

1-1 By: Hardcastle (Senate Sponsor - Deuell) H.B. No. 2284
1-2 (In the Senate - Received from the House May 6, 2011;
1-3 May 9, 2011, read first time and referred to Committee on Business
1-4 and Commerce; May 21, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 21, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2284 By: Estes

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the practice of architecture and engineering.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Subchapter A, Chapter 1001, Occupations Code, is
1-13 amended by adding Section 1001.0031 to read as follows:
1-14 Sec. 1001.0031. PRACTICES OF ENGINEERING AND ARCHITECTURE.
1-15 (a) Except as provided by Subsection (d) or (e), the practice of
1-16 engineering does not include, and engineers may not engage in or
1-17 offer to engage in, the practice of architecture as defined by
1-18 Sections 1051.001(7)(A), (B), and (C), as that definition existed
1-19 on April 1, 2011, and by Section 1051.0016(a).
1-20 (b) An engineer may not prepare or provide a complete,
1-21 comprehensive set of building plans for a building designed for
1-22 human use or occupancy unless:
1-23 (1) the plans and specifications as described by
1-24 Section 1051.001(7)(A) or (B) are prepared by, or under the
1-25 supervision of, an architect;
1-26 (2) the building is part of a project described by
1-27 Section 1051.601(b) or a building described by Section
1-28 1051.606(a)(4); or
1-29 (3) the engineer has received administrative approval
1-30 by the Texas Board of Architectural Examiners to practice
1-31 architecture under Section 1051.607.
1-32 (c) An engineer is responsible for the engineering plans and
1-33 specifications of a building unless the work is exempt under
1-34 Section 1001.053 or 1001.056. In this section, the term
1-35 "engineering plans and specifications" means:
1-36 (1) plans for a structural, mechanical, electrical,
1-37 electronic, fire suppression, or geotechnical system in a building;
1-38 (2) specifications of structural elements and
1-39 connections of a building;
1-40 (3) foundation design;
1-41 (4) hydrologic management calculations and design of
1-42 surface water control and detention necessary for compliance with
1-43 ordinances and regulations;
1-44 (5) design of building drain and waste system
1-45 plumbing, fresh water plumbing, graywater systems, and mechanical
1-46 aspects of moving water in and out of a structure, other than simple
1-47 roof drainage;
1-48 (6) evaluation of structural framing members before
1-49 the addition of roof-mounted equipment or a heavier roof covering;
1-50 (7) design of changes in roof pitch by the addition of
1-51 structural framing members;
1-52 (8) evaluation and repair of damaged roof structural
1-53 framing;
1-54 (9) design of electrical and signal and control
1-55 systems;
1-56 (10) shop drawings by manufacturers or fabricators of
1-57 materials and products to be used in the building features designed
1-58 by the engineer; and
1-59 (11) specifications listing the nature and quality of
1-60 materials and products for construction of features of the building
1-61 elements or systems designed by an engineer.
1-62 (d) The preparation of engineering plans and specifications
1-63 for the following tasks is within the scope of practice of both

2-1 engineering and architecture:
 2-2 (1) site plans depicting the location and orientation
 2-3 of a building on the site based on:
 2-4 (A) a determination of the relationship of the
 2-5 intended use with the environment, topography, vegetation,
 2-6 climate, and geographic aspects; and
 2-7 (B) the legal aspects of site development,
 2-8 including setback requirements, zoning and other legal
 2-9 restrictions, and surface drainage;
 2-10 (2) the depiction of the building systems, including
 2-11 structural, mechanical, electrical, and plumbing systems, in:
 2-12 (A) plan views;
 2-13 (B) cross-sections depicting building components
 2-14 from a hypothetical cut line through a building; and
 2-15 (C) the design of details of components and
 2-16 assemblies, including any part of a building exposed to water
 2-17 infiltration or fire-spread considerations;
 2-18 (3) life safety plans and sheets, including
 2-19 accessibility ramps and related code analyses; and
 2-20 (4) roof plans and details depicting the design of
 2-21 roof system materials, components, drainage, slopes, and
 2-22 directions and location of roof accessories and equipment not
 2-23 involving structural engineering calculations.
 2-24 (e) The following activities may be performed by either an
 2-25 engineer or an architect:
 2-26 (1) programming for construction projects, including:
 2-27 (A) identification of economic, legal, and
 2-28 natural constraints; and
 2-29 (B) determination of the scope of functional
 2-30 elements;
 2-31 (2) recommending and overseeing appropriate
 2-32 construction project delivery systems;
 2-33 (3) consulting with regard to, investigating, and
 2-34 analyzing the design, form, materials, and construction technology
 2-35 used for the construction, enlargement, or alteration of a building
 2-36 or its environment; and
 2-37 (4) providing expert opinion and testimony with
 2-38 respect to issues within the responsibility of the engineer or
 2-39 architect.
 2-40 SECTION 2. Subchapter A, Chapter 1051, Occupations Code, is
 2-41 amended by adding Section 1051.0016 to read as follows:
 2-42 Sec. 1051.0016. PRACTICES OF ARCHITECTURE AND ENGINEERING.
 2-43 (a) In this chapter, "architectural plans and specifications"
 2-44 include:
 2-45 (1) floor plans and details:
 2-46 (A) depicting the design of:
 2-47 (i) internal and external walls and floors,
 2-48 including simple foundations;
 2-49 (ii) internal spaces of a building; and
 2-50 (iii) vertical circulation systems,
 2-51 including accessibility ramps, stair systems, elevators, and
 2-52 escalators; and
 2-53 (B) implementing programming, regulatory, and
 2-54 accessibility requirements for a building;
 2-55 (2) general cross-sections and detailed wall sections
 2-56 depicting building components from a hypothetical cut line through
 2-57 a building to include the building's mechanical, electrical,
 2-58 plumbing, or structural systems;
 2-59 (3) reflected ceiling plans and details depicting:
 2-60 (A) the design of the location, materials, and
 2-61 connections of the ceiling to the structure; and
 2-62 (B) the integration of the ceiling with
 2-63 electrical, mechanical, lighting, sprinkler, and other building
 2-64 systems;
 2-65 (4) finish plans or schedules depicting surface
 2-66 materials on the interior and exterior of the building;
 2-67 (5) interior and exterior elevations depicting the
 2-68 design of materials, locations, and relationships of components and
 2-69 surfaces;

3-1 (6) partition, door, window, lighting, hardware, and
3-2 fixture schedules;
3-3 (7) manufacturer or fabricator drawings that are
3-4 integrated into the construction documents; and
3-5 (8) specifications describing the nature, quality,
3-6 and execution of materials for construction of the elements of the
3-7 building depicted in the plans prepared by the architect.
3-8 (b) The preparation of architectural plans and
3-9 specifications for the following tasks is within the scope of
3-10 practice of both engineering and architecture:
3-11 (1) site plans depicting the location and orientation
3-12 of a building on the site based on:
3-13 (A) a determination of the relationship of the
3-14 intended use with the environment, topography, vegetation,
3-15 climate, and geographic aspects; and
3-16 (B) the legal aspects of site development,
3-17 including setback requirements, zoning and other legal
3-18 restrictions, and surface drainage;
3-19 (2) the depiction of the building systems, including
3-20 structural, mechanical, electrical, and plumbing systems, in:
3-21 (A) plan views;
3-22 (B) cross-sections depicting building components
3-23 from a hypothetical cut line through a building; and
3-24 (C) the design of details of components and
3-25 assemblies, including any part of a building exposed to water
3-26 infiltration or fire-spread considerations;
3-27 (3) life safety plans and sheets, including
3-28 accessibility ramps and related code analyses; and
3-29 (4) roof plans and details depicting the design of
3-30 roof system materials, components, drainage, slopes, and
3-31 directions and location of roof accessories and equipment not
3-32 involving structural engineering calculations.
3-33 (c) The following activities may be performed by either an
3-34 engineer or an architect:
3-35 (1) programming for construction projects, including:
3-36 (A) identification of economic, legal, and
3-37 natural constraints; and
3-38 (B) determination of the scope of functional
3-39 elements;
3-40 (2) recommending and overseeing appropriate
3-41 construction project delivery systems;
3-42 (3) consulting with regard to, investigating, and
3-43 analyzing the design, form, materials, and construction technology
3-44 used for the construction, enlargement, or alteration of a building
3-45 or its environment; and
3-46 (4) providing expert opinion and testimony with
3-47 respect to issues within the responsibility of the engineer or
3-48 architect.
3-49 SECTION 3. Subchapter F, Chapter 1051, Occupations Code, is
3-50 amended by adding Section 1051.308 to read as follows:
3-51 Sec. 1051.308. INTERN DEVELOPMENT PROGRAM. The board shall
3-52 allow a graduate student engineer enrolled in an accredited
3-53 architectural professional degree program in this state to enroll
3-54 concurrently in the intern development program required by board
3-55 rules before an applicant may take the examination under this
3-56 chapter.
3-57 SECTION 4. Subchapter L, Chapter 1051, Occupations Code, is
3-58 amended by adding Section 1051.607 to read as follows:
3-59 Sec. 1051.607. LIST OF ENGINEERS PERMITTED TO ENGAGE IN
3-60 PRACTICE OF ARCHITECTURE. (a) The board shall maintain a list of
3-61 engineers licensed under Chapter 1001 who are authorized to engage
3-62 in the practice of architecture based on an administrative finding
3-63 of experience under this section. The board shall post the list on
3-64 the board's Internet website.
3-65 (b) An engineer may not engage or offer to engage in the
3-66 practice of architecture unless:
3-67 (1) the engineer is listed under Subsection (a); and
3-68 (2) the engineer is in good standing with the Texas
3-69 Board of Professional Engineers.

4-1 (c) The board shall list each engineer who:
 4-2 (1) applies for placement on the list not later than
 4-3 April 1, 2012;

4-4 (2) was licensed to practice engineering under Chapter
 4-5 1001 before January 1, 2011; and

4-6 (3) provides to the board documentation of at least
 4-7 three projects that:

4-8 (A) were prepared by the engineer;

4-9 (B) were adequately and safely built before
 4-10 January 1, 2011; and

4-11 (C) are described by Section 1051.703(a) or were
 4-12 not exempt under Section 1051.606(a)(4).

4-13 (d) Documentation that is sufficient to satisfy the
 4-14 requirement of Subsection (c)(3) includes plans, specifications,
 4-15 photographs, and other records establishing that the architectural
 4-16 design work was performed by the engineer. The documentation is
 4-17 subject to verification by the board. The board shall complete the
 4-18 verification not later than the 120th day after the date the board
 4-19 receives the documentation.

4-20 (e) The board shall issue written confirmation to each
 4-21 engineer listed under this section that, notwithstanding the
 4-22 requirements of Section 1051.701, the engineer may lawfully engage
 4-23 and offer to engage in the practice of architecture without a
 4-24 license under this chapter.

4-25 (f) If the board declines to list an engineer who applies
 4-26 under this section, the engineer may request a contested case
 4-27 hearing to be conducted under Chapter 2001, Government Code. The
 4-28 motion for rehearing required by Chapter 2001, Government Code,
 4-29 shall be filed with the State Office of Administrative Hearings.
 4-30 The decision of the administrative law judge in the contested case
 4-31 is final and may be appealed in a Travis County district court.

4-32 (g) The board and the Texas Board of Professional Engineers
 4-33 shall pay equally the costs of a contested case.

4-34 (h) The Texas Board of Professional Engineers has exclusive
 4-35 regulatory oversight over an engineer listed under Subsection (a).

4-36 SECTION 5. Section 1051.703(b), Occupations Code, is
 4-37 amended to read as follows:

4-38 (b) This section does not prohibit an owner of a building
 4-39 from contracting with ~~choosing~~ an architect or engineer as the
 4-40 prime design professional for a building construction, alteration,
 4-41 or addition project. Designation as the prime design professional
 4-42 does not expand the scope of practice of an architect or engineer
 4-43 beyond the scope of practice that the architect or engineer is
 4-44 authorized to practice under Chapter 1001 or 1051.

4-45 SECTION 6. (a) The Texas Board of Professional Engineers
 4-46 and the Texas Board of Architectural Examiners shall establish a
 4-47 joint task force of members of each board and license and
 4-48 registration holders regulated by each board to make
 4-49 recommendations to the boards regarding whether certain activities
 4-50 should be within the scope of practice of architecture or
 4-51 engineering, or both.

4-52 (b) This section expires August 31, 2013.

4-53 SECTION 7. An engineer who applies for listing under
 4-54 Section 1051.607, Occupations Code, as added by this Act, may
 4-55 continue to practice under the law as it existed immediately before
 4-56 the effective date of this Act until the date the application is
 4-57 finally approved or denied, or if appealed after denial, a final
 4-58 decision is entered by an administrative law judge, and the former
 4-59 law is continued in effect for that purpose.

4-60 SECTION 8. Sections 1001.216 and 1051.212, Occupations
 4-61 Code, are repealed.

4-62 SECTION 9. This Act takes effect September 1, 2011.

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