

By: Callegari

H.B. No. 3166

Substitute the following for H.B. No. 3166:

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C.S.H.B. No. 3166

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the licensing and regulation of architecture,
3 engineering, interior design, landscape architecture, and land
4 surveying by the Texas Board of Professional Services and the
5 abolition of the Texas Board of Professional Engineers, the Texas
6 Board of Architectural Examiners, and the Texas Board of
7 Professional Land Surveyors.

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

9 ARTICLE 1. CREATING TEXAS BOARD OF PROFESSIONAL SERVICES

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

12 SUBTITLE D. TEXAS BOARD OF PROFESSIONAL SERVICES

13 CHAPTER 1081. TEXAS BOARD OF PROFESSIONAL SERVICES

14 SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

20 (b) Unless the context clearly indicates otherwise, the
21 definitions in Chapters 1001, 1051, 1052, 1053, and 1071 apply to
22 this chapter.

23 Sec. 1081.002. APPLICATION OF SUNSET ACT. The Texas Board
24 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, 2023.

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 13 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) three members who are registered architects;

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

13 (4) one member who is a registered interior designer;

14 (5) one member who is a registered professional land
15 surveyor; and

16 (6) two public members.

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

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

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

27 (1) is registered, certified, or licensed by a

1 regulatory agency in the field of engineering, architecture,
2 interior design, land surveying, or landscape architecture;

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

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

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

13 (b) A member of the board must:

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

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

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

1 (b) A person may not be a member of the board employed in a
2 "bona fide executive, administrative, or professional capacity,"
3 as that phrase is used for purposes of establishing an exemption to
4 the overtime provisions of the federal Fair Labor Standards Act of
5 1938 (29 U.S.C. Section 201 et seq.) if:

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

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

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

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

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

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

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

3 (3) is ineligible for membership under Sections
4 1081.052 and 1081.053;

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

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

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

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

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

1 complies with this section.

2 (b) The training program must provide the person with
3 information regarding:

4 (1) this title, other than Chapter 1002;

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

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

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

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

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

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

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

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

27 (b) A member is entitled to a per diem and travel allowance

1 for each day the member engages in board business at the rate set
2 for state employees in the General Appropriations Act.

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

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

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

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

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

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

19 CHAPTER 1082. EXECUTIVE DIRECTOR AND PERSONNEL

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

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

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

1 Sec. 1082.002. PERSONNEL. (a) The board shall employ
2 clerical or other assistants as necessary to perform the board's
3 work.

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

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

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

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

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

1 laws relating to standards of conduct for state officers or
2 employees.

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

9 (b) The policy statement must include:

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

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

18 (c) The policy statement must:

19 (1) be updated annually;

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

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

24 CHAPTER 1083. BOARD POWERS AND DUTIES

25 SUBCHAPTER A. GENERAL POWERS AND DUTIES OF BOARD

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

1 (b) The board may spend money for any purpose the board
2 considers reasonably necessary for the proper performance of its
3 duties under this title, other than Chapter 1002.

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

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

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

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

19 (1) restricts the use of any medium for advertising;

20 (2) restricts the use of a license holder's personal
21 appearance or voice in an advertisement;

22 (3) relates to the size or duration of an
23 advertisement by the license holder; or

24 (4) restricts the license holder's advertisement under
25 a trade name.

26 Sec. 1083.004. RULES ON CONSEQUENCES OF CRIMINAL
27 CONVICTION. The board shall adopt rules and guidelines as

1 necessary to comply with Chapter 53.

2 Sec. 1083.005. FEES. (a) The board shall establish the
3 following fees in amounts reasonable and necessary to cover the
4 costs of administering this title, other than Chapter 1002:

5 (1) license and certificate of registration fees;

6 (2) annual and late renewal fees;

7 (3) reciprocal license and registration fees;

8 (4) duplicate license and registration fees;

9 (5) engineer-in-training certificate fee;

10 (6) roster of license and registration holders fee;

11 (7) examination fees;

12 (8) registration fee for engineering firm; and

13 (9) inactive status fee.

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

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

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

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

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

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

2 (d) The board may accept payment of a fee by electronic
3 means. The board may charge a fee to process the payment made by
4 electronic means. The board shall set the processing fee in an
5 amount that is reasonably related to the expense incurred by the
6 board in processing the payment made by electronic means, not to
7 exceed five percent of the amount of the fee for which the payment
8 is made.

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

11 Sec. 1083.006. STANDARDS OF CONDUCT AND ETHICS. The board
12 may establish standards of conduct and ethics for license and
13 registration holders in keeping with the purposes and intent of
14 this title, other than Chapter 1002, and to ensure strict
15 compliance with and enforcement of this title, other than Chapter
16 1002.

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

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

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

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

27 Sec. 1083.008. REGISTER OF APPLICANTS. The board shall

1 maintain a register of license and registration applications that
2 shows:

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

4 (2) the date of the application;

5 (3) the applicant's place of business;

6 (4) the applicant's educational and other
7 qualifications;

8 (5) whether an examination was required;

9 (6) whether the applicant was issued or denied a
10 license or registration;

11 (7) the date of board action; and

12 (8) any other information the board considers
13 necessary.

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

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

25 (c) The board shall permit a license or registration holder
26 to receive continuing education credit for educational, technical,
27 ethical, or professional management activities related to the

1 practice of engineering, architecture, interior design, landscape
2 architecture, or land surveying, including:

3 (1) successfully completing or auditing a course
4 sponsored by an institution of higher education;

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

7 (3) attending a seminar, tutorial, short course,
8 correspondence course, videotaped course, or televised course;

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

11 (5) teaching a course described by Subdivisions
12 (1)-(4);

13 (6) publishing an article, paper, or book on the
14 practice of engineering, architecture, interior design, landscape
15 architecture, or land surveying;

16 (7) making or attending a presentation at a meeting of
17 a technical or engineering, architecture, interior design,
18 landscape architecture, or land surveying management society or
19 organization or writing a paper presented at such a meeting;

20 (8) participating in the activities of a professional
21 society or association, including serving on a committee of the
22 organization; and

23 (9) engaging in self-directed study.

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

27 Sec. 1083.010. RECORDS. (a) The board shall maintain a

1 record of its proceedings.

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

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

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

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

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

22 (1) the attendance of a witness for examination under
23 oath; and

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

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

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

6 (1) Travis County; or

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

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

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

14 The technological solutions must:

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

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

19 (A) interact with the board through the Internet;
20 and

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

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

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

1 (1) negotiated rulemaking procedures under Chapter
2 2008, Government Code, for the adoption of board rules; and

3 (2) appropriate alternative dispute resolution
4 procedures under Chapter 2009, Government Code, to assist in the
5 resolution of internal and external disputes under the board's
6 jurisdiction.

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

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

12 (1) coordinate the implementation of the policy
13 adopted under Subsection (a);

14 (2) serve as a resource for any training needed to
15 implement the procedures for negotiated rulemaking or alternative
16 dispute resolution; and

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

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

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

24 [Sections 1083.016-1083.050 reserved for expansion]

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

26 Sec. 1083.051. REDUCED FEES: ELDERLY, DISABLED, INACTIVE
27 STATUS. (a) For purposes of this section, a person is disabled if

1 the person has a mental or physical impairment that substantially
2 limits the ability of the person to earn a living as an engineer,
3 other than an impairment caused by a current addiction to the use of
4 alcohol or an illegal drug or controlled substance.

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

7 (1) at least 65 years of age; or

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

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

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

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

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

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

24 (2) is disabled as described by Section 1083.051;

25 (3) is on inactive status as provided by Section
26 1001.355; or

27 (4) is 65 years of age or older.

1 [Sections 1083.053-1083.100 reserved for expansion]

2 SUBCHAPTER C. POWERS AND DUTIES OF BOARD SPECIFIC TO ARCHITECTS

3 Sec. 1083.101. FEE INCREASE. (a) The fee for the issuance
4 of a certificate to an applicant possessing a license or
5 certificate to practice architecture in another state and the fee
6 for the renewal of a certificate under Chapter 1051 are increased by
7 \$200.

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

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

15 (1) promoting the professional needs of the state;

16 (2) increasing the number of highly trained and
17 educated architects available to serve the residents of the state;

18 (3) improving the state's business environment and
19 encouraging economic development; and

20 (4) identifying, recognizing, and supporting
21 outstanding applicants who plan to pursue careers in architecture.

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

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

27 (1) \$500; or

1 (2) the amount of the required examination fee.

2 (d) Scholarships under this section are funded by the amount
3 added to each renewal fee under Section 1083.005(c). The board may
4 not use more than 15 percent of the amount appropriated to the board
5 for scholarships under this section to pay the costs of
6 administering the scholarships.

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

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

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

14 [Sections 1083.104-1083.150 reserved for expansion]

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

16 ARCHITECTS

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

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

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

27 (b) The design of the seal must be the same as the design

1 used by the board, except that the words "Registered Landscape
2 Architect, State of Texas" must be used instead of "Texas Board of
3 Professional Services."

4 [Sections 1083.153-1083.200 reserved for expansion]

5 SUBCHAPTER E. POWERS AND DUTIES OF BOARD

6 SPECIFIC TO LAND SURVEYORS

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

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

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

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

21 [Sections 1083.203-1083.250 reserved for expansion]

22 SUBCHAPTER F. POWERS AND DUTIES OF BOARD SPECIFIC TO INTERIOR

23 DESIGNERS

24 Sec. 1083.251. FEE INCREASE. (a) The fee for the issuance
25 of a certificate of registration under Chapter 1053 and the fee for
26 the renewal of a certificate of registration under Chapter 1053 is
27 increased by \$200.

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

4 Sec. 1083.252. DESIGN AND APPROVAL OF INTERIOR DESIGNER'S
5 SEAL. (a) The board shall prescribe and approve the seal to be used
6 by an interior designer.

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

11 ARTICLE 2. REGULATION OF ENGINEERING, ARCHITECTURE, INTERIOR
12 DESIGN, LANDSCAPE ARCHITECTURE, AND LAND SURVEYING

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

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

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

19 Sec. 1001.063. ARCHITECTS, LANDSCAPE ARCHITECTS, AND
20 INTERIOR DESIGNERS. This chapter or a rule adopted under this
21 chapter does not prevent or otherwise restrict a person registered
22 [~~licensed~~] as an architect under Chapter 1051, a landscape
23 architect under Chapter 1052, or an interior designer under Chapter
24 1053 from performing an act, service, or work that is within the
25 definition of the person's practice under those chapters.

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

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

5 (c) A person whose license has been expired for more than 90
6 days but less than two years may renew the license by paying to the
7 board the required annual renewal fee, a late renewal fee, and any
8 applicable increase in fees as required by Section 1083.052
9 [~~1001.206~~] for each delinquent year or part of a year.

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

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

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

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

18 (3) provide evidence satisfactory to the board that
19 the person has complied with the continuing education requirements
20 adopted by the board.

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

23 CHAPTER 1051. [~~TEXAS BOARD OF ARCHITECTURAL EXAMINERS,~~] GENERAL
24 PROVISIONS AFFECTING ARCHITECTS, LANDSCAPE ARCHITECTS, AND
25 INTERIOR DESIGNERS; PROVISIONS AFFECTING ONLY ARCHITECTS

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

1 ARTICLE 1. GENERAL PROVISIONS [~~; BOARD OF ARCHITECTURAL EXAMINERS~~]

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

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

6 SECTION 2.08. Section 1051.355(b), Occupations Code, is
7 amended to read as follows:

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

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

14 (2) except as provided by Subsection (e), the
15 additional amount required under Section 1083.005(c)(1)(B)
16 [~~1051.651(b)(1)(B)~~] for the examination fee scholarship program.

17 ARTICLE 3. CONFORMING AMENDMENTS

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

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

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

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

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

27 SECTION 3.02. Section 6(c), Self-Directed Semi-Independent

1 Agency Act (Article 8930, Revised Statutes), is amended to read as
2 follows:

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

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

11 Sec. 61.0822. CONTRACT WITH TEXAS BOARD OF PROFESSIONAL
12 SERVICES [~~ARCHITECTURAL EXAMINERS~~]. The board may contract with
13 the Texas Board of Professional Services [~~Architectural Examiners~~]
14 to administer the examination fee scholarship program established
15 under Section 1083.102 [~~1051.206~~], Occupations Code.

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

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

22 (1) Texas Appraiser Licensing and Certification
23 Board;

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

26 (3) Texas Board of Chiropractic Examiners;

27 (4) State Board of Dental Examiners;

1 (5) ~~[Texas Board of Professional Engineers,~~
2 ~~[(6)]~~ Texas Funeral Service Commission;
3 (6) ~~[(7)]~~ Texas Board of Professional Geoscientists;
4 (7) ~~[(8)]~~ Department of State Health Services, except
5 as provided by Section 411.110, and agencies attached to the
6 department, including:
7 (A) Texas State Board of Examiners of Dietitians;
8 (B) Texas State Board of Examiners of Marriage
9 and Family Therapists;
10 (C) Midwifery Board;
11 (D) Texas State Perfusionist Advisory Committee;
12 (E) Texas State Board of Examiners of
13 Professional Counselors;
14 (F) Texas State Board of Social Worker Examiners;
15 (G) State Board of Examiners for Speech-Language
16 Pathology and Audiology;
17 (H) Advisory Board of Athletic Trainers;
18 (I) State Committee of Examiners in the Fitting
19 and Dispensing of Hearing Instruments;
20 (J) Texas Board of Licensure for Professional
21 Medical Physicists; and
22 (K) Texas Board of Orthotics and Prosthetics;
23 (8) ~~[(9) Texas Board of Professional Land Surveying,~~
24 ~~[(10)]~~ Texas Department of Licensing and Regulation,
25 except as provided by Section 411.093;
26 (9) ~~[(11)]~~ Texas Commission on Environmental Quality;
27 (10) ~~[(12)]~~ Texas Board of Occupational Therapy

- 1 Examiners;
- 2 (11) [~~(13)~~] Texas Optometry Board;
- 3 (12) [~~(14)~~] Texas State Board of Pharmacy;
- 4 (13) [~~(15)~~] Texas Board of Physical Therapy
- 5 Examiners;
- 6 (14) [~~(16)~~] Texas State Board of Plumbing Examiners;
- 7 (15) [~~(17)~~] Texas State Board of Podiatric Medical
- 8 Examiners;
- 9 (16) [~~(18)~~] Texas State Board of Examiners of
- 10 Psychologists;
- 11 (17) [~~(19)~~] Texas Real Estate Commission;
- 12 (18) [~~(20)~~] Texas Department of Transportation;
- 13 (19) [~~(21)~~] State Board of Veterinary Medical
- 14 Examiners;
- 15 (20) [~~(22)~~] Texas Department of Housing and Community
- 16 Affairs;
- 17 (21) [~~(23)~~] secretary of state;
- 18 (22) [~~(24)~~] state fire marshal;
- 19 (23) [~~(25)~~] Texas Education Agency;
- 20 (24) [~~(26)~~] Department of Agriculture; and
- 21 (25) [~~(27)~~] Texas Department of Motor Vehicles.

22 SECTION 3.05. Section 469.104, Government Code, is amended

23 to read as follows:

24 Sec. 469.104. FAILURE TO SUBMIT PLANS AND SPECIFICATIONS.

25 The commission shall report to the Texas Board of Professional

26 Services [~~Architectural Examiners, the Texas Board of Professional~~

27 ~~Engineers, or another appropriate licensing authority]~~ the failure

1 of any architect, interior designer, landscape architect, or
2 engineer to submit or resubmit in a timely manner plans and
3 specifications to the department as required by this subchapter.

4 SECTION 3.06. Section 2054.352(a), Government Code, as
5 amended by Chapters 213 (S.B. 1005) and 450 (H.B. 2447), Acts of the
6 81st Legislature, Regular Session, 2009, is reenacted and amended
7 to read as follows:

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

- 10 (1) Texas Board of Chiropractic Examiners;
- 11 (2) Court Reporters Certification Board;
- 12 (3) State Board of Dental Examiners;
- 13 (4) Texas Funeral Service Commission;
- 14 (5) Texas Board of Professional Services [~~Land~~
15 ~~Surveying~~];
- 16 (6) Texas Medical Board;
- 17 (7) Texas Board of Nursing;
- 18 (8) Texas Optometry Board;
- 19 (9) Department of Agriculture, for licenses issued
20 under Chapter 1951, Occupations Code;
- 21 (10) Texas State Board of Pharmacy;
- 22 (11) Executive Council of Physical Therapy and
23 Occupational Therapy Examiners;
- 24 (12) Texas State Board of Plumbing Examiners;
- 25 (13) Texas State Board of Podiatric Medical Examiners;
- 26 (14) Texas State Board of Examiners of Psychologists;
- 27 (15) State Board of Veterinary Medical Examiners;

- 1 (16) Texas Real Estate Commission;
- 2 (17) Texas Appraiser Licensing and Certification
- 3 Board;
- 4 (18) Texas Department of Licensing and Regulation;
- 5 (19) Texas State Board of Public Accountancy;
- 6 (20) State Board for Educator Certification;
- 7 (21) [~~Texas Board of Professional Engineers,~~
- 8 [~~22~~] Department of State Health Services;
- 9 (22) [~~(23) Texas Board of Architectural Examiners,~~
- 10 [~~24~~] Texas Racing Commission;
- 11 (23) [~~(25)~~] Commission on Law Enforcement Officer
- 12 Standards and Education; and
- 13 (24) [~~(26)~~] Texas Private Security Board.

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

15 amended to read as follows:

16 (b) The commission, in consultation with the Texas Board of

17 Professional Services [~~Architectural Examiners and the Texas Board~~

18 ~~of Professional Engineers~~], shall adopt by rule criteria to

19 evaluate the competence and qualifications of a prospective private

20 design professional.

21 SECTION 3.08. Section 361.901(6), Health and Safety Code,

22 is amended to read as follows:

23 (6) "Licensed professional engineer" means a person

24 licensed by the Texas Board of Professional Services [~~Engineers~~].

25 SECTION 3.09. Section 366.071(c), Health and Safety Code,

26 is amended to read as follows:

27 (c) A person who conducts preconstruction site evaluations,

1 including visiting a site and performing a soil analysis, a site
2 survey, or other activities necessary to determine the suitability
3 of a site for an on-site sewage disposal system must hold a license
4 issued by the commission under Chapter 37, Water Code, unless the
5 person is licensed by the Texas Board of Professional Services
6 [~~Engineers~~] as an engineer.

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

9 (g) The commissioner shall appoint one person to serve as a
10 nonvoting member of the board to advise the board regarding issues
11 relating to the inspection process. The commissioner may give
12 preference in an appointment under this subsection to a person who
13 is a qualified inspector under Section 2210.254. The nonvoting
14 member appointed under this section must:

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

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

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

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

23 (a) On request of an engineer licensed by the Texas Board of
24 Professional Services [~~Engineers~~], the commissioner shall appoint
25 the engineer as an inspector under this subchapter not later than
26 the 10th day after the date the engineer delivers to the
27 commissioner information demonstrating that the engineer is

1 qualified to perform windstorm inspections under this subchapter.

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

4 (f) If an appointee is an engineer licensed by the Texas
5 Board of Professional Services [~~Engineers~~] who is found by the
6 department to have knowingly, wilfully, fraudulently, or with gross
7 negligence signed or caused to be prepared an inspection report
8 that contains a false or fraudulent statement, the commissioner may
9 take action against the appointee in the manner provided by
10 Subsections (a) and (b) but may not assess a fine against the
11 appointee. The commissioner shall notify the Texas Board of
12 Professional Services [~~Engineers~~] of an order issued by the
13 commissioner against an appointee who is an engineer licensed by
14 that board, including an order suspending or revoking the
15 appointment of the person.

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

18 (d) A municipality may:

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

22 (2) amend its rehabilitation code or prescriptive
23 provisions for rehabilitation.

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

26 (a) The commission may grant an extension of the deadline
27 for plugging an inactive well if the operator maintains a current

1 organization report with the commission as required by Section
2 91.142 and if, on or before the date of renewal of the operator's
3 organization report as required by that section, the operator files
4 with the commission an application for an extension that includes:

- 5 (1) an affirmation that complies with Section 89.029;
- 6 (2) a statement that the well and associated
7 facilities are in compliance with all commission rules and orders;
- 8 (3) a statement that the operator has, and on request
9 will provide, evidence of a good faith claim to a continuing right
10 to operate the well; and

11 (4) at least one of the following:

12 (A) documentation that since the preceding date
13 that the operator's organization report was required to be renewed
14 the operator has plugged, or restored to active operation as
15 defined by commission rule, a number of inactive wells equal to or
16 greater than 10 percent of the number of inactive wells operated by
17 the operator on that date;

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

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

24 (ii) includes:

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

27 (1) a reasonable expectation of

1 economic value in excess of the cost of plugging the well for the
2 duration of the period covered by the report, based on the cost
3 calculation for plugging an inactive well; and

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

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

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

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

15 (D) if the operator of the well is not currently
16 otherwise required by commission rule or order to conduct a fluid
17 level or hydraulic pressure test of the well, documentation of the
18 results of a successful fluid level or hydraulic pressure test of
19 the well conducted in accordance with the commission's rules in
20 effect at the time the test is conducted;

21 (E) a supplemental bond, letter of credit, or
22 cash deposit sufficient for each well specified in the application
23 that:

24 (i) complies with the requirements of
25 Chapter 91; and

26 (ii) is of an amount at least equal to the
27 cost calculation for plugging an inactive well for each well

1 specified in the application;

2 (F) documentation of the deposit with the
3 commission each time the operator files an application of an amount
4 of escrow funds as prescribed by commission rule that equal at least
5 10 percent of the total cost calculation for plugging an inactive
6 well for each well specified in the application; or

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

8 (i) the following documents:

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

12 (b) an original, executed Uniform
13 Commercial Code Form 1 Financing Statement, filed with the
14 secretary of state, that:

15 (1) names the operator as the
16 "debtor" and the Railroad Commission of Texas as the "secured
17 creditor"; and

18 (2) specifies the funds covered
19 by the documents described by Sub-subparagraph (a) in the amount of
20 the cost calculation for plugging an inactive well for each well
21 specified in the application; or

22 (ii) a blanket bond in the amount of the
23 lesser of:

24 (a) the cost calculation for plugging
25 any inactive wells; or

26 (b) \$2 million.

ARTICLE 4. REPEALER

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

- (1) Section 1001.005;
- (2) Subchapters C, D, and E, Chapter 1001;
- (3) Section 1051.003;
- (4) Subchapters B, C, and D, Article 1, Chapter 1051;
- (5) Subchapter M, Article 3, Chapter 1051;
- (6) Subchapter B, Chapter 1052;
- (7) Subchapter B, Chapter 1053;
- (8) Section 1071.003; and
- (9) 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

1 Texas Board of Professional Land Surveying are transferred to the
2 Texas Board of Professional Services. The transfer of the
3 obligations, property, rights, powers, and duties of the Texas
4 Board of Professional Engineers, the Texas Board of Architectural
5 Examiners, and the Texas Board of Professional Land Surveying to
6 the Texas Board of Professional Services must be completed not
7 later than September 1, 2012.

8 (b) All rules of the Texas Board of Professional Engineers,
9 the Texas Board of Architectural Examiners, and the Texas Board of
10 Professional Land Surveying are continued in effect as rules of the
11 Texas Board of Professional Services until superseded by a rule of
12 the Texas Board of Professional Services. A certificate, license,
13 registration, or other authorization issued by the Texas Board of
14 Professional Engineers, the Texas Board of Architectural
15 Examiners, or the Texas Board of Professional Land Surveying is
16 continued in effect as provided by the law in effect immediately
17 before the effective date of this Act. An application for a
18 certificate, license, registration, or other authorization pending
19 on the effective date of this Act is continued without change in
20 status after the effective date of this Act. A complaint,
21 investigation, contested case, or other proceeding pending on the
22 effective date of this Act is continued without change in status
23 after the effective date of this Act.

24 (c) A reference in another law or an administrative rule to
25 the Texas Board of Professional Engineers, the Texas Board of
26 Architectural Examiners, or the Texas Board of Professional Land
27 Surveying means the Texas Board of Professional Services.

1 SECTION 5.02. (a) In making the initial appointments to
2 the Texas Board of Professional Services, the governor shall
3 appoint:

4 (1) four members to serve terms expiring February 1,
5 2013;

6 (2) four members to serve terms expiring February 1,
7 2015; and

8 (3) five members to serve terms expiring February 1,
9 2017.

10 (b) Not later than March 1, 2012, each initial board member
11 appointed under this section must complete the training required by
12 Section 1081.056, Occupations Code, as added by this Act. Before
13 March 1, 2012, Section 1081.056(a) does not apply to an initial
14 board member.

15 SECTION 5.03. Not later than the 90th day after the date
16 that a majority of the members of the Texas Board of Professional
17 Services are appointed under Section 5.02 of this article and
18 qualify for office, the board shall appoint an executive director
19 under Section 1082.001, Occupations Code, as added by this Act. A
20 person who is the executive director of the Texas Board of
21 Professional Engineers, the Texas Board of Architectural
22 Examiners, or the Texas Board of Professional Land Surveying on, or
23 within one year preceding, the effective date of this Act is not
24 eligible to be employed as the initial executive director under
25 this section.

26 SECTION 5.04. To the extent of any conflict, this Act
27 prevails over another Act of the 82nd Legislature, Regular Session,

C.S.H.B. No. 3166

1 2011, relating to nonsubstantive additions to and corrections in
2 enacted codes.

3 SECTION 5.05. This Act takes effect September 1, 2011.