

## **BILL ANALYSIS**

S.B. 303  
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Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Board of Law Examiners, which performs functions relating to licensing attorneys in Texas, is subject to the Texas Sunset Act, and will be abolished on September 1, 2017, unless continued by the legislature. S.B. 303 seeks to continue the board with several statutory modifications.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 303 amends the Government Code to change the expiration date for the terms of one-third of the members of the Board of Law Examiners from August 31 of each odd-numbered year to May 31 of each odd-numbered year. The bill postpones the date on which the board will be abolished unless continued under the Texas Sunset Act from September 1, 2017, to September 1, 2029.

S.B. 303 authorizes the board to delegate routine decisions to the board's executive director, including waiver requests, subject to Texas Supreme Court rules. The bill makes the following changes with respect to the information that must be provided by the training program required for a board member:

- replaces information regarding the legislation that created the board with information regarding the law governing board operations;
- removes information regarding the role of the board;
- removes the condition that the information regarding board rules have an emphasis on the rules that relate to disciplinary and investigatory authority;
- removes the specification that information regarding the board's budget is for the current budget; and
- replaces information regarding the requirements of the open meetings law, the public information law, the administrative procedure law, and other laws relating to public officials, including conflict-of-interest laws, with information regarding the requirements of laws relating to open meetings, public information, administrative procedure, disclosing conflicts of interest, and other laws applicable to members of a state policymaking body in performing their duties.

S.B. 303 requires the board's executive director to create a training manual that includes the required training program information and to distribute a copy of the training manual annually to each member of the board. The bill requires each board member to sign and submit to the executive director on receipt of the training manual a statement acknowledging that receipt. The bill requires a member of the board who, before the bill's effective date, completed the training program required under applicable law, as that law existed before the bill's effective date, to complete additional training only on subjects added to the training program by the bill. The bill prohibits such a board member from voting, deliberating, or being counted as a member in attendance at a board meeting held on or after December 1, 2017, until the member completes the additional training.

S.B. 303 changes the time at which the board is required to notify each first-year law student who files a declaration of intent to study law of the board's decision as to the student's acceptable character and fitness from on or before January 1 of the year in which the student begins law school but not later than August 1 of the following year to not later than the date established by supreme court rule. The bill removes a specification that the form for the declaration of intention to study law clearly identify conditions set out in statutory provisions governing the application to take a bar examination. The bill changes the deadline by which the board is required to notify all other declarants whether or not it has determined that the declarant has acceptable character and fitness from not later than the 270th day after the date the declaration was filed to not later than the date established by supreme court rule. The bill authorizes the board on determining that an applicant filing a declaration of the intention to study law may suffer from chemical dependency to require the applicant to submit to an evaluation by a licensed mental health professional designated by the board. The bill requires the board on determining during the assessment of an applicant's moral character and fitness that the applicant may suffer from chemical dependency to require the applicant to submit to evaluation by a licensed mental health professional designated by the board. The bill authorizes the board to seek advice and consultation from the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the state bar in designating mental health professionals qualified to conduct evaluations of such declarants or applicants who may suffer from chemical dependency.

S.B. 303 changes the deadline by which each applicant to take a bar examination must file an application with the board from not later than the 180th day before the first day of the examination for which the person is applying to not later than the date established by supreme court rule and requires each such applicant to pay the fee established by supreme court rule. The bill replaces the provision establishing that such an application consists of a verified affidavit stating certain disclaimers concerning the applicant with a requirement that the application include a statement certifying the disclaimers. The bill removes the disclaimer that, since the filing of the applicant's original declaration of intent to study law, the applicant is not mentally ill. The bill changes the deadline by which the board, on a showing of good cause or to prevent hardship, may permit an applicant to file an application with the board on payment of applicable late fees from not later than the 60th day after the standard deadline to submit an application to not later than the date established by supreme court rule and specifies that the applicable late fees are established by supreme court rule. The bill requires the supreme court to modify the rules necessary to implement the changes in license application requirements made by the bill. The bill exempts the late fee for an examination application from the \$150 cap on fees for any single additional service provided by the board.

S.B. 303 requires the board, for the purpose of assisting the board in making consistent and fair determinations related to the licensing of attorneys in Texas, to develop specific guidelines for determining the moral character and fitness of license applicants, overseeing probationary license holders, and granting waiver requests. The bill requires the board to do so based on the board's past decisions and on any other criteria the board considers necessary but expressly does not require the board to take any specific action provided in the guidelines.

S.B. 303 repeals Sections 82.023(g) and 82.030(f), Government Code, defining "chemical dependency" and "treatment facility" for purposes of statutory provisions relating to a declaration of the intention to study law and relating to the board's assessment of moral character and fitness.

**EFFECTIVE DATE**

September 1, 2017.