

BILL ANALYSIS

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S.B. 1279
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

During the past two legislative sessions, the enabling laws for the Texas Board of Architectural Examiners (board) have been thoroughly revised twice. The board's laws were codified by the 77th Legislature, Regular Session, 2001, and completely revised by the 78th Legislature, Regular Session, 2003, as part of the sunset review process.

As proposed, S.B. 1279 corrects some technical errors that resulted from the cumulative impact of those revisions. The bill revises a statutory provision relating to the renewal of registrations issued by the board to allow a registrant a longer period in which to renew a registration, upon the payment of a late fee.

S.B. 1279 recreates the Architectural Registration Scholarship Fund, which was inadvertently deleted from the board's enabling legislation as a result of the interplay between the two revisions of the board's enabling legislation over the past two sessions.

The bill also corrects a significant loophole in the statute relating to the unlawful use of the title "landscape architect." As such, the bill enhances the board's enforcement abilities.

S.B. 1279 helps to create more uniformity of the regulations of the three professions under the board's jurisdiction. The bill creates an emeritus registration status for landscape architects and interior designers. Current law allows retired architects to register as emeritus architects. The bill explicitly states that cases against landscape and interior designers are subject to Administrative Procedure Act (APA). Currently, the law specifies that only cases against architects are subject to APA. During the 78th Legislature, Regular Session, 2003, there was an effort, as part of the sunset review process, to create uniform administrative regulations of the three professions regulated by the board, to the extent possible. The Sunset Advisory Committee's report states that "Agencies that regulate multiple professions should have statutes that provide for uniform powers, duties, and processes, unless a reasonable basis exists for differences among the professions. The board currently enforces three statutes. Lack of standardization among these statutes means that the board has inconsistent powers, duties and processes. These inconsistencies create administrative inefficiency, reduce board flexibility, lead to unfair treatment of licensees, and adversely affect the board's ability to protect consumers." (Sunset Advisory Committee, *Staff Report*, October, 2002, at page 90.)

S.B. 1279 also removes unnecessary restrictions on matters relating to the composition of the board and the election of its officers. The bill allows the governor greater flexibility to appoint faculty members of schools that teach architecture, landscape architecture, and interior design. The bill repeals a requirement that the board elect officers in January.

S.B. 1279 also corrects technical errors, such as incorrect statutory cross-reference, and repeals obsolete provisions.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Board of Architectural Examiners in SECTION 11 (Section 1052.153, Occupations Code), SECTION 12 (Section 1052.155, Occupations Code), and SECTION 13 (Section 1053.156, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas Board of Architectural Examiners is modified in SECTION 6 (Section 1051.357, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1051.0015, Occupations Code, as follows:

Sec. 1051.0015. PURPOSE OF REGISTRATION REQUIREMENT. Provides that the purpose of Section 1051.701(a), rather than 1051.301(a), is to perform certain functions.

SECTION 2. Amends Section 1051.101(b), Occupations Code, to authorize not more than one Texas Board of Architectural Examiners (board) member to be a full-time member of the faculty of the architecture, interior design, or landscape architecture department of a school or college whose faculty position is the primary employment of the board member, rather than an officer or a member of the faculty or the governing board of a school or college that teaches architecture, interior design, or landscape architecture.

SECTION 3. Amends Section 1051.107(b), Occupations Code, to require the board to annually elect from its members an assistant presiding officer.

SECTION 4. Amends Section 1051.353, Occupations Code, by amending Subsections (c) and (d) and adding Subsection (c-1), as follows:

(c) Authorizes a person whose certificate of registration has been expired for more than 90 days but less than two years, rather than one year, to renew the certificate by paying to the board a renewal fee equal to two times the normally required renewal fee.

(c-1) Authorizes a person whose certificate of registration has been expired for two years or more but less than five years to renew the certificate by paying the board a renewal fee equal to three times the normally required renewal fee.

(d) Prohibits a person whose certificate of registration has been expired for five years, rather than one year, or more from renewing the certificate.

SECTION 5. Amends the heading to Section 1051.357, Occupations Code, to read as follows:

Sec. 1051.357. EMERITUS STATUS: ARCHITECTS.

SECTION 6. Amends Sections 1051.357(a), (c), and (d), Occupations Code, as follows:

(a) Requires the board by rule to establish a procedure by which an architect is authorized to place the architect's, rather than the person's, certificate of registration on emeritus status. Makes conforming changes.

(c) and (d) Make conforming changes.

SECTION 7. Amends Section 1051.455(b), Occupations Code, to provide that a proceeding under this section (Hearing) relating to an architect, a landscape architect, or an interior designer is subject to Chapter 2001, Government Code.

SECTION 8. Amends Section 1051.457(a), Occupations Code, to provide that if the person on whom an administrative penalty is imposed holds a certificate of registration issued by the board, rather than working as an architect, the board's order becomes final as provided by Section 2001.144, Government Code.

SECTION 9. Amends Section 1051.653, Occupations Code, by amending Subsections (c) and (d) and adding Subsections (e) and (f) as follows:

(c) Requires the board to set the amount of the [examination fee] scholarship, which is prohibited from exceeding the amount of the required examination fee.

(d) Provides that scholarships under this section are funded by the scholarship fund for architectural examination. Requires the board to deposit the amount added to each

renewal fee under Sections 1051.355(b)(2) and 1051.651(b)(1)(B) to the credit of the scholarship fund. Provides that the scholarship fund for architectural examination is a reserve fund outside the state treasury in an account in the Texas Treasury Safekeeping Trust Company. Authorizes money in the scholarship fund to be used only by the board to pay certain costs.

(e) Requires interest earned on the scholarship fund for architectural examination applicants to be credited to the fund. Requires, at the end of each state fiscal year, any unexpended balance in the scholarship fund to remain in the fund. Prohibits the board from annually using more than 15 percent of the amount in the scholarship fund to pay the costs of administering the scholarships.

(f) Authorizes the board to contract with the Texas Higher Education Coordinating Board or a private entity to administer the examination fee scholarship program established under this section.

SECTION 10. Amends Section 1052.151, Occupations Code, as follows:

Sec. 1052.151. REGISTRATION REQUIRED. (a) Defines "business" and "person."

(b) Prohibits a person, except as provided by Section 1052.003, from taking certain actions.

(c) Prohibits, except as provided by Section 1052.003, a business from engaging in the practice of landscape architecture or using the term "landscape architect," "landscape architectural," or "landscape architecture" or any similar term to describe the business or the services the business provides unless any practice of landscape architecture performed on behalf of the business is performed by or under the supervision and control of a person registered as a landscape architect under this chapter who is a regular full-time employee of the business.

SECTION 11. Amends Sections 1052.153(b) and (d), Occupations Code, as follows:

(b) Authorizes the board by rule to adopt the examination administered by the Council of Landscape Architectural Registration Boards or the examination of a nationally recognized testing organization whose examination is determined by the board to be at least as stringent as the council's examination.

(d) Requires the board at least annually to administer the examination or contract with a nationally recognized testing organization to administer the examination. Requires the board, in the manner provided by board rule, to provide reasonable public notice of the dates on and locations at which each portion of the examination will be administered. Deletes existing text specifying a location for the examination.

SECTION 12. Amends Subchapter D, Chapter 1052, Occupations Code, by adding Section 1052.155 as follows:

Sec. 1052.155. EMERITUS STATUS: LANDSCAPE ARCHITECTS. (a) Requires the board by rule to establish a procedure by which a landscape architect is authorized to place the landscape architect's certificate of registration on emeritus status. Requires the landscape architect to apply for emeritus status, on a form prescribed by the board, before the landscape architect's certificate of registration expires.

(b) Provides that a landscape architect is eligible for emeritus status if the landscape architect meets certain criteria.

(c) Provides that a landscape architect whose certificate of registration is on emeritus status is subject to certain provisions.

(d) Requires the board to remove a landscape architect's certificate of registration from emeritus status if the landscape architect takes certain actions.

(e) Prohibits the renewal fee charged under Subsection (c) from exceeding an amount reasonable and necessary to recover the costs to administer this section.

SECTION 13. Amends Subchapter D, Chapter 1053, Occupations Code, by adding Section 1053.156, as follows:

Sec. 1053.156. EMERITUS STATUS: INTERIOR DESIGNERS. (a) Requires the board by rule to establish a procedure by which an interior designer may place the interior designer's certificate of registration on emeritus status. Requires the interior designer to apply for emeritus status, on a form prescribed by the board, before the interior designer's certificate of registration expires.

(b) Provides that an interior designer is eligible for emeritus status if the interior designer meets certain criteria.

(c) Provides that an interior designer whose certificate of registration is on emeritus status is subject to certain requirements.

(d) Requires the board to remove an interior designer's certificate of registration from emeritus status if the interior designer takes certain actions.

(e) Prohibits the renewal fee charged under Subsection (c) from exceeding an amount reasonable and necessary to recover the costs to administer this section.

SECTION 14. Repealer: Sections 1051.157 (Information on State Employee Incentive Program) and 1051.213 (Recommendation of Rehabilitation Codes and Procedures), Occupations Code.

SECTION 15. (a) Requires the Texas Board of Architectural Examiners, as soon as practicable after the effective date of this Act, to adopt the rules required by Section 1052.153, Occupations Code, as amended by this Act, and Sections 1052.155 and 1053.156, Occupations Code, as added by this Act.

(b) Provides that the changes in law made by this Act apply only to a board member appointed to serve on the Texas Board of Architectural Examiners or a certificate of registration renewed or a renewal fee collected under Chapter 1051, Occupations Code, as amended by this Act, on or after the effective date of this Act.

SECTION 16. Effective date: September 1, 2005.