

BILL ANALYSIS

Senate Research Center

S.B. 416
By: Watson
State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The State Bar of Texas is a judicial agency of the state, with statutory authority to discipline attorneys, provide continuing legal education, and aid the courts in the administration of justice. Every person who is licensed to practice law in Texas must join the State Bar.

In accordance with current law, the State Bar is governed by a 46-member board of directors. Included among these directors are four minority member directors who are appointed by the State Bar president and who must be "female, African-American, Hispanic-American, Native American, or Asian American." Experience has shown that these positions are essential to maintaining diversity on the board. However, a lawsuit was recently filed claiming that the minority member provisions violate the equal protection clause of the United States Constitution.

S.B. 416 addresses this concern by replacing the minority member directors with outreach directors who are not limited by gender, race, ethnicity, or any other characteristic. Instead, S.B. 416 provides that the State Bar president shall appoint directors "who demonstrate the sensitivity and knowledge gained from experiences in the legal profession and community necessary to ensure the board represents the interests of attorneys from the varied backgrounds that compose the membership of the state bar, including members of historically underrepresented groups."

- "Historically underrepresented groups" is intentionally left undefined in S.B. 416 so that applicants are free to identify any group that has not received adequate representation. A group could be based on various characteristics including race, gender, practice type, or even geographic setting.

Taken together, the provisions in S.B. 416 alleviate constitutional concerns while ensuring members from a variety of backgrounds are represented on the State Bar board, which regulates all of the attorneys who are licensed to practice in Texas.

S.B. 416 amends current law relating to the composition of the board of directors of the State Bar of Texas.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 81.020, Government Code, by amending Subsections (b) and (d) and adding Subsection (e), as follows:

- (b) Provides that the board of directors of the State Bar of Texas (board) is composed of:
 - (1) through (4) makes no changes to these subdivisions; and
 - (5) four at-large directors appointed by the president of the state bar (president) as provided by Subsections (d) and (e), rather than four minority member directors appointed by the president as provided by Subsection (d).

(d) Provides that the president appoints the at-large directors, rather than minority member directors, subject to confirmation by the board. Requires the president to, rather than requires the president to attempt to, in making appointments under this subsection, appoint directors who demonstrate knowledge gained from experiences in the legal profession and community necessary to ensure the board represents the interests of attorneys from the varied backgrounds that compose the membership of the state bar, rather than members of the different minority groups listed in Section 81.002(7).

(e) Provides that at-large directors serve three-year terms. Provides that to be eligible for appointment as an at-large director, at the time of appointment, a person may not be serving as an elected director or an at-large director. Deletes existing text providing that minority member directors serve three-year terms. Deletes existing text providing that, to be eligible for appointment as a minority member director, a person must be a minority member of the bar and not be serving as an elected director at the time of appointment and not be serving as a minority member director at the time of appointment. Makes nonsubstantive changes.

SECTION 2. Repealer: Section 81.002(7) (relating to the definition of "minority member"), Government Code.

SECTION 3. Provides that, notwithstanding Section 81.020, Government Code, as amended by this Act, a minority member serving on the board on the effective date of this Act continues to serve the term to which the director was appointed. Requires, on expiration of the director's term, the president to appoint an at-large director as required by Section 81.020, Government Code, as amended by this Act.

SECTION 4. Effective date: upon passage or September 1, 2017.