

SUBJECT: Revising the definition of the practice of architecture

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 7 ayes — Flores, Geren, Goolsby, Homer, D. Jones, Morrison, Quintanilla
0 nays
2 absent — Chisum, Hamilton

WITNESSES: For — (*On committee substitute*) Michael Chatron, Texas Building Branch AGC; Randy Gideon, Texas Society of Architects

Against — None

On — Gerhardt Schulle, Jr., Texas Society of Professional Engineers; Jim Winton

BACKGROUND: Occupations Code, sec. 1051.001(7) defines the “practice of architecture” as a service or creative work that involves the application of the art and science of developing design concepts, planning for functional relationships and intended uses, and establishing the form, appearance, aesthetics, and construction details for the construction, enlargement, or alteration of a building or environs, the proper application of which requires education, training, and experience in these matters.

Sec. 1051.701 prohibits a person from engaging in the practice of architecture unless the person is registered with the Texas Board of Architectural Examiners. A firm, partnership, corporation, or association, including one engaged in the practice of engineering, may engage in the practice of architecture, offer architectural services, or use the word “architect” or “architecture” in its name only if any practice of architecture or architectural service performed on behalf of the entity is performed by or through a person registered as an architect.

Sec. 1051.601 specifies that regulations affecting architects do not limit the right of a registered engineer to perform an act, service, or work within the practice of engineering as defined by Occupations Code, ch. 1001.

DIGEST:

CSHB 1573 would amend Occupations Code, sec. 1051.0001(7) to provide a more detailed definition of the “practice of architecture” and would specify that a person would not need to be registered as an architect to perform certain activities included in this definition.

The bill would define the “practice of architecture” as a service or creative work applying the art and science of architecture in which competent performance requires architectural education, training and experience. The term would include:

- establishing and documenting the form, aesthetics, materials, and construction technology for any building, group of buildings, or environs intended to be constructed or altered;
- preparing a set of architectural plans and specifications that include all integrated building systems;
- programming for construction projects, including identification of economic, legal, and natural constraints and determination of the scope and spatial relationships of functional elements;
- administering the construction process to assist in achieving design intent in the finished structure;
- recommending and overseeing appropriate project delivery systems;
- consulting, investigating, and analyzing complex problems of architectural design, technology, or practice, including providing expert opinion and testimony in a formal dispute resolution process;
- research to expand the knowledge base of professional architecture; and
- teaching, administering, and developing pedagogical theory in academic settings offering architectural education.

The bill would specify that a person who conducted any but the first two of these activities would not be considered to be engaged in the practice of architecture and would not have to register with the Texas Board of Architectural Examiners.

The bill would take effect September 1, 2005, and would apply only to a cause of action that accrued on or after that date.

**SUPPORTERS
SAY:**

CSHB 1573 would establish in statute a definition of architecture that more accurately reflects the broad and varied work of today's profession. The definition in current law is too general and does not reflect the full range and complexity of the occupation. The definition would conform with adjoining descriptions in current law of the work of interior design and landscape architecture.

While much of the definition would not apply only to architects, the bill would establish in statute a recognition of the varied duties architects may perform. These include planning construction projects, administering the construction process, recommending and overseeing project delivery systems, consulting, investigating and analyzing complex problems of architectural design, providing expert testimony in court proceedings, conducting research, and teaching.

CSHB 1573 would not require engineers or other professionals to do anything differently than they are doing now, and would not place any new limits on any of these other professions. Current law already includes this protection for engineers in Occupations Code sec. 1051.601, but the bill would go further in specifying that a person who conducted activities that were included in the definition of architecture would not be required to register as an architect and thus would not be subject to regulation by the Texas Board of Architectural Examiners.

**OPPONENTS
SAY:**

CSHB 1573 is unnecessary because while it would add new language to describe the practice of architecture, it would not require that a person be registered as an architect with the Texas Board of Architectural Examiners in order to conduct most of these activities. There is no reason to change the existing statute if it would not affect its purpose, which is to define activities regulated by the Texas Board of Architectural Examiners.

The original version of the bill more broadly would have defined the work of architects governed by the Texas Board of Architectural Examiners. However, by stipulating that a person would not have to be an architect to perform these activities, the committee substitute defeats the purpose of the bill.

**OTHER
OPPONENTS
SAY:**

CSHB 1573 still may be written too broadly and could limit the ability of engineers and other professionals to perform some of the activities listed in the first two categories of the description of the practice of architecture.

NOTES:

The committee substitute rearranged the list of activities that define the practice of architecture, eliminated from the list the coordination of the work of engineering and other professionals required for the integrated design of all building systems, and added a provision specifying that a person who conducted any but the first two of these activities would not be considered to be engaged in the practice of architecture and would not have to register with the Texas Board of Architectural Examiners.