

BILL ANALYSIS

C.S.H.B. 2284
By: Hardcastle
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There is concern that state law does not address the overlap between the professions of engineering and architecture leading to a dispute regarding the scope of the practice of engineering. C.S.H.B. 2284 seeks to remedy this situation by clarifying the statutes at issue and creating an administrative review process that allows an engineer to engage in the practice of architecture under certain conditions.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2284 amends the Occupations Code to establish that the practice of engineering does not include the practice of architecture as defined by provisions of law regulating architecture and related practices as that definition existed on April 1, 2011, except for the preparation of plans and specifications that an engineer is authorized to prepare under the rules of the Texas Board of Architectural Examiners in effect on that date.

C.S.H.B. 2284 prohibits an engineer from performing, offering to perform, or attempting to perform an architectural service, design, or analysis in connection with a building for human use or occupancy, except for certain actions described by provisions of law relating to the practice of architecture and the preparation of plans and specifications that an engineer is authorized to prepare under board rules in effect on April 1, 2011, unless the building is a privately owned building that meets specified requirements as described by provisions of law relating to the activities of certain persons who do not represent themselves to be architects or architectural designers or the engineer is authorized to practice architecture by the board.

C.S.H.B. 2284 requires the board to allow an engineer enrolled in an accredited architectural professional degree program in Texas to enroll concurrently in the intern development program required by board rules before an applicant may take the architect registration examination.

C.S.H.B. 2284 requires the board to maintain a list of engineers licensed under The Texas Engineering Practice Act who are authorized to engage in the practice of architecture based on an administrative finding of experience under the bill's provisions. The bill requires the board to post the list on the board's Internet website. The bill prohibits an engineer from engaging or offering to engage in the practice of architecture unless the engineer is listed and the engineer is in good standing with the Texas Board of Professional Engineers. The bill requires the board to list each engineer who applies for placement on the list not later than September 1, 2012; was licensed to practice engineering under the act before January 1, 2011; and provides to the board documentation of at least three specified projects that were prepared by the engineer and adequately and safely built before January 1, 2011. The bill specifies the types of documentation that are sufficient to satisfy that requirement and establishes that such documentation is subject

to verification by the board.

C.S.H.B. 2284 requires the board to issue written confirmation to each engineer listed under the bill's provisions that, notwithstanding registration requirements, the engineer is authorized to lawfully engage and offer to engage in the practice of architecture without a license. The bill authorizes an engineer who applies under the bill's provisions to appeal the board's decision to decline to list the engineer to an arbitration panel composed of two architects selected by the board; two engineers selected by the Texas Board of Professional Engineers; and an attorney licensed in Texas with substantial experience in construction law, selected by the designated arbitrators. The bill requires a judge of a district court in Travis County selected by the two boards to select the arbitrator licensed as an attorney in Texas in the absence of the other arbitrators selecting such arbitrator. The bill requires the judge to select that arbitrator before the 11th day after the date the last arbitrator is selected under those conditions. The bill requires the board and the Texas Board of Professional Engineers to pay equally the costs of the arbitration. The bill makes the decision of a majority of the arbitrators binding on the engineer requesting arbitration. The bill establishes that the Texas Board of Professional Engineers has exclusive regulatory oversight over an engineer listed under the bill's provisions.

C.S.H.B. 2284, in provisions of law relating to certain plans or specifications to be prepared only by an architect, specifies that those provisions do not prohibit an owner of a building from contracting with, rather than choosing, an architect or engineer as the prime design professional for certain building projects. The bill establishes that designation as the prime design professional does not expand the scope of practice of an architect or engineer beyond the scope of practice that the architect or engineer is authorized to practice under state law.

C.S.H.B. 2284 repeals Sections 1001.216 and 1051.212, Occupations Code, relating to the Joint Advisory Committee on the Practice of Engineering and Architecture.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2284 contains a provision not included in the original establishing that the practice of engineering does not include the practice of architecture as defined by provisions of law regulating architecture and related practices as that definition existed on April 1, 2011, with certain exceptions.

C.S.H.B. 2284 omits a provision included in the original clarifying that a provision of law establishing that the design, conceptual design, or conceptual design coordination of engineering works or systems constitutes the practice of engineering applies to such works or systems including buildings or related structures.

C.S.H.B. 2284 omits a provision included in the original specifying that state laws governing the board and affecting architects, landscape architects, and interior designers do not prohibit a licensed engineer from planning, designing, or supervising work on the features of buildings or related structures and removing language relating to the planning, designing, or supervising of mechanical, electrical, or structural features of a building.

C.S.H.B. 2284 contains provisions not included in the original relating to prohibited practices by an engineer, the intern development program, and the list of engineers permitted to engage in the practice of architecture. The substitute contains provisions not included in the original relating to a building owner's ability to contract with an architect or engineer as the prime design professional for certain work and establishing that designation as a prime design professional does not expand the scope of practice of an architect or engineer beyond the scope of practice

that the architect or engineer is authorized to practice under state law.

C.S.H.B. 2284 contains a provision not included in the original repealing Sections 1001.216 and 1051.212, Occupations Code, relating to the Joint Advisory Committee on the Practice of Engineering and Architecture.