BILL ANALYSIS

H.B. 826
By: Talton
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law an attorney holding a valid law license issued by another state is eligible for admission to the Texas Bar after passing the Texas Bar Examination only if the attorney has a J.D. degree which is not based on study by correspondence from an unapproved law school. This rule allows every other U.S. attorney to ultimately qualify to take the Texas Bar Exam, except correspondence-educated attorneys, whether or not their law school was approved by the American Bar Association.

At present, California is the only state that offers distance-educated law degrees. Attorneys that choose to take this program to obtain their J.D. must, after their first year, pass a miniature Bar Exam in order to continue their degree through distance education; only around 11-27% of students pass this test. Furthermore, once the applicant has finished four years of training, they must also pass the California Bar Examination, which is known to be one of the two most challenging in the nation. After these examinations have been passed, the distance-educated attorney would then be required to practice law for three years before being eligible to sit for the Texas Bar Examination. Thus, a distance educated attorney will have to satisfy the requirements of two states, including, taking two Bar Examinations and practicing three years, in order to practice law in Texas.

H.B. 826 allows distance-educated, out-of-state attorneys to sit for the Texas Bar Exam, if they meet other qualifications.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Supreme Court in SECTION 1 and SECTION 2 (Section 82.036, Government Code) of this bill.

ANALYSIS

SECTION 1. Section 82.036, Government Code, as follows:

Sec. 82.036. FOREIGN ATTORNEYS. (b) Requires the rules adopted under this section to allow an attorney who is licensed to practice law in another state and whose J.D. degree is based on study by correspondence to take the bar examination and, on passing the examination, be admitted to practice law in this state, if:

(1) the degree was awarded by a law school that is authorized to award J.D. degrees based on study by correspondence by the state in which the attorney is licensed;

(2) the attorney obtained the attorney's license from the highest court of the state in which the attorney is licensed as a result of passing the bar examination of that state;

(3) the attorney is in good standing with the licensing authority of the state in which the attorney is licensed; and

(4) the attorney is otherwise eligible to take the bar examination.

SECTION 2. Requires the Texas Supreme Court to adopt rules to implement Section 82.036, Government Code, as soon as practicable after the effective date of the Act.

SECTION 3. Application of the Act.

SECTION 4. Effective date: September 1, 2005.

EFFECTIVE DATE

September 1, 2005.