

By: Smith of Harris

H.B. No. 2543

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of architecture, engineering, landscape architecture, and land surveying by the Texas Board of Professional Services, the deregulation of interior design, and the abolition of the Texas Board of Professional Engineers, the Texas Board of Architectural Examiners, and the Texas Board of Professional Land Surveyors.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. TEXAS BOARD OF PROFESSIONAL SERVICES

SECTION 1.01. Title 6, Occupations Code, is amended by adding Subtitle D to read as follows:

SUBTITLE D. TEXAS BOARD OF PROFESSIONAL SERVICES

CHAPTER 1081. TEXAS BOARD OF PROFESSIONAL SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1081.001. GENERAL DEFINITIONS. (a) In this subtitle:

(1) "Board" means the Texas Board of Professional Services.

(2) "Executive director" means the executive director of the board.

(b) Unless the context clearly indicates otherwise, the definitions in Chapters 1001, 1051, 1052, and 1071 apply to this chapter.

Sec. 1081.002. APPLICATION OF SUNSET ACT. The Texas Board of Professional Services is subject to Chapter 325, Government Code

1 (Texas Sunset Act). Unless continued in existence as provided by
2 that chapter, the board is abolished and this title, other than
3 Chapter 1002, expires September 1, 2021.

4 [Sections 1081.003-1081.050 reserved for expansion]

5 SUBCHAPTER B. TEXAS BOARD OF PROFESSIONAL SERVICES

6 Sec. 1081.051. BOARD MEMBERSHIP. (a) The Texas Board of
7 Professional Services consists of 11 members appointed by the
8 governor with the advice and consent of the senate as follows:

9 (1) five members who are licensed engineers;

10 (2) two members who are registered architects;

11 (3) one member who is a registered landscape
12 architect;

13 (4) one member who is a registered professional land
14 surveyor; and

15 (5) two public members.

16 (b) Appointments to the board shall be made without regard
17 to the race, color, disability, sex, religion, age, or national
18 origin of the appointee.

19 (c) The legislature shall amend the board's composition as
20 necessary so that each profession is represented in proportion to
21 the number of license or registration holders in that profession,
22 except that no profession may have less than one or more than five
23 board members.

24 Sec. 1081.052. MEMBER ELIGIBILITY. (a) A person may not be
25 a public member of the board if the person or the person's spouse:

26 (1) is registered, certified, or licensed by a
27 regulatory agency in the field of engineering, architecture, land

1 surveying, or landscape architecture;

2 (2) is employed by or participates in the management
3 of a business entity or other organization regulated by or
4 receiving money from the board;

5 (3) owns or controls, directly or indirectly, more
6 than a 10 percent interest in a business entity or other
7 organization regulated by or receiving money from the board; or

8 (4) uses or receives a substantial amount of tangible
9 goods, services, or money from the board other than compensation or
10 reimbursement authorized by law for board membership, attendance,
11 or expenses.

12 (b) A member of the board must:

13 (1) be a citizen of the United States and a resident of
14 this state for at least 10 years before the date of appointment;
15 and

16 (2) have been engaged in the practice of engineering,
17 architecture, land surveying, or landscape architecture, as
18 applicable, for at least 10 years before the date of appointment.

19 Sec. 1081.053. MEMBERSHIP RESTRICTIONS. (a) In this
20 section, "Texas trade association" means a cooperative and
21 voluntarily joined statewide association of business or
22 professional competitors in this state designed to assist its
23 members and its industry or profession in dealing with mutual
24 business or professional problems and in promoting their common
25 interest.

26 (b) A person may not be a member of the board employed in a
27 "bona fide executive, administrative, or professional capacity,"

1 as that phrase is used for purposes of establishing an exemption to
2 the overtime provisions of the federal Fair Labor Standards Act of
3 1938 (29 U.S.C. Section 201 et seq.) if:

4 (1) the person is an officer, employee, or paid
5 consultant of a Texas trade association in the field of
6 engineering, architecture, land surveying, or landscape
7 architecture; or

8 (2) the person's spouse is an officer, manager, or paid
9 consultant of a Texas trade association in the field of
10 engineering, architecture, land surveying, or landscape
11 architecture.

12 (c) A person may not be a member of the board or act as the
13 general counsel to the board if the person is required to register
14 as a lobbyist under Chapter 305, Government Code, because of the
15 person's activities for compensation on behalf of a profession
16 related to the operation of the board.

17 Sec. 1081.054. OFFICERS. The governor shall designate a
18 member of the board as the presiding officer of the board to serve
19 in that capacity at the will of the governor. The board shall elect
20 annually from its members an assistant presiding officer, a
21 treasurer, and a secretary.

22 Sec. 1081.055. GROUNDS FOR REMOVAL. (a) It is a ground for
23 removal from the board that a member:

24 (1) does not have at the time of taking office the
25 qualifications required by Sections 1081.051 and 1081.052;

26 (2) does not maintain during service on the board the
27 qualifications required by Sections 1081.051 and 1081.052;

1 (3) is ineligible for membership under Sections
2 1081.052 and 1081.053;

3 (4) cannot, because of illness or disability,
4 discharge the member's duties for a substantial part of the member's
5 term; or

6 (5) is absent from more than half of the regularly
7 scheduled board meetings that the member is eligible to attend
8 during a calendar year without an excuse approved by a majority vote
9 of the board.

10 (b) The validity of an action of the board is not affected by
11 the fact that it is taken when a ground for removal of a board member
12 exists.

13 (c) If the executive director has knowledge that a potential
14 ground for removal exists, the executive director shall notify the
15 presiding officer of the board of the potential ground. The
16 presiding officer shall then notify the governor and the attorney
17 general that a potential ground for removal exists. If the
18 potential ground for removal involves the presiding officer, the
19 executive director shall notify the next highest ranking officer of
20 the board, who shall then notify the governor and the attorney
21 general that a potential ground for removal exists.

22 Sec. 1081.056. TRAINING. (a) A person who is appointed to
23 and qualifies for office as a member of the board may not vote,
24 deliberate, or be counted as a member in attendance at a meeting of
25 the board until the person completes a training program that
26 complies with this section.

27 (b) The training program must provide the person with

information regarding:

(1) this title, other than Chapter 1002;

(2) the programs, functions, rules, and budget of the board;

(3) the results of the most recent formal audit of the board;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(5) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 1081.057. TERMS; VACANCY. (a) Members of the board serve staggered six-year terms, with either three or four members' terms, as applicable, expiring on January 31 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the governor shall appoint a replacement to fill the unexpired term.

Sec. 1081.058. COMPENSATION; PER DIEM. (a) A board member may not receive compensation for the member's services.

(b) A member is entitled to a per diem and travel allowance for each day the member engages in board business at the rate set for state employees in the General Appropriations Act.

1 Sec. 1081.059. MEETINGS. (a) The board shall hold at least
2 two regular meetings each year.

3 (b) Additional meetings may be held as provided by the
4 board's bylaws.

5 Sec. 1081.060. PUBLIC TESTIMONY. The board shall develop
6 and implement policies that provide the public with a reasonable
7 opportunity to appear before the board and to speak on any issue
8 under the jurisdiction of the board.

9 Sec. 1081.061. PARTICIPATION OF PUBLIC MEMBERS. (a) The
10 board by majority vote may limit the participation of public
11 members in evaluating license applications.

12 (b) This section does not apply to the evaluation of license
13 applications at an official meeting of the board.

14 Sec. 1081.062. FILING OF OATH. Before assuming the duties
15 of office, each board member must file with the secretary of state a
16 copy of the constitutional oath of office taken by the member.

17 CHAPTER 1082. EXECUTIVE DIRECTOR AND PERSONNEL

18 Sec. 1082.001. EXECUTIVE DIRECTOR; DUTIES REGARDING MONEY.

19 (a) The board may employ an executive director to conduct the
20 affairs of the board under the board's direction. The executive
21 director shall receive a salary in an amount determined by the
22 board.

23 (b) The executive director shall receive and account for any
24 money derived, including any fee collected, under this title, other
25 than Chapter 1002.

26 Sec. 1082.002. PERSONNEL. (a) The board shall employ
27 clerical or other assistants as necessary to perform the board's

1 work.

2 (b) A salary paid under this section may not exceed the
3 salary paid for similar work in other departments.

4 Sec. 1082.003. CAREER LADDER PROGRAM; PERFORMANCE
5 EVALUATIONS. (a) The executive director or the executive
6 director's designee shall develop an intra-agency career ladder
7 program. The program must require intra-agency posting of each
8 nonentry level position with the board at least 10 days before the
9 date of any public posting.

10 (b) The executive director or the executive director's
11 designee shall develop a system of annual performance evaluations
12 of the board's employees based on measurable job tasks. All merit
13 pay authorized by the executive director must be based on the system
14 established under this subsection.

15 Sec. 1082.004. DIVISION OF RESPONSIBILITIES. The board
16 shall develop and implement policies that clearly separate the
17 policy-making responsibilities of the board and the management
18 responsibilities of the executive director and the staff of the
19 board.

20 Sec. 1082.005. QUALIFICATIONS AND STANDARDS OF CONDUCT
21 INFORMATION. The executive director or the executive director's
22 designee shall provide to members of the board and to board
23 employees, as often as necessary, information regarding the
24 requirements for office or employment under this chapter, including
25 information regarding a person's responsibilities under applicable
26 laws relating to standards of conduct for state officers or
27 employees.

1 Sec. 1082.006. EQUAL EMPLOYMENT OPPORTUNITY POLICY;
2 REPORT. (a) The executive director or the executive director's
3 designee shall prepare and maintain a written policy statement that
4 implements a program of equal employment opportunity to ensure that
5 all personnel decisions are made without regard to race, color,
6 disability, sex, religion, age, or national origin.

7 (b) The policy statement must include:

8 (1) personnel policies, including policies relating
9 to recruitment, evaluation, selection, training, and promotion of
10 personnel, that show the intent of the board to avoid the unlawful
11 employment practices described by Chapter 21, Labor Code; and

12 (2) an analysis of the extent to which the composition
13 of the board's personnel is in accordance with state and federal law
14 and a description of reasonable methods to achieve compliance with
15 state and federal law.

16 (c) The policy statement must:

17 (1) be updated annually;

18 (2) be reviewed by the civil rights division of the
19 Texas Workforce Commission for compliance with Subsection (b)(1);
20 and

21 (3) be filed with the governor's office.

22 CHAPTER 1083. BOARD POWERS AND DUTIES

23 SUBCHAPTER A. GENERAL POWERS AND DUTIES OF BOARD

24 Sec. 1083.001. GENERAL POWERS AND DUTIES. (a) The board
25 shall administer and enforce this title, other than Chapter 1002.

26 (b) The board may spend money for any purpose the board
27 considers reasonably necessary for the proper performance of its

duties under this title, other than Chapter 1002.

Sec. 1083.002. RULES. The board may adopt and enforce any rule or bylaw necessary to perform its duties, govern its proceedings, and regulate the practice of engineering, architecture, landscape architecture, and land surveying.

Sec. 1083.003. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The board by rule shall prescribe standards for compliance with Subchapter A, Chapter 2254, Government Code.

(b) Except as provided by Subsection (a), the board may not adopt rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices.

(c) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the use of a license holder's personal appearance or voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the license holder; or
- (4) restricts the license holder's advertisement under a trade name.

Sec. 1083.004. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. The board shall adopt rules and guidelines as necessary to comply with Chapter 53.

Sec. 1083.005. FEES. (a) The board shall establish the following fees in amounts reasonable and necessary to cover the

costs of administering this title, other than Chapter 1002:

(1) license and certificate of registration fees;

(2) annual and late renewal fees;

(3) reciprocal license and registration fees;

(4) duplicate license and registration fees;

(5) engineer-in-training certificate fee;

(6) roster of license and registration holders fee;

(7) examination fees;

(8) registration fee for engineering firm; and

(9) inactive status fee.

(b) The board may set a fee for a board action involving an administrative expense in an amount that is reasonable and necessary to cover the cost of administering this title, other than Chapter 1002, unless the amount of the fee is set by this chapter or by the General Appropriations Act.

(c) The board shall set the required renewal fee under Chapter 1051 for:

(1) a resident of this state in an amount that is equal to the sum of:

(A) the amount determined by the board as reasonable and necessary to cover administrative costs; and

(B) an amount determined annually by the board as reasonable and necessary for the administration of the examination fee scholarship program under Section 1083.102; and

(2) nonresidents in an amount determined by the board.

(d) The board may accept payment of a fee by electronic means. The board may charge a fee to process the payment made by

1 electronic means. The board shall set the processing fee in an
2 amount that is reasonably related to the expense incurred by the
3 board in processing the payment made by electronic means, not to
4 exceed five percent of the amount of the fee for which the payment
5 is made.

6 (e) A fee set by the board under this section may not be used
7 for the purpose of earning additional revenue for the board.

8 Sec. 1083.006. STANDARDS OF CONDUCT AND ETHICS. The board
9 may establish standards of conduct and ethics for license and
10 registration holders in keeping with the purposes and intent of
11 this title, other than Chapter 1002, and to ensure strict
12 compliance with and enforcement of this title, other than Chapter
13 1002.

14 Sec. 1083.007. ROSTER OF LICENSE AND REGISTRATION HOLDERS.

15 (a) The board shall prepare and publish a roster of persons,
16 including business entities, licensed, registered, certified, or
17 enrolled by the board. The roster shall include the name, business
18 address, and other identifying information required by board rule.

19 (b) The board shall make the roster available to the public
20 without cost in an online computer database format.

21 (c) The board shall provide a physical copy of the roster on
22 request and may charge a reproduction and shipping fee for
23 providing a physical copy of the roster.

24 Sec. 1083.008. REGISTER OF APPLICANTS. The board shall
25 maintain a register of license and registration applications that
26 shows:

27 (1) the name, age, and residence of each applicant;

- 1 (2) the date of the application;
- 2 (3) the applicant's place of business;
- 3 (4) the applicant's educational and other
4 qualifications;
- 5 (5) whether an examination was required;
- 6 (6) whether the applicant was issued or denied a
7 license or registration;
- 8 (7) the date of board action; and
- 9 (8) any other information the board considers
10 necessary.

11 Sec. 1083.009. CONTINUING EDUCATION PROGRAMS. (a) The
12 board shall recognize, prepare, or administer continuing education
13 programs for its license and registration holders. A license or
14 registration holder must participate in the programs to the extent
15 required by the board to keep the person's license or registration.

16 (b) The board may not require a license or registration
17 holder to obtain more than 15 hours of continuing education
18 annually. The board shall permit a license or registration holder
19 to certify at the time the license or registration is renewed that
20 the license or registration holder has complied with the board's
21 continuing education requirements.

22 (c) The board shall permit a license or registration holder
23 to receive continuing education credit for educational, technical,
24 ethical, or professional management activities related to the
25 practice of engineering, architecture, landscape architecture, or
26 land surveying, including:

- 27 (1) successfully completing or auditing a course

1 sponsored by an institution of higher education;

2 (2) successfully completing a course certified by a
3 professional or trade organization;

4 (3) attending a seminar, tutorial, short course,
5 correspondence course, videotaped course, or televised course;

6 (4) participating in an in-house course sponsored by a
7 corporation or other business entity;

8 (5) teaching a course described by Subdivisions
9 (1)-(4);

10 (6) publishing an article, paper, or book on the
11 practice of engineering, architecture, landscape architecture, or
12 land surveying;

13 (7) making or attending a presentation at a meeting of
14 a technical or engineering, architecture, landscape architecture,
15 or land surveying management society or organization or writing a
16 paper presented at such a meeting;

17 (8) participating in the activities of a professional
18 society or association, including serving on a committee of the
19 organization; and

20 (9) engaging in self-directed study.

21 (d) A license or registration holder may not receive more
22 than five continuing education credit hours annually for engaging
23 in self-directed study.

24 Sec. 1083.010. RECORDS. (a) The board shall maintain a
25 record of its proceedings.

26 (b) The board's records shall be available to the public at
27 all times.

1 (c) The board's records are prima facie evidence of the
2 proceedings of the board set forth in the records. A transcript of
3 the records certified by the secretary of the board under seal is
4 admissible in evidence with the same effect as if it were the
5 original.

6 Sec. 1083.011. CONFIDENTIALITY OF CERTAIN INFORMATION
7 RELATED TO LICENSE APPLICATION. (a) A statement made by a person
8 providing a reference for an applicant and other pertinent
9 information compiled by or submitted to the board relating to an
10 applicant for a license or registration under this title, other
11 than Chapter 1002, is privileged and confidential.

12 (b) Information described by Subsection (a) may be used only
13 by the board or its employees or agents who are directly involved in
14 the application or licensing or registration process. The
15 information is not subject to discovery, subpoena, or other
16 disclosure.

17 Sec. 1083.012. SUBPOENA. (a) The board may request and, if
18 necessary, compel by subpoena:

19 (1) the attendance of a witness for examination under
20 oath; and

21 (2) the production for inspection or copying of
22 records, documents, and other evidence relevant to the
23 investigation of an alleged violation of this title, other than
24 Chapter 1002.

25 (b) The board, acting through the attorney general, may
26 bring an action to enforce a subpoena issued under Subsection (a)
27 against a person who fails to comply with the subpoena.

1 (c) Venue for an action brought under Subsection (b) is in a
2 district court in:

3 (1) Travis County; or

4 (2) the county in which the board may hold a hearing.

5 (d) The court shall order compliance with the subpoena if
6 the court finds that good cause exists to issue the subpoena.

7 Sec. 1083.013. TECHNOLOGY POLICY. The board shall develop
8 and implement a policy requiring the executive director and board
9 employees to research and propose appropriate technological
10 solutions to improve the board's ability to perform its functions.
11 The technological solutions must:

12 (1) ensure that the public is able to find information
13 about the board on the Internet;

14 (2) ensure that persons who want to use the board's
15 services are able to:

16 (A) interact with the board through the Internet;
17 and

18 (B) access any service that can be provided
19 effectively through the Internet; and

20 (3) be cost-effective and developed through the
21 board's planning processes.

22 Sec. 1083.014. NEGOTIATED RULEMAKING AND ALTERNATIVE
23 DISPUTE RESOLUTION POLICY. (a) The board shall develop and
24 implement a policy to encourage the use of:

25 (1) negotiated rulemaking procedures under Chapter
26 2008, Government Code, for the adoption of board rules; and

27 (2) appropriate alternative dispute resolution

1 procedures under Chapter 2009, Government Code, to assist in the
2 resolution of internal and external disputes under the board's
3 jurisdiction.

4 (b) The board's procedures relating to alternative dispute
5 resolution must conform, to the extent possible, to any model
6 guidelines issued by the State Office of Administrative Hearings
7 for the use of alternative dispute resolution by state agencies.

8 (c) The board shall designate a trained person to:

9 (1) coordinate the implementation of the policy
10 adopted under Subsection (a);

11 (2) serve as a resource for any training needed to
12 implement the procedures for negotiated rulemaking or alternative
13 dispute resolution; and

14 (3) collect data concerning the effectiveness of those
15 procedures, as implemented by the board.

16 Sec. 1083.015. BOARD SEAL. (a) The board shall adopt a
17 seal and shall use the seal on official documents.

18 (b) The design of the seal must include a five-pointed star
19 with a circular border and the words "Texas Board of Professional
20 Services" within the border.

21 [Sections 1083.016-1083.050 reserved for expansion]

22 SUBCHAPTER B. POWERS AND DUTIES OF BOARD SPECIFIC TO ENGINEERS

23 Sec. 1083.051. REDUCED FEES: ELDERLY, DISABLED, INACTIVE
24 STATUS. (a) For purposes of this section, a person is disabled if
25 the person has a mental or physical impairment that substantially
26 limits the ability of the person to earn a living as an engineer,
27 other than an impairment caused by a current addiction to the use of

alcohol or an illegal drug or controlled substance.

(b) The board by rule may adopt reduced license fees and annual renewal fees for engineers who are:

(1) at least 65 years of age; or

(2) disabled and not actively engaged in the practice of engineering.

(c) A person entitled to reduced fees under Subsection (b)(2) shall notify the board that the person has resumed the active practice of engineering not later than the 15th day after the date the person resumes active practice.

Sec. 1083.052. FEE INCREASE. (a) The fee for a license under Chapter 1001, for the annual renewal of that license, and for a reciprocal license under Chapter 1001 is increased by \$200.

(b) Of each fee increase collected, \$50 shall be deposited in the foundation school fund and \$150 shall be deposited in the general revenue fund.

(c) The fee increase imposed by Subsection (a) does not apply to an engineer who:

(1) meets the qualifications for an exemption under Section 1001.057 or 1001.058 but does not claim that exemption;

(2) is disabled as described by Section 1083.051;

(3) is on inactive status as provided by Section 1001.355; or

(4) is 65 years of age or older.

[Sections 1083.053-1083.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF BOARD SPECIFIC TO ARCHITECTS

Sec. 1083.101. FEE INCREASE. (a) The fee for the issuance

1 of a certificate to an applicant possessing a license or
2 certificate to practice architecture in another state and the fee
3 for the renewal of a certificate under Chapter 1051 are increased by
4 \$200.

5 (b) Of each fee increase collected, \$50 shall be deposited
6 in the foundation school fund and \$150 shall be deposited in the
7 general revenue fund.

8 Sec. 1083.102. EXAMINATION FEE SCHOLARSHIPS. (a) The
9 board shall administer scholarships to applicants for examination
10 under Article 3, Chapter 1051, in a manner the board determines best
11 serves the public purpose of:

- 12 (1) promoting the professional needs of the state;
13 (2) increasing the number of highly trained and
14 educated architects available to serve the residents of the state;
15 (3) improving the state's business environment and
16 encouraging economic development; and
17 (4) identifying, recognizing, and supporting
18 outstanding applicants who plan to pursue careers in architecture.

19 (b) In determining what best serves the public purpose of
20 the scholarships as described by Subsection (a), the board shall
21 consider at least the financial need of each person who applies for
22 a scholarship under this section.

23 (c) The amount of the scholarship is the lesser of:

- 24 (1) \$500; or
25 (2) the amount of the required examination fee.

26 (d) Scholarships under this section are funded by the amount
27 added to each renewal fee under Section 1083.005(c). The board may

not use more than 15 percent of the amount appropriated to the board for scholarships under this section to pay the costs of administering the scholarships.

Sec. 1083.103. DESIGN AND APPROVAL OF ARCHITECT'S SEAL.

(a) The board shall prescribe and approve the seal to be used by an architect.

(b) The design of the seal must be the same as the design used by the board, except that the words "Registered Architect, State of Texas" must be used instead of "Texas Board of Professional Services."

[Sections 1083.104-1083.150 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES OF BOARD SPECIFIC TO LANDSCAPE ARCHITECTS

Sec. 1083.151. FEE INCREASE. (a) The fee for the issuance of a certificate of registration under Chapter 1052 and the fee for the renewal of a certificate of registration under Chapter 1052 is increased by \$200.

(b) Of each fee increase collected, \$50 shall be deposited in the foundation school fund and \$150 shall be deposited in the general revenue fund.

Sec. 1083.152. DESIGN AND APPROVAL OF LANDSCAPE ARCHITECT'S SEAL. (a) The board shall prescribe and approve the seal to be used by a landscape architect.

(b) The design of the seal must be the same as the design used by the board, except that the words "Registered Landscape Architect, State of Texas" must be used instead of "Texas Board of Professional Services."

[Sections 1083.153-1083.200 reserved for expansion]

SUBCHAPTER E. POWERS AND DUTIES OF BOARD

SPECIFIC TO LAND SURVEYORS

Sec. 1083.201. FEE INCREASE. (a) The fee for the issuance of a certificate of registration to a registered professional land surveyor under Chapter 1071 and the fee for the renewal of a certificate of registration for a registered professional land surveyor under Chapter 1071 is increased by \$200.

(b) Of each fee increase collected, \$50 shall be deposited in the foundation school fund and \$150 shall be deposited in the general revenue fund.

(c) This section does not apply to state agency employees who are employed by the state as land surveyors.

Sec. 1083.202. REDUCED FEES FOR ELDERLY LAND SURVEYORS. The board by rule may adopt reduced certificate of registration and license fees and annual renewal fees for land surveyors who are at least 65 years of age.

ARTICLE 2. REGULATION OF ENGINEERING, ARCHITECTURE, LANDSCAPE

ARCHITECTURE, AND LAND SURVEYING

SECTION 2.01. Section 1001.002(1), Occupations Code, is amended to read as follows:

(1) "Board" means the Texas Board of Professional Services ~~[Engineers]~~.

SECTION 2.02. Section 1001.063, Occupations Code, is amended to read as follows:

Sec. 1001.063. ARCHITECTS AND ~~[7]~~ LANDSCAPE ARCHITECTS~~[7 AND INTERIOR DESIGNERS]~~. This chapter or a rule adopted under this

chapter does not prevent or otherwise restrict a person registered [~~licensed~~] as an architect under Chapter 1051 or [~~7~~] a landscape architect under Chapter 1052 [~~, or an interior designer under Chapter 1053~~] from performing an act, service, or work that is within the definition of the person's practice under those chapters.

SECTION 2.03. Sections 1001.353(b) and (c), Occupations Code, are amended to read as follows:

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the board the required annual renewal fee, a late renewal fee, and any applicable increase in fees as required by Section 1083.052 [~~1001.206~~].

(c) A person whose license has been expired for more than 90 days but less than two years may renew the license by paying to the board the required annual renewal fee, a late renewal fee, and any applicable increase in fees as required by Section 1083.052 [~~1001.206~~] for each delinquent year or part of a year.

SECTION 2.04. Section 1001.355(d), Occupations Code, is amended to read as follows:

(d) To return to active status, a license holder on inactive status must:

(1) file with the board a written notice requesting reinstatement to active status;

(2) pay the fee for the annual renewal of the license and the fee increase required by Section 1083.052 [~~1001.206~~]; and

(3) provide evidence satisfactory to the board that the person has complied with the continuing education requirements

1 adopted by the board.

2 SECTION 2.05. The heading to Chapter 1051, Occupations
3 Code, is amended to read as follows:

4 CHAPTER 1051. [~~TEXAS BOARD OF ARCHITECTURAL EXAMINERS,~~] GENERAL
5 PROVISIONS AFFECTING ARCHITECTS AND [~~7~~] LANDSCAPE ARCHITECTS [~~7, AND~~
6 ~~INTERIOR DESIGNERS~~]; PROVISIONS AFFECTING ONLY ARCHITECTS

7 SECTION 2.06. The heading to Article 1, Chapter 1051,
8 Occupations Code, is amended to read as follows:

9 ARTICLE 1. GENERAL PROVISIONS [~~7, BOARD OF ARCHITECTURAL EXAMINERS~~]

10 SECTION 2.07. Section 1051.001(2), Occupations Code, is
11 amended to read as follows:

12 (2) "Board" means the Texas Board of Professional
13 Services [~~Architectural Examiners~~].

14 SECTION 2.08. The heading to Article 2, Chapter 1051,
15 Occupations Code, is amended to read as follows:

16 ARTICLE 2. GENERAL PROVISIONS APPLYING TO ARCHITECTS AND [~~7~~]
17 LANDSCAPE ARCHITECTS [~~7, AND INTERIOR DESIGNERS~~]

18 SECTION 2.09. Section 1051.354, Occupations Code, is
19 amended to read as follows:

20 Sec. 1051.354. FEE EXEMPTION FOR MILITARY PERSONNEL. (a) A
21 person required to register under this subtitle who is on active
22 duty as a member of the United States military is exempt from the
23 payment of any fee during the person's term of service if the
24 person:

25 (1) is in good standing as an architect or [~~7~~]
26 landscape architect [~~7, or interior designer in this state~~]; or

27 (2) was in good standing as an architect or [~~7~~]

1 landscape architect[~~, or interior designer~~] in this state at the
2 time the person entered into military service.

3 (b) A person who is exempt from payment of a fee under
4 Subsection (a):

5 (1) is exempt for the remainder of the fiscal year
6 during which the person's active duty status expires; and

7 (2) is entitled to have the person's name continued on
8 the list of architects or [~~7~~] landscape architects[~~, or interior~~
9 ~~designers~~].

10 SECTION 2.10. Section 1051.355(b), Occupations Code, is
11 amended to read as follows:

12 (b) A person whose certificate of registration is on
13 inactive status must pay an annual renewal fee on a date and in a
14 manner prescribed by board rule. The board shall prescribe the
15 renewal fee under this subsection in an amount equal to the sum of:

16 (1) the amount determined by the board as reasonable
17 and necessary to cover the costs of administering this section; and

18 (2) except as provided by Subsection (e), the
19 additional amount required under Section 1083.005(c)(1)(B)
20 [~~1051.651(b)(1)(B)~~] for the examination fee scholarship program.

21 SECTION 2.11. Section 1051.455(b), Occupations Code, is
22 amended to read as follows:

23 (b) A proceeding under this section relating to an architect
24 or [~~7~~] a landscape architect[~~, or an interior designer~~] is subject
25 to Chapter 2001, Government Code.

26 SECTION 2.12. Section 1071.002(1), Occupations Code, is
27 amended to read as follows:

(1) "Board" means the Texas Board of Professional
Services [~~Land Surveying~~].

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Section 2, Self-Directed Semi-Independent
Agency Act (Article 8930, Revised Statutes), is amended to read as
follows:

Sec. 2. The Texas State Board of Public Accountancy
[~~following agencies~~] shall be part of the pilot project created by
this Act[÷

[~~(1) the Texas State Board of Public Accountancy,~~

[~~(2) the Texas Board of Professional Engineers, and~~

[~~(3) the Texas Board of Architectural Examiners~~].

SECTION 3.02. Section 6(c), Self-Directed Semi-Independent
Agency Act (Article 8930, Revised Statutes), is amended to read as
follows:

(c) The Texas State Board of Public Accountancy shall
annually remit \$703,344 to the general revenue fund[, ~~the Texas~~
~~Board of Professional Engineers shall annually remit \$373,900 to~~
~~the general revenue fund, and the Texas Board of Architectural~~
~~Examiners shall annually remit \$510,000 to the general revenue~~
~~fund~~].

SECTION 3.03. Section 61.0822, Education Code, is amended
to read as follows:

Sec. 61.0822. CONTRACT WITH TEXAS BOARD OF PROFESSIONAL
SERVICES [~~ARCHITECTURAL EXAMINERS~~]. The board may contract with
the Texas Board of Professional Services [~~Architectural Examiners~~]
to administer the examination fee scholarship program established

under Section 1083.102 [~~1051.206~~], Occupations Code.

SECTION 3.04. Section 411.122(d), Government Code, as amended by Chapters 213 (S.B. 1005), 450 (H.B. 2447), and 933 (H.B. 3097), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

(d) The following state agencies are subject to this section:

(1) Texas Appraiser Licensing and Certification Board;

(2) Texas Board of Professional Services [~~Architectural Examiners~~];

(3) Texas Board of Chiropractic Examiners;

(4) State Board of Dental Examiners;

(5) [~~Texas Board of Professional Engineers,~~

~~(6)~~] Texas Funeral Service Commission;

(6) [~~(7)~~] Texas Board of Professional Geoscientists;

(7) [~~(8)~~] Department of State Health Services, except

as provided by Section 411.110, and agencies attached to the department, including:

(A) Texas State Board of Examiners of Dietitians;

(B) Texas State Board of Examiners of Marriage and Family Therapists;

(C) Midwifery Board;

(D) Texas State Perfusionist Advisory Committee;

(E) Texas State Board of Examiners of Professional Counselors;

(F) Texas State Board of Social Worker Examiners;

(G) State Board of Examiners for Speech-Language Pathology and Audiology;

(H) Advisory Board of Athletic Trainers;

(I) State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments;

(J) Texas Board of Licensure for Professional Medical Physicists; and

(K) Texas Board of Orthotics and Prosthetics;

(8) [~~(9)~~] ~~Texas Board of Professional Land Surveying,~~
[~~(10)~~] Texas Department of Licensing and Regulation,
except as provided by Section 411.093;

(9) [~~(11)~~] Texas Commission on Environmental Quality;

(10) [~~(12)~~] Texas Board of Occupational Therapy Examiners;

(11) [~~(13)~~] Texas Optometry Board;

(12) [~~(14)~~] Texas State Board of Pharmacy;

(13) [~~(15)~~] Texas Board of Physical Therapy Examiners;

(14) [~~(16)~~] Texas State Board of Plumbing Examiners;

(15) [~~(17)~~] Texas State Board of Podiatric Medical Examiners;

(16) [~~(18)~~] Texas State Board of Examiners of Psychologists;

(17) [~~(19)~~] Texas Real Estate Commission;

(18) [~~(20)~~] Texas Department of Transportation;

(19) [~~(21)~~] State Board of Veterinary Medical Examiners;

1 (20) [~~(22)~~] Texas Department of Housing and Community
2 Affairs;
3 (21) [~~(23)~~] secretary of state;
4 (22) [~~(24)~~] state fire marshal;
5 (23) [~~(25)~~] Texas Education Agency;
6 (24) [~~(26)~~] Department of Agriculture; and
7 (25) [~~(27)~~] Texas Department of Motor Vehicles.

8 SECTION 3.05. Section 469.104, Government Code, is amended
9 to read as follows:

10 Sec. 469.104. FAILURE TO SUBMIT PLANS AND SPECIFICATIONS.
11 The commission shall report to the Texas Board of Professional
12 Services [~~Architectural Examiners, the Texas Board of Professional~~
13 ~~Engineers, or another appropriate licensing authority~~] the failure
14 of any architect, [~~interior designer,~~] landscape architect, or
15 engineer to submit or resubmit in a timely manner plans and
16 specifications to the department as required by this subchapter.

17 SECTION 3.06. Section 2054.352(a), Government Code, as
18 amended by Chapters 213 (S.B. 1005) and 450 (H.B. 2447), Acts of the
19 81st Legislature, Regular Session, 2009, is reenacted and amended
20 to read as follows:

21 (a) The following licensing entities shall participate in
22 the system established under Section 2054.353:

- 23 (1) Texas Board of Chiropractic Examiners;
24 (2) Court Reporters Certification Board;
25 (3) State Board of Dental Examiners;
26 (4) Texas Funeral Service Commission;
27 (5) Texas Board of Professional Services [~~and~~

1 ~~Surveying]~~;

2 (6) Texas Medical Board;

3 (7) Texas Board of Nursing;

4 (8) Texas Optometry Board;

5 (9) Department of Agriculture, for licenses issued
6 under Chapter 1951, Occupations Code;

7 (10) Texas State Board of Pharmacy;

8 (11) Executive Council of Physical Therapy and
9 Occupational Therapy Examiners;

10 (12) Texas State Board of Plumbing Examiners;

11 (13) Texas State Board of Podiatric Medical Examiners;

12 (14) Texas State Board of Examiners of Psychologists;

13 (15) State Board of Veterinary Medical Examiners;

14 (16) Texas Real Estate Commission;

15 (17) Texas Appraiser Licensing and Certification
16 Board;

17 (18) Texas Department of Licensing and Regulation;

18 (19) Texas State Board of Public Accountancy;

19 (20) State Board for Educator Certification;

20 ~~(21) [Texas Board of Professional Engineers,~~

21 ~~[-22-]] Department of State Health Services;~~

22 ~~(22) [-23-] Texas Board of Architectural Examiners,~~

23 ~~[-24-]] Texas Racing Commission;~~

24 ~~(23) [-25-]] Commission on Law Enforcement Officer~~
25 Standards and Education; and

26 ~~(24) [-26-]] Texas Private Security Board.~~

27 SECTION 3.07. Section 2166.202(b), Government Code, is

1 amended to read as follows:

2 (b) The commission, in consultation with the Texas Board of
3 Professional Services [~~Architectural Examiners and the Texas Board~~
4 ~~of Professional Engineers~~], shall adopt by rule criteria to
5 evaluate the competence and qualifications of a prospective private
6 design professional.

7 SECTION 3.08. Section 361.901(6), Health and Safety Code,
8 is amended to read as follows:

9 (6) "Licensed professional engineer" means a person
10 licensed by the Texas Board of Professional Services [~~Engineers~~].

11 SECTION 3.09. Section 366.071(c), Health and Safety Code,
12 is amended to read as follows:

13 (c) A person who conducts preconstruction site evaluations,
14 including visiting a site and performing a soil analysis, a site
15 survey, or other activities necessary to determine the suitability
16 of a site for an on-site sewage disposal system must hold a license
17 issued by the commission under Chapter 37, Water Code, unless the
18 person is licensed by the Texas Board of Professional Services
19 [~~Engineers~~] as an engineer.

20 SECTION 3.10. Section 2210.102(g), Insurance Code, is
21 amended to read as follows:

22 (g) The commissioner shall appoint one person to serve as a
23 nonvoting member of the board to advise the board regarding issues
24 relating to the inspection process. The commissioner may give
25 preference in an appointment under this subsection to a person who
26 is a qualified inspector under Section 2210.254. The nonvoting
27 member appointed under this section must:

1 (1) be an engineer licensed by, and in good standing
2 with, the Texas Board of Professional Services [~~Engineers~~];

3 (2) reside in a first tier coastal county; and

4 (3) be knowledgeable of, and have professional
5 expertise in, wind-related design and construction practices in
6 coastal areas that are subject to high winds and hurricanes.

7 SECTION 3.11. Section 2210.255(a), Insurance Code, is
8 amended to read as follows:

9 (a) On request of an engineer licensed by the Texas Board of
10 Professional Services [~~Engineers~~], the commissioner shall appoint
11 the engineer as an inspector under this subchapter not later than
12 the 10th day after the date the engineer delivers to the
13 commissioner information demonstrating that the engineer is
14 qualified to perform windstorm inspections under this subchapter.

15 SECTION 3.12. Section 2210.256(f), Insurance Code, is
16 amended to read as follows:

17 (f) If an appointee is an engineer licensed by the Texas
18 Board of Professional Services [~~Engineers~~] who is found by the
19 department to have knowingly, wilfully, fraudulently, or with gross
20 negligence signed or caused to be prepared an inspection report
21 that contains a false or fraudulent statement, the commissioner may
22 take action against the appointee in the manner provided by
23 Subsections (a) and (b) but may not assess a fine against the
24 appointee. The commissioner shall notify the Texas Board of
25 Professional Services [~~Engineers~~] of an order issued by the
26 commissioner against an appointee who is an engineer licensed by
27 that board, including an order suspending or revoking the

1 appointment of the person.

2 SECTION 3.13. Section 214.215(d), Local Government Code, is
3 amended to read as follows:

4 (d) A municipality may:

5 (1) adopt the rehabilitation code or prescriptive
6 provisions for rehabilitation recommended by the Texas Board of
7 Professional Services [~~Architectural Examiners~~]; or

8 (2) amend its rehabilitation code or prescriptive
9 provisions for rehabilitation.

10 SECTION 3.14. Section 89.023(a), Natural Resources Code, is
11 amended to read as follows:

12 (a) The commission may grant an extension of the deadline
13 for plugging an inactive well if the operator maintains a current
14 organization report with the commission as required by Section
15 91.142 and if, on or before the date of renewal of the operator's
16 organization report as required by that section, the operator files
17 with the commission an application for an extension that includes:

18 (1) an affirmation that complies with Section 89.029;

19 (2) a statement that the well and associated
20 facilities are in compliance with all commission rules and orders;

21 (3) a statement that the operator has, and on request
22 will provide, evidence of a good faith claim to a continuing right
23 to operate the well; and

24 (4) at least one of the following:

25 (A) documentation that since the preceding date
26 that the operator's organization report was required to be renewed
27 the operator has plugged, or restored to active operation as

defined by commission rule, a number of inactive wells equal to or greater than 10 percent of the number of inactive wells operated by the operator on that date;

(B) an abeyance of plugging report on a form approved by the commission that:

(i) is in the form of a certification signed by an engineer [~~a person~~] licensed by the Texas Board of Professional Services [~~Engineers~~] or a person licensed by the Texas Board of Professional Geoscientists;

(ii) includes:

(a) an affirmation by the licensed person that the well has:

(1) a reasonable expectation of economic value in excess of the cost of plugging the well for the duration of the period covered by the report, based on the cost calculation for plugging an inactive well; and

(2) a reasonable expectation of being restored to a beneficial use that will prevent waste of oil or gas resources that otherwise would not be produced if the well were plugged; and

(b) appropriate documentation demonstrating the basis for the affirmation of the well's future utility; and

(iii) specifies the field and the covered wells within that field in a format prescribed by the commission;

(C) a statement that the well is part of an enhanced oil recovery project;

1 (D) if the operator of the well is not currently
2 otherwise required by commission rule or order to conduct a fluid
3 level or hydraulic pressure test of the well, documentation of the
4 results of a successful fluid level or hydraulic pressure test of
5 the well conducted in accordance with the commission's rules in
6 effect at the time the test is conducted;

7 (E) a supplemental bond, letter of credit, or
8 cash deposit sufficient for each well specified in the application
9 that:

10 (i) complies with the requirements of
11 Chapter 91; and

12 (ii) is of an amount at least equal to the
13 cost calculation for plugging an inactive well for each well
14 specified in the application;

15 (F) documentation of the deposit with the
16 commission each time the operator files an application of an amount
17 of escrow funds as prescribed by commission rule that equal at least
18 10 percent of the total cost calculation for plugging an inactive
19 well for each well specified in the application; or

20 (G) if the operator is a publicly traded entity:

21 (i) the following documents:

22 (a) a copy of the operator's federal
23 documents filed to comply with Financial Accounting Standards Board
24 Statement No. 143, Accounting for Asset Retirement Obligations; and

25 (b) an original, executed Uniform
26 Commercial Code Form 1 Financing Statement, filed with the
27 secretary of state, that:

1 (1) names the operator as the
2 "debtor" and the Railroad Commission of Texas as the "secured
3 creditor"; and

4 (2) specifies the funds covered
5 by the documents described by Sub-subparagraph (a) in the amount of
6 the cost calculation for plugging an inactive well for each well
7 specified in the application; or

8 (ii) a blanket bond in the amount of the
9 lesser of:

10 (a) the cost calculation for plugging
11 any inactive wells; or

12 (b) \$2 million.

13 ARTICLE 4. REPEALER

14 SECTION 4.01. The following provisions of the Occupations
15 Code are repealed:

- 16 (1) Section 1001.005;
17 (2) Subchapters C, D, and E, Chapter 1001;
18 (3) Sections 1051.001(3) and (4);
19 (4) Section 1051.003;
20 (5) Subchapters B, C, and D, Article 1, Chapter 1051;
21 (6) Section 1051.604;
22 (7) Subchapter M, Article 3, Chapter 1051;
23 (8) Subchapter B, Chapter 1052;
24 (9) Chapter 1053;
25 (10) Section 1071.003; and
26 (11) Subchapters B, C, and D, Chapter 1071.

ARTICLE 5. TRANSITION AND EFFECTIVE DATE

SECTION 5.01. (a) The Texas Board of Professional Engineers, the Texas Board of Architectural Examiners, and the Texas Board of Professional Land Surveying are abolished but continue in existence until September 1, 2012, for the sole purpose of transferring obligations, property, employees, rights, powers, and duties to the Texas Board of Professional Services created under Subtitle D, Title 6, Occupations Code, as added by this Act. The Texas Board of Professional Services assumes all of the obligations, property, rights, powers, and duties of the Texas Board of Professional Engineers, the Texas Board of Architectural Examiners, and the Texas Board of Professional Land Surveying, as they exist immediately before the effective date of this Act. All unexpended funds appropriated to the Texas Board of Professional Engineers, the Texas Board of Architectural Examiners, and the Texas Board of Professional Land Surveying are transferred to the Texas Board of Professional Services. The transfer of the obligations, property, rights, powers, and duties of the Texas Board of Professional Engineers, the Texas Board of Architectural Examiners, and the Texas Board of Professional Land Surveying to the Texas Board of Professional Services must be completed not later than September 1, 2012.

(b) All rules of the Texas Board of Professional Engineers, the Texas Board of Architectural Examiners, and the Texas Board of Professional Land Surveying are continued in effect as rules of the Texas Board of Professional Services until superseded by a rule of the Texas Board of Professional Services. A certificate, license,

1 registration, or other authorization issued by the Texas Board of
2 Professional Engineers, the Texas Board of Architectural
3 Examiners, or the Texas Board of Professional Land Surveying is
4 continued in effect as provided by the law in effect immediately
5 before the effective date of this Act. An application for a
6 certificate, license, registration, or other authorization pending
7 on the effective date of this Act is continued without change in
8 status after the effective date of this Act. Except as provided by
9 Sections 5.04 and 5.05 of this article, a complaint, investigation,
10 contested case, or other proceeding pending on the effective date
11 of this Act is continued without change in status after the
12 effective date of this Act.

13 (c) A reference in another law or an administrative rule to
14 the Texas Board of Professional Engineers, the Texas Board of
15 Architectural Examiners, or the Texas Board of Professional Land
16 Surveying means the Texas Board of Professional Services.

17 SECTION 5.02. (a) In making the initial appointments to
18 the Texas Board of Professional Services, the governor shall
19 appoint:

20 (1) three members to serve terms expiring February 1,
21 2013;

22 (2) four members to serve terms expiring February 1,
23 2015; and

24 (3) four members to serve terms expiring February 1,
25 2017.

26 (b) Not later than March 1, 2012, each initial board member
27 appointed under this section must complete the training required by

1 Section 1081.056, Occupations Code, as added by this Act. Before
2 March 1, 2012, Section 1081.056(a) does not apply to an initial
3 board member.

4 SECTION 5.03. Not later than the 90th day after the date
5 that a majority of the members of the Texas Board of Professional
6 Services are appointed under Section 5.02 of this article and
7 qualify for office, the board shall appoint an executive director
8 under Section 1082.001, Occupations Code, as added by this Act. A
9 person who is the executive director of the Texas Board of
10 Professional Engineers, the Texas Board of Architectural
11 Examiners, or the Texas Board of Professional Land Surveying on, or
12 within one year preceding, the effective date of this Act is not
13 eligible to be employed as the initial executive director under
14 this section.

15 SECTION 5.04. An offense under Section 1053.351,
16 Occupations Code, may not be prosecuted after the effective date of
17 this Act. If on the effective date of this Act a criminal action is
18 pending for an offense under Section 1053.351, Occupations Code,
19 the action is dismissed on that date. However, a final conviction
20 for an offense under Section 1053.351, Occupations Code, that
21 exists on the effective date of this Act is unaffected by this Act.

22 SECTION 5.05. The Texas Board of Architectural Examiners
23 may not institute a disciplinary action under Section 1053.251,
24 Occupations Code, administrative penalty under Section 1051.451,
25 Occupations Code, or other enforcement action under Chapter 1051 or
26 1053, Occupations Code, on or after the effective date of this Act.
27 If on the effective date of this Act a disciplinary action under

1 Section 1053.251, Occupations Code, administrative penalty under
2 Section 1051.451, Occupations Code, or other enforcement action
3 under Chapter 1051 or 1053, Occupations Code, is pending, the
4 action is dismissed on that date. However, a final decision or an
5 order for a disciplinary action under Section 1053.251, Occupations
6 Code, administrative penalty under Section 1051.451, Occupations
7 Code, or other enforcement action under Chapter 1051 or 1053,
8 Occupations Code, that exists on the effective date of this Act is
9 unaffected by this Act.

10 SECTION 5.06. To the extent of any conflict, this Act
11 prevails over another Act of the 82nd Legislature, Regular Session,
12 2011, relating to nonsubstantive additions to and corrections in
13 enacted codes.

14 SECTION 5.07. This Act takes effect September 1, 2011.