Saturday examinations at its Austin facility, and Saturday examinations will continue on a monthly basis until wait times are eliminated.
- Simplify the timeframe for obtaining Continuing Education by 09/01/2019
 - TSBPE has been working closely with TDLR to modify its CE program and model it after TDLR's CE program.
 - TSBPE plans to allow the CE compliance year to reset according to the preexisting schedule (07/01/2019) before implementing the changes directed by Sunset, to avoid disruptions to the program, and ensure a seamless transition for plumbers and CE providers.
- ❖ **TSBPE is implementing fingerprint-based criminal background checks:**
 - SB 621 (as amended by the House) would require TDLR to fully implement fingerprint – based criminal background checks by 09/01/2025.
 - Although not a management directive of Sunset, on 05/15/2019, TSBPE adopted rule changes to begin conducting fingerprint-based criminal background checks.
 - TSBPE reports the rules are scheduled to be published for adoption in the 05/31/2019 edition of the *Texas Register*.
- ❖ **TSBPE is working aggressively to eliminate exam wait times.**
 - TSBPE has been conducting examinations around the state, and on Saturdays, to eliminate wait times.
 - TSBPE reports that, since 01/01/2019, these efforts have resulted in over a month's worth of examinations being conducted, over and above their normal workload.
 - TSBPE reports that they are on pace to conduct over 20% more examinations in FY 2020 than in FY 2019, all while utilizing existing resources.

- “Take it, Make it.”
 - On 02/03/2019, a TSBPE rule change became effective allowing examinees to retake only those portions of the exam they failed, increasing examination roster capacity and output.

- Streamlined practical exam.
 - On 11/01/2018, TSBPE eliminated the practical exam for Tradesman Plumber-Limited licensees taking the Journeyman Plumber exam, since these individuals have already demonstrated their skills when taking the Tradesman Plumber exam.

- Streamlined Plumbing Inspector exam.
 - On 05/17/2019, TSBPE modified the Plumbing Inspector practical exam to include a new format where the examinee reviews a mock plumbing installation to identify potential violations of code, replacing the review of a scaled model, and eliminating a “bottleneck” in the exam.
 - The new format is more realistic to what an examinee would see in the field.
 - The new format expands roster capacity and examination output, and TSBPE reports examination wait times for the Inspector examination will soon be around 30 days.

- SB 621 would allow for a 3rd party to administer examinations.
 - Sunset Commission Recommendations 2.3 and 2.4 call for statutory changes for the 3rd party administration of exams.
 - With 3rd party administration, examination output can scale to meet changes in demand, preventing wait times in times of peak demand, and eliminating unnecessary Board staff in times of light demand.

- TSBPE is pursuing 3rd party administration of exams, regardless of the passage of SB 621.
 - Although SB 621 contemplates statutory changes to more expressly authorize 3rd party administration, TSBPE reports it is pursuing 3rd party administration of exams utilizing its existing authority to conduct examinations.
 - 3rd party administration requires the creation of a digital examination, to be administered in a secure computer lab setting.
 - TSBPE is pursuing digitization of the written exam, to allow for 3rd party administration to be implemented.
 - TSBPE is simultaneously developing new exam material to “refresh” and modernize the exam, and to create a “pool” of exam questions that the digital exam will pull from, to randomize the exam, and increase security.