

BILL ANALYSIS

C.S.H.B. 3166
By: Callegari
Government Efficiency & Reform
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill proposes abolishing the Texas Board of Professional Engineers, Texas Board of Architectural Examiners, and Texas Board of Professional Land Surveyors and transferring their functions to the newly-created Texas Board of Professional Services.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Board of Professional Services in SECTION 1.01 of this bill.

ANALYSIS

The bill amends the Occupation Code, the Education Code, the Government Code, Health and Safety Code, and the Insurance Code by abolishing the Texas Board of Professional Engineers, Texas Board of Architectural Examiners, and Texas Board of Professional Land Surveyors and transfers their functions to the newly-created Texas Board of Professional Services (board).

The bill provides that the board shall regulate engineers, architects, landscape architects, interior designers, and professional land surveyors. The bill defines and establishes the general powers, duties, and responsibilities for the board, including: composition, terms, and conditions of membership and eligibility; membership restrictions; grounds for removal; training; conditions for compensation and per diem; terms and vacancy; filing of oath; the establishment of fees, subpoena power, and the designation of the presiding officer. The bill defines and establishes powers and duties of the board specific to engineers in regards to fee increases and reduced fees for elderly, disabled, and inactive status. The bill defines and establishes powers and duties of the board specific to architects in regards to fee increases, examination fee scholarships and design and approval of the architect's seal. The bill defines and establishes powers and duties of the board specific to landscape architects in regards to fee increases, and the design and approval of the landscape architect's seal. The bill defines and establishes powers and duties of the board specific to land surveyors in regards to fee increases, and reduced fees for elderly land surveyors. The bill defines and establishes powers and duties of the board specific to interior designers in regards to fee increases and the design and approval of the interior designer's seal.

Likewise, the bill defines and establishes the general powers, duties, responsibilities and requirements of the executive director, including: compensation; accounting of any money derived, including fee collections; career ladder program and performance evaluations; qualifications and standards of conduct information; and equal employment opportunity policy and report. The bill requires the board to develop and implement policies that separate clearly the policy-making responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

The bill allows the board to adopt and enforce any rule or bylaw necessary to perform its duties, govern its proceedings, and regulate the practice of engineering, architecture, interior design,

landscape architecture, and land surveying. The bill sets forth boundaries and limitations regarding the board's rule making ability to restrict advertising or competitive bidding. The bill requires the board to adopt rules and guidelines as necessary to comply with consequences of criminal conviction under the Occupation Code. The bill requires the board to develop and implement a negotiated rulemaking and alternative dispute resolution policy as prescribed by the bill. The bill sets forth specific requirements for the design and use of a seal for the board to adopt and use on official documents.

The bill requires the board to prepare and publish a roster of license and registration holders as prescribed by the bill. The bill requires the board to maintain a register of license and registration applications as prescribed by the bill. The bill allows the board to establish standards of conduct and ethics for license and registration holders as prescribed by the bill. Requires the board to recognize, prepare, or administer continuing education programs for its license and registration holders as prescribed by the bill. The bill states that a statement made by a person providing a reference for an applicant and other pertinent information compiled by or submitted to the board relating to an applicant for a license or registration under this title, other than Chapter 1002, is privileged and confidential. Information described may be used only by the board or its employees or agents who are directly involved in the application or licensing or registration process. The information is not subject to discovery, subpoena, or other disclosure.

The bill requires the board to hold two regular meetings each year and to develop and implement policies that provide the public with a reasonable opportunity to appear and speak before the board on any issue under the board's jurisdiction. The bill also requires the board to maintain records of its proceedings and to make those records available to the public. The bill establishes that the board's records are prima facie evidence of the proceedings of the board set forth in the records. A transcript of the records certified by the secretary of the board under seal is admissible in evidence with the same effect as if it were the original.

The bill subjects the Texas Board of Professional Services to Government Code § 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this title, other than Chapter 1002, expires September 1, 2023.

Lastly, the bill contains repealers for existing code provisions and applies standard provisions applicable to regulatory boards and agencies to the board, and makes conforming changes.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original version of the bill abolished the regulation of interior designers. The committee substitute contains no similar provision, and makes conforming changes that relate to the regulation of interior designers by the Texas Board of Professional Engineers. The committee substitute increases the number of architects on the Texas Board of Professional Engineers from two to three, and includes one registered interior designer on the Board.

The original version of the bill abolished the Texas Department of Rural Affairs and transferred its functions to the Texas Department of Agriculture. The committee substitute contains no similar provision.

The original version of the bill abolished the Texas Funeral Service Commission and transferred its functions to the Texas Department of Licensing and Regulation. The committee substitute contains no similar provision.

The original version of the bill abolished the Texas State Board of Plumbing Examiners and transfers its functions to the Texas Department of Licensing and Regulation. The committee substitute contains no similar provision.

The original version of the bill abolished the Super Collider Facility Research Authority. The committee substitute contains no similar provision.

The original version of the bill has the caption *relating to the abolition and consolidation of state agencies*; whereas the committee's substitute has the caption *relating to the licensing and regulation of architecture, engineering, interior design, landscape architecture, and land surveying by the Texas Board of Professional Services and the abolition of the Texas Board of Professional Engineers, the Texas Board of Architectural Examiners, and the Texas Board of Professional Land Surveyors*.