

## **BILL ANALYSIS**

C.S.H.B. 1790

By: Chisum

Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Legislature created the Texas Board of Architectural Examiners (Board) in 1937 to regulate architects, and added to the Board's duties the regulation of landscape architects and interior designers in 1979 and 1991, respectively. The Board's three key functions are licensing qualified applicants, ensuring compliance with Board rules and statutes, and providing information to licensees and the public. The Board is subject to the Sunset Act and will be abolished on September 1, 2003, unless continued by the Legislature. As a result of its review of the Board, the Sunset Advisory Commission recommended continuation of the agency and several statutory modifications that are contained in this legislation.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Board of Architectural Examiners in SECTION 1.21 (Sections 1051.207 and 1051.208, Occupations Code); SECTION 2.06 (Section 1051.252(a), Occupations Code); SECTION 2.08 (Sections 1051.301, 1051.303, and 1051.306, Occupations Code); SECTION 2.13 (Section 1051.402, Occupations Code); SECTION 2.16 (Section 1051.452(c), Occupations Code); SECTION 2.21 (Section 1051.504(e), Occupations Code) of this bill.

### **ANALYSIS**

The substitute amends the Occupations Code relating to the continuation and functions of the Texas Board of Architectural Examiners. The bill also incorporates several standard across-the-board recommendations of the Sunset Commission.

**Continuation of the Board:** The substitute continues the Texas Board of Architectural Examiners until September 1, 2015.

**Composition of the Board:** The substitute changes the composition of the Board by reducing the number of architect members on the Board from four to three, and by increasing the number of interior design members on the Board from one to two. The substitute also adds that members appointed to the Board to represent a specific profession may not be registered to practice another profession regulated by the Board.

**Enforcement Tools:** The substitute authorizes the Board to issue cease-and-desist orders after providing notice and the opportunity for a hearing. The substitute also authorizes the Board to require restitution as part of Board orders, and specifies that the Board may only require restitution in the amount the consumer paid to the licensee; the Board may not require payment of other damages or estimated harm. Further, the substitute increases the maximum administrative penalty the Board may levy for each of its statutes from \$1,000 to \$5,000 per violation.

**Licensing and Enforcement Process:** The substitute authorizes the Board to delegate the collection of examination fees to the person who conducts the examinations. The substitute conforms the Board's

statutes concerning hearings and appeals to the Administrative Procedure Act and the enabling statute of the State Office of Administrative Hearings. The substitute also standardizes the statutory grounds for disciplinary action in the Board's three statutes, and requires the Board to make public all disciplinary orders and sanctions.

Registration of Firms: C.S.H.B. 1790 permits the Board to require, by rule, firms, partnerships, corporations or associations that practice architecture, landscape architecture or interior design to register with the Board.

Projects Requiring Architects and Landscape Architects: The substitute requires an architect to design buildings exceeding 5,000 square feet or two stories in height. The substitute allows non-architects to design warehouses that have limited public access.

The substitute requires persons to be registered by the Board as landscape architects if they design spaces in the landscape that are for public accommodation or otherwise affect the public health, safety, or welfare. The provision exempts architects, engineers and land surveyors licensed in Texas.

Joint Practice Committee: The substitute requires the Board to form a joint practice committee with the Board of Professional Engineers. The substitute requires the joint committee to work to resolve issues that result from the overlap between the practices of engineering and architecture, and between the practices of engineering and landscape architecture. The committee consists of three members from each board and must meet at least twice a year.

Conforming Changes: The substitute makes conforming changes throughout the substitute to help standardize the Board's three statutes.

The board is required to adopt rules and fees not later than March 1, 2004.

#### **EFFECTIVE DATE**

September 1, 2003

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute creates a separate exemption that allows non-architects to design warehouses with limited public access. The substitute also eliminates references to public accommodations, and buildings for education, office purposes, and public gathering.

The substitute adds a provision that would change the composition of the Board by reducing the number of architect members on the Board from four to three, and by increasing the number of interior design members on the Board from one to two.

The substitute adds a provision that would require persons to be registered by the Board as landscape architects if they design spaces in the landscape that are for public accommodation or otherwise affect the public health, safety, or welfare.

The substitute authorizes the Board to require firms that engage in the practices of architecture, landscape architecture, or interior design to register with the Board. In contrast, the original prohibited the Board from requiring design firms to register.

The substitute adds to the Joint Advisory Committee's duties by requiring the committee to work to resolve issues that result from the overlap between landscape architecture and engineering.

The substitute differs from the original H.B. 1790 by clarifying that the Board is exempt from collecting exam fees — required by Sec. 2113.203, Government Code — for all three exams it conducts and not just the architecture exam.

The substitute adds a provision that permits interior designers licensed in another state or country to work in Texas, either by employing an interior designer registered in Texas as a consultant, or by acting as a consultant to an interior designer registered in Texas.

The substitute also modifies the original substitute by making several technical and minor changes.