

SENATE BILL REPORT

ESSB 5831

As Passed Senate, March 12, 2008

Title: An act relating to certification of heating, ventilation, air conditioning, and refrigeration contractors and mechanics.

Brief Description: Creating the joint legislative task force on heating, ventilation, air conditioning, and refrigeration.

Sponsors: Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, Franklin, Keiser and Murray).

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/12/07, 1/21/08, 2/04/08[DPS-WM, DNP].

Ways & Means: 2/11/08, 2/12/08 [DPS(LCRD), DNP, w/oRec].

Passed Senate: 2/15/08, 47-2; 3/12/08, 40-9.

Passed House: 3/07/08, 58-35; 3/12/08, 95-2.

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5831 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin, Murray and Prentice.

Minority Report: Do not pass.

Signed by Senators Holmquist, Ranking Minority Member; Hewitt and King.

Staff: Mac Nicholson (786-7445)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5831 as recommended by Committee on Labor, Commerce, Research & Development be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Hatfield, Hobbs, Keiser, Kohl-Welles, Oemig, Rasmussen, Regala and Rockefeller.

Minority Report: Do not pass.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senator Honeyford.

Minority Report: That it be referred without recommendation.

Signed by Senators Zarelli, Ranking Minority Member; Brandland, Carrell, Hewitt, Parlette, Roach, Schoesler and Tom.

Staff: Maria Hovde (786-7710)

Background: Heating, ventilation, air conditioning and refrigeration (HVAC/R) systems control the temperature and humidity of air in a building. An HVAC/R technician works on equipment such as boilers, heat pumps, air conditioning units, and furnaces. Generally, the work of an HVAC/R technician involves work in several trades including sheet metal, plumbing, and electrical.

Six Washington cities require licenses for gas and mechanical work, refrigeration, and oil work; however, the state only regulates the electrical work of HVAC/R. The Department of Labor & Industries (L&I) licenses the electrical work. L&I is advised on electrical regulation by the Electrical Board, a 15-member advisory body whose membership is set in statute. Specialty electricians, such as HVAC/R, account for about 40 percent of regulated electricians but are not formally represented on the board.

A person currently engaged in the HVAC/R business can be required to obtain licensure or certification in four regulatory areas: a general or specialty contractor under Chapter 18.27 RCW; an electrical contractor; and electrical administrator; or a journeyman electrician or licensure in one of the two HVAC/R specialties. All of these license or certifications are fee based.

In 2005, the Joint Legislative Audit and Review Committee conducted a study of the HVAC/R licensing and testing requirements in Washington. In their report published in September of 2005, they made several recommendations including that L&I should examine scenarios that would certify aspects of HVAC/R work. In this regard, they suggested three options: 1) create a separate, comprehensive HVAC/R certificate; 2) administer an HVAC/R certificate through the Electrical Board or create a sub-board of the Electrical Board that certifies that a trainee performing both electrical and mechanical work has HVAC/R knowledge and skills in both electrical and non-electrical aspects; and 3) create a model where the state administers an exam that is acceptable to cities that require additional certification for skills beyond the specialty electrical license.

Summary of Substitute Bill: A joint legislative task force on HVAC/R is established. The task force is composed of the chair and ranking minority member of the Senate Labor, Commerce, Research and Development committee and the House Commerce and Labor committee; two legislative members appointed by the Senate majority leader, two legislative members appointed by the speaker of the House; four members of the HVAC/R industry selected from nominations submitted by statewide business organizations; four members representing labor; and a representative from L&I.

The task force must review the following issues in the context of SB 5831 and the JLARC report on HVAC/R licensing and testing requirements: the requirements for certifying HVAC/R mechanics; methods of registering contractors who qualify for two or more registrations or licenses; establishing at least three levels of mechanics, with the ability to be

certified in different specialties; on the job experience requirements for mechanics; apprenticeship certification; exemptions to registration, certification, or licensing; and any other factors deemed necessary.

Expenses of the task force will be paid jointly by the Senate and House of Representatives, and a report and recommendations are due to the Legislature by December 1, 2008.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute Bill as Heard in Committee (Labor, Commerce, Research & Development): PRO: The bill raises the bar in the state. Regulation of the HVAC/R industry is best for employees and the consumer. Contractors seeking to do business in different parts of the state currently have to carry multiple local licenses, and this bill allows them to just have one license. The bill will also help eliminate some of the underground economy in the state. The hours required run concurrently with the electrical license requirements. The license allows a tremendous amount of flexibility, with different endorsements. The bill provides benefits to small businesses and will ensure safe installations and servicing for consumers and employees. There are complaints from throughout the state about HVAC/R work, and consumers believed HVAC/R were or should be regulated, demonstrating a need for regulation. HVAC/R work is not currently regulated by the state even though improper installations of their products can cause harm to consumers. Consumers currently have no way of knowing whether the person doing their HVAC/R work is properly trained and up-to-date. Poorly trained workers can cost the consumer money by replacing rather than repairing systems, and by taking more time than is necessary. The bill will not cause legitimate businesses to go out of business.

CON: The proponents of the legislation have refused to engage in discussions with opponents who have issues with the bill. The bill before the committee has the same faults as last year's bill. There are unworkable provisions and problems. The bill will limit the number of individuals entering the HVAC/R field. The exemption of boilers threatens public safety. This legislation does not represent good public policy. Most states do not regulate HVAC/R work, and this bill is an extreme version of regulation. The bill doesn't reflect the reality of today's HVAC industry. Hearth products should be exempt, as there are very few complaints relating to hearth products. Hearth products are inspected by local building inspectors. The bill doesn't recognize existing training programs in the propane industry, and those programs shouldn't be preempted. This bill will increase costs to consumers and decrease competition. Food product refrigeration should be exempted out of the bill, as it is a different application than heating and air conditioning. The grocery industry has built in systems monitoring their refrigeration systems, ensuring consumer safety. The proposed regulation will make the HVAC/R industry less hospitable and throws up barriers to those seeking to enter the industry.

OTHER: Penalties in the HVAC/R program are similar to other penalties assessed in the plumbing and electrical programs. L&I will do outreach to newly regulated community. The proposal meets the five principals L&I brought up previously; public safety, consumer protection, level playing field, no stranded capital, and no unnecessary regulation.

Persons Testifying (Labor, Commerce, Research & Development): PRO: Helen Blyton, Northwest HVAC Association & Clines Conditioning; Tonya Neil, Sheet Metal & Air Conditioning Contractor's National Association; Pete Crowe, Washington State Association of Plumbers and Pipe Fitters; Tracy Preaseau, International Brotherhood of Electrical Workers # 76; Larry Stevens, Mechanical & Electrical Contractors; Joe Malaspino, Building Owners & Managers Association.

CON: Jim King, Mike Frickberg, Washington State HVAC/R Association; Carolyn Logue, NW Hearth, Patio & BBQ Association; James Curry, NW Propane Gas Association, Associated Builders & Contractors; Jan Gee, Washington Food Industry; Curt Anderson, Tim Farrell, Air Systems Engineering, Inc.; Gary Smith, Independent Business Association.

OTHER: Patrick Woods, Ron Fuller, Pete Schmidt, L&I.

Staff Summary of Public Testimony on Recommended Substitute (Ways & Means):

PRO: This bill is needed for consumer protection and public safety. This bill provides statewide uniformity and establishes a reasonable level of experience and education for the safe and professional installation of HVAC/R systems. This bill will save energy as these systems will be running to their utmost efficiency. The costs will be paid for with certification fees and are estimated to be \$66 per year. HVAC/R contractors already comply with electrical licensing laws so the transition into this program should be smooth.

CON: As consumers, we have not seen a problem in the industry. This bill takes a Seattle standard and applies it statewide, which will impact the rural areas. The grocery industry has particular concerns because these individuals are already subject to an overhaul of their refrigeration systems by 2010 in order to bring the food cold holding temperatures down from 45 degrees to 41 degrees. An amendment is needed to exempt the installation, service, and maintenance of hearth appliances that have a visible presence in the home. These appliances are not HVAC/R systems and are not tied into HVAC systems. The fiscal note on this bill anticipates \$2 million to start the program, which will be paid for with fees. These costs will be transferred to the consumer which will greatly impact low and middle income families on top of increasing energy costs. Costs will also increase for local governments, schools, hospitals, and any other entities that operate a HVAC/R system. In rural areas, where gas piping work is not as frequent, obtaining the necessary number of supervised hours and on the job training will be extremely costly. This bill works against affordable housing, green construction, energy efficiency, and reduction of wood smoke.

Persons Testifying (Ways & Means): PRO: Senator Kohl-Welles, prime sponsor; Pete Crow, Washington Association of Plumbers and Pipefitters; Kathleen Collins, Sheet Metal and Air Conditioning Contractors; Tracey Prezeau, IBW Local 76; Dale Wentworth, Seattle Area Pipe Trades, UA Local 32.

CON: Carolyn Logue, Washington Food Industry, Northwest Hearth and Patio BBQ Association; Gary Smith, Independent Business Association; James Curry, Associated

Builders and Contractors, NW Propane Gas Association; Jim King, Washington State HVAC/R Association.