

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Hardcastle

H.B. No. 2284

A BILL TO BE ENTITLED

AN ACT

relating to the practice of architecture and engineering.

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

SECTION 1. Section 1001.003, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) The practice of engineering does not include the practice of architecture defined by Sections 1051.001(7)(A), (B), and (C) as that definition existed on April 1, 2011, except for the preparation of plans and specifications that an engineer is authorized to prepare under the rules of the Texas Board of Architectural Examiners in effect on April 1, 2011.

SECTION 2. Subchapter J, Chapter 1001, Occupations Code, is amended by adding Section 1001.4524 to read as follows:

Sec. 1001.4524. PROHIBITED PRACTICES. Except for the actions described by Sections 1051.001(7)(D) through (H) and the preparation of plans and specifications that an engineer is authorized to prepare under the rules of the Texas Board of Architectural Examiners in effect on April 1, 2011, an engineer may not perform, offer to perform, or attempt to perform an architectural service, design, or analysis in connection with a building for human use or occupancy unless:

(1) the building is described by Section 1051.606(a)(4); or

(2) the engineer is authorized to practice

1 architecture by the Texas Board of Architectural Examiners.

2 SECTION 3. Subchapter F, Chapter 1051, Occupations Code, is  
3 amended by adding Section 1051.308 to read as follows:

4 Sec. 1051.308. INTERN DEVELOPMENT PROGRAM. The board shall  
5 allow an engineer enrolled in an accredited architectural  
6 professional degree program in this state to enroll concurrently in  
7 the intern development program required by board rules before an  
8 applicant may take the examination under this chapter.

9 SECTION 4. Subchapter L, Chapter 1051, Occupations Code, is  
10 amended by adding Section 1051.607 to read as follows:

11 Sec. 1051.607. LIST OF ENGINEERS PERMITTED TO ENGAGE IN  
12 PRACTICE OF ARCHITECTURE. (a) The board shall maintain a list of  
13 engineers licensed under Chapter 1001 who are authorized to engage  
14 in the practice of architecture based on an administrative finding  
15 of experience under this section. The board shall post the list on  
16 the board's Internet website.

17 (b) An engineer may not engage or offer to engage in the  
18 practice of architecture unless:

19 (1) the engineer is listed under Subsection (a); and  
20 (2) the engineer is in good standing with the Texas  
21 Board of Professional Engineers.

22 (c) The board shall list each engineer who:

23 (1) applies for placement on the list not later than  
24 September 1, 2012;

25 (2) was licensed to practice engineering under Chapter  
26 1001 before January 1, 2011; and

27 (3) provides to the board documentation of at least

1 three projects described by Section 1051.703(a)(2) that were:

2 (A) prepared by the engineer; and

3 (B) adequately and safely built before January 1,  
4 2011.

5 (d) Documentation that is sufficient to satisfy the  
6 requirement of Subsection (c)(3) includes plans, specifications,  
7 photographs, and other records establishing that the architectural  
8 design work was performed by the engineer. The documentation is  
9 subject to verification by the board.

10 (e) The board shall issue written confirmation to each  
11 engineer listed under this section that, notwithstanding the  
12 requirements of Section 1051.701, the engineer may lawfully engage  
13 and offer to engage in the practice of architecture without a  
14 license under this chapter.

15 (f) If the board declines to list an engineer who applies  
16 under this section, the engineer may appeal the decision to an  
17 arbitration panel composed of:

18 (1) two architects selected by the board;

19 (2) two engineers selected by the Texas Board of  
20 Professional Engineers; and

21 (3) an attorney licensed in this state with  
22 substantial experience in construction law, selected by the  
23 arbitrators selected in Subdivisions (1) and (2).

24 (g) A judge of a district court in Travis County selected by  
25 the two boards under Subsection (f) shall select the arbitrator  
26 described by Subsection (f)(3) if the arbitrators selected under  
27 Subsections (f)(1) and (2) do not select the arbitrator described

1 by Subsection (f)(3) before the 11th day after the date the last  
2 arbitrator is selected under Subsections (f)(1) and (2).

3 (h) The board and the Texas Board of Professional Engineers  
4 shall pay equally the costs of the arbitration.

5 (i) The decision of a majority of the arbitrators is binding  
6 on the engineer requesting arbitration.

7 (j) The Texas Board of Professional Engineers has exclusive  
8 regulatory oversight over an engineer listed under Subsection (a).

9 SECTION 5. Section 1051.703(b), Occupations Code, is  
10 amended to read as follows:

11 (b) This section does not prohibit an owner of a building  
12 from contracting with [~~choosing~~] an architect or engineer as the  
13 prime design professional for a building construction, alteration,  
14 or addition project. Designation as the prime design professional  
15 does not expand the scope of practice of an architect or engineer  
16 beyond the scope of practice that the architect or engineer is  
17 authorized to practice under Chapter 1001 or 1051.

18 SECTION 6. Sections 1001.216 and 1051.212, Occupations  
19 Code, are repealed.

20 SECTION 7. This Act takes effect September 1, 2011.

# ADOPTED

MAY 24 2011

*Atty. Gen. Paul*  
Secretary of the Senate

By: Handwritten (Dewell)

H.B. No. 2284

Substitute the following for \_\_\_B. No. \_\_\_\_\_:

By: Estes

C.S. \_\_\_B. No. \_\_\_\_\_

## A BILL TO BE ENTITLED

### AN ACT

1  
2 relating to the practice of architecture and engineering.

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

4 SECTION 1. Subchapter A, Chapter 1001, Occupations Code, is  
5 amended by adding Section 1001.0031 to read as follows:

6 Sec. 1001.0031. PRACTICES OF ENGINEERING AND ARCHITECTURE.

7 (a) Except as provided by Subsection (d) or (e), the practice of  
8 engineering does not include, and engineers may not engage in or  
9 offer to engage in, the practice of architecture as defined by  
10 Sections 1051.001(7)(A), (B), and (C), as that definition existed  
11 on April 1, 2011, and by Section 1051.0016(a).

12 (b) An engineer may not prepare or provide a complete,  
13 comprehensive set of building plans for a building designed for  
14 human use or occupancy unless:

15 (1) the plans and specifications as described by  
16 Section 1051.001(7)(A) or (B) are prepared by, or under the  
17 supervision of, an architect;

18 (2) the building is part of a project described by  
19 Section 1051.601(b) or a building described by Section  
20 1051.606(a)(4); or

21 (3) the engineer has received administrative approval  
22 by the Texas Board of Architectural Examiners to practice  
23 architecture under Section 1051.607.

24 (c) An engineer is responsible for the engineering plans and

1 specifications of a building unless the work is exempt under  
2 Section 1001.053 or 1001.056. In this section, the term  
3 "engineering plans and specifications" means:

4 (1) plans for a structural, mechanical, electrical,  
5 electronic, fire suppression, or geotechnical system in a building;

6 (2) specifications of structural elements and  
7 connections of a building;

8 (3) foundation design;

9 (4) hydrologic management calculations and design of  
10 surface water control and detention necessary for compliance with  
11 ordinances and regulations;

12 (5) design of building drain and waste system  
13 plumbing, fresh water plumbing, graywater systems, and mechanical  
14 aspects of moving water in and out of a structure, other than simple  
15 roof drainage;

16 (6) evaluation of structural framing members before  
17 the addition of roof-mounted equipment or a heavier roof covering;

18 (7) design of changes in roof pitch by the addition of  
19 structural framing members;

20 (8) evaluation and repair of damaged roof structural  
21 framing;

22 (9) design of electrical and signal and control  
23 systems;

24 (10) shop drawings by manufacturers or fabricators of  
25 materials and products to be used in the building features designed  
26 by the engineer; and

27 (11) specifications listing the nature and quality of

1 materials and products for construction of features of the building  
2 elements or systems designed by an engineer.

3 (d) The preparation of engineering plans and specifications  
4 for the following tasks is within the scope of practice of both  
5 engineering and architecture:

6 (1) site plans depicting the location and orientation  
7 of a building on the site based on:

8 (A) a determination of the relationship of the  
9 intended use with the environment, topography, vegetation,  
10 climate, and geographic aspects; and

11 (B) the legal aspects of site development,  
12 including setback requirements, zoning and other legal  
13 restrictions, and surface drainage;

14 (2) the depiction of the building systems, including  
15 structural, mechanical, electrical, and plumbing systems, in:

16 (A) plan views;

17 (B) cross-sections depicting building components  
18 from a hypothetical cut line through a building; and

19 (C) the design of details of components and  
20 assemblies, including any part of a building exposed to water  
21 infiltration or fire-spread considerations;

22 (3) life safety plans and sheets, including  
23 accessibility ramps and related code analyses; and

24 (4) roof plans and details depicting the design of  
25 roof system materials, components, drainage, slopes, and  
26 directions and location of roof accessories and equipment not  
27 involving structural engineering calculations.

1       (e) The following activities may be performed by either an  
2 engineer or an architect:

3           (1) programming for construction projects, including:

4                   (A) identification of economic, legal, and  
5 natural constraints; and

6                   (B) determination of the scope of functional  
7 elements;

8           (2) recommending and overseeing appropriate  
9 construction project delivery systems;

10           (3) consulting with regard to, investigating, and  
11 analyzing the design, form, materials, and construction technology  
12 used for the construction, enlargement, or alteration of a building  
13 or its environment; and

14           (4) providing expert opinion and testimony with  
15 respect to issues within the responsibility of the engineer or  
16 architect.

17       SECTION 2. Subchapter A, Chapter 1051, Occupations Code, is  
18 amended by adding Section 1051.0016 to read as follows:

19       Sec. 1051.0016. PRACTICES OF ARCHITECTURE AND ENGINEERING.

20 (a) In this chapter, "architectural plans and specifications"  
21 include:

22           (1) floor plans and details:

23                   (A) depicting the design of:

24                           (i) internal and external walls and floors,  
25 including simple foundations;

26                           (ii) internal spaces of a building; and

27                           (iii) vertical circulation systems,



1 including accessibility ramps, stair systems, elevators, and  
2 escalators; and

3 (B) implementing programming, regulatory, and  
4 accessibility requirements for a building;

5 (2) general cross-sections and detailed wall sections  
6 depicting building components from a hypothetical cut line through  
7 a building to include the building's mechanical, electrical,  
8 plumbing, or structural systems;

9 (3) reflected ceiling plans and details depicting:

10 (A) the design of the location, materials, and  
11 connections of the ceiling to the structure; and

12 (B) the integration of the ceiling with  
13 electrical, mechanical, lighting, sprinkler, and other building  
14 systems;

15 (4) finish plans or schedules depicting surface  
16 materials on the interior and exterior of the building;

17 (5) interior and exterior elevations depicting the  
18 design of materials, locations, and relationships of components and  
19 surfaces;

20 (6) partition, door, window, lighting, hardware, and  
21 fixture schedules;

22 (7) manufacturer or fabricator drawings that are  
23 integrated into the construction documents; and

24 (8) specifications describing the nature, quality,  
25 and execution of materials for construction of the elements of the  
26 building depicted in the plans prepared by the architect.

27 (b) The preparation of architectural plans and

1 specifications for the following tasks is within the scope of  
2 practice of both engineering and architecture:

3 (1) site plans depicting the location and orientation  
4 of a building on the site based on:

5 (A) a determination of the relationship of the  
6 intended use with the environment, topography, vegetation,  
7 climate, and geographic aspects; and

8 (B) the legal aspects of site development,  
9 including setback requirements, zoning and other legal  
10 restrictions, and surface drainage;

11 (2) the depiction of the building systems, including  
12 structural, mechanical, electrical, and plumbing systems, in:

13 (A) plan views;

14 (B) cross-sections depicting building components  
15 from a hypothetical cut line through a building; and

16 (C) the design of details of components and  
17 assemblies, including any part of a building exposed to water  
18 infiltration or fire-spread considerations;

19 (3) life safety plans and sheets, including  
20 accessibility ramps and related code analyses; and

21 (4) roof plans and details depicting the design of  
22 roof system materials, components, drainage, slopes, and  
23 directions and location of roof accessories and equipment not  
24 involving structural engineering calculations.

25 (c) The following activities may be performed by either an  
26 engineer or an architect:

27 (1) programming for construction projects, including:

- 1                   (A) identification of economic, legal, and  
2 natural constraints; and
- 3                   (B) determination of the scope of functional  
4 elements;
- 5                   (2) recommending and overseeing appropriate  
6 construction project delivery systems;
- 7                   (3) consulting with regard to, investigating, and  
8 analyzing the design, form, materials, and construction technology  
9 used for the construction, enlargement, or alteration of a building  
10 or its environment; and
- 11                   (4) providing expert opinion and testimony with  
12 respect to issues within the responsibility of the engineer or  
13 architect.

14           SECTION 3. Subchapter F, Chapter 1051, Occupations Code, is  
15 amended by adding Section 1051.308 to read as follows:

16           Sec. 1051.308. INTERN DEVELOPMENT PROGRAM. The board shall  
17 allow a graduate student engineer enrolled in an accredited  
18 architectural professional degree program in this state to enroll  
19 concurrently in the intern development program required by board  
20 rules before an applicant may take the examination under this  
21 chapter.

22           SECTION 4. Subchapter L, Chapter 1051, Occupations Code, is  
23 amended by adding Section 1051.607 to read as follows:

24           Sec. 1051.607. LIST OF ENGINEERS PERMITTED TO ENGAGE IN  
25 PRACTICE OF ARCHITECTURE. (a) The board shall maintain a list of  
26 engineers licensed under Chapter 1001 who are authorized to engage  
27 in the practice of architecture based on an administrative finding

1 of experience under this section. The board shall post the list on  
2 the board's Internet website.

3 (b) An engineer may not engage or offer to engage in the  
4 practice of architecture unless:

5 (1) the engineer is listed under Subsection (a); and

6 (2) the engineer is in good standing with the Texas  
7 Board of Professional Engineers.

8 (c) The board shall list each engineer who:

9 (1) applies for placement on the list not later than  
10 April 1, 2012;

11 (2) was licensed to practice engineering under Chapter  
12 1001 before January 1, 2011; and

13 (3) provides to the board documentation of at least  
14 three projects that:

15 (A) were prepared by the engineer;

16 (B) were adequately and safely built before  
17 January 1, 2011; and

18 (C) are described by Section 1051.703(a) or were  
19 not exempt under Section 1051.606(a)(4).

20 (d) Documentation that is sufficient to satisfy the  
21 requirement of Subsection (c)(3) includes plans, specifications,  
22 photographs, and other records establishing that the architectural  
23 design work was performed by the engineer. The documentation is  
24 subject to verification by the board. The board shall complete the  
25 verification not later than the 120th day after the date the board  
26 receives the documentation.

27 (e) The board shall issue written confirmation to each

1 engineer listed under this section that, notwithstanding the  
2 requirements of Section 1051.701, the engineer may lawfully engage  
3 and offer to engage in the practice of architecture without a  
4 license under this chapter.

5 (f) If the board declines to list an engineer who applies  
6 under this section, the engineer may request a contested case  
7 hearing to be conducted under Chapter 2001, Government Code. The  
8 motion for rehearing required by Chapter 2001, Government Code,  
9 shall be filed with the State Office of Administrative Hearings.  
10 The decision of the administrative law judge in the contested case  
11 is final and may be appealed in a Travis County district court.

12 (g) The board and the Texas Board of Professional Engineers  
13 shall pay equally the costs of a contested case.

14 (h) The Texas Board of Professional Engineers has exclusive  
15 regulatory oversight over an engineer listed under Subsection (a).

16 SECTION 5. Section 1051.703(b), Occupations Code, is  
17 amended to read as follows:

18 (b) This section does not prohibit an owner of a building  
19 from contracting with [~~choosing~~] an architect or engineer as the  
20 prime design professional for a building construction, alteration,  
21 or addition project. Designation as the prime design professional  
22 does not expand the scope of practice of an architect or engineer  
23 beyond the scope of practice that the architect or engineer is  
24 authorized to practice under Chapter 1001 or 1051.

25 SECTION 6. (a) The Texas Board of Professional Engineers  
26 and the Texas Board of Architectural Examiners shall establish a  
27 joint task force of members of each board and license and

1 registration holders regulated by each board to make  
2 recommendations to the boards regarding whether certain activities  
3 should be within the scope of practice of architecture or  
4 engineering, or both.

5 (b) This section expires August 31, 2013.

6 SECTION 7. An engineer who applies for listing under  
7 Section 1051.607, Occupations Code, as added by this Act, may  
8 continue to practice under the law as it existed immediately before  
9 the effective date of this Act until the date the application is  
10 finally approved or denied, or if appealed after denial, a final  
11 decision is entered by an administrative law judge, and the former  
12 law is continued in effect for that purpose.

13 SECTION 8. Sections 1001.216 and 1051.212, Occupations  
14 Code, are repealed.

15 SECTION 9. This Act takes effect September 1, 2011.

FLOOR AMENDMENT NO. 1

BY: Daveell

- 1 Amend C.S.H.B. 2284 (Senate Committee printing) on page 4,
- 2 line 3 by striking "April" and inserting "January"

**ADOPTED**

MAY 24 2011

*Antony Spaw*  
Secretary of the Senate

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 24, 2011**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2284** by Hardcastle (Relating to the practice of architecture and engineering.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Occupations Code relating to the practice of architecture and engineering. The bill would require the Texas Board of Architectural Examiners to maintain a list of engineers permitted to engage in the practice of architecture. The bill would allow an engineer who is declined a request to be permitted to engage in the practice of architecture to request a contested case hearing with the State Office of Administrative Hearings. The bill would require the Texas Board of Professional Engineers (TBPE) and the Texas Board of Architectural Examiners (TBAE) to form a joint task force relating to scope of practice for architects and engineering. This joint task force would expire on August 31, 2013. The bill would repeal the Joint Advisory Committee on the Practice of Engineering and Architecture (Sections 1001.216 and 1051.212).

The fiscal impacts of costs and revenues that may be generated in association with implementing the provisions of the bill for the TBPE and the TBAE are not considered in this analysis because fiscal impacts for these agencies would be realized outside of the Treasury due to these agencies being Self-Directed and Semi-Independent.

Based on the analysis of the State Office of Administrative Hearings (SOAH), the bill could cause an increase in hearings provided for the TBAE and TBPE. However, it is assumed that SOAH would bill the agencies at its authorized rate for the cost associated with the additional hearings and that the cost associated with the additional hearings would not constitute a significant impact to the state.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 360 State Office of Administrative Hearings, 459 Board of Architectural Examiners, 460 Board of Professional Engineers

**LBB Staff:** JOB, AG, MW, EH



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 21, 2011**

**TO:** Honorable John Carona, Chair, Senate Committee on Business & Commerce

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2284** by Hardcastle (Relating to the practice of architecture and engineering.),  
**Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Occupations Code relating to the practice of architecture and engineering. The bill would require the Texas Board of Architectural Examiners to maintain a list of engineers permitted to engage in the practice of architecture. The bill would allow an engineer who is declined a request to be permitted to engage in the practice of architecture to request a contested case hearing with the State Office of Administrative Hearings. The bill would require the Texas Board of Professional Engineers (TBPE) and the Texas Board of Architectural Examiners (TBAE) to form a joint task force relating to scope of practice for architects and engineering. This joint task force would expire on August 31, 2013. The bill would repeal the Joint Advisory Committee on the Practice of Engineering and Architecture (Sections 1001.216 and 1051.212).

The fiscal impacts of costs and revenues that may be generated in association with implementing the provisions of the bill for the TBPE and the TBAE are not considered in this analysis because fiscal impacts for these agencies would be realized outside of the Treasury due to these agencies being Self-Directed and Semi-Independent.

Based on the analysis of the State Office of Administrative Hearings (SOAH), the bill could cause an increase in hearings provided for the TBAE and TBPE. However, it is assumed that SOAH would bill the agencies at its authorized rate for the cost associated with the additional hearings and that the cost associated with the additional hearings would not constitute a significant impact to the state.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 360 State Office of Administrative Hearings, 459 Board of Architectural Examiners,  
460 Board of Professional Engineers

**LBB Staff:** JOB, AG, MW, EH

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 13, 2011**

**TO:** Honorable John Carona, Chair, Senate Committee on Business & Commerce

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2284** by Hardcastle (Relating to the practice of architecture and engineering.), **As Engrossed**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

**Source Agencies:** 459 Board of Architectural Examiners, 460 Board of Professional Engineers

**LBB Staff:** JOB, AG, EH

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 15, 2011**

**TO:** Honorable Mike Hamilton, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2284** by Hardcastle (Relating to the practice of architecture and engineering.),  
**Committee Report 1st House, Substituted**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

**Source Agencies:** 459 Board of Architectural Examiners, 460 Board of Professional Engineers

**LBB Staff:** JOB, AG, EH

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 4, 2011**

**TO:** Honorable Mike Hamilton, Chair, House Committee on Licensing & Administrative Procedures

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2284** by Hardcastle (Relating to the practice of engineering.), **As Introduced**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 459 Board of Architectural Examiners, 460 Board of Professional Engineers

**LBB Staff:** JOB, AG, EH