

SUBJECT: Prohibiting posting or other display of Texas bar examination results

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 6 ayes — Flores, Geren, Goolsby, Miles, Quintanilla, Thompson
0 nays
3 absent — Isett, Hamilton, D. Jones

WITNESSES: For — None
Against — None
On — Josh Henslee, Board of Law Examiners staff; Julia Vaughan, Board of Law Examiners

BACKGROUND: Government Code, ch. 82.029 governs the release of bar examination results. The Code allows the Board of Law Examiners to release information concerning the results of a bar examination, particular applicants' achievement, section by section results, or relevant statistics to a law school that is conducting research on its graduates. An applicant may request the information not be released to the law school by the board by sending a request in writing before the applicant takes the bar examination. Any information provided to the law school by the board is confidential and cannot be disclosed under any open records law.

The Supreme Court of Texas governs the Texas Board of Law Examiners, and the Texas State Bar is an administrative agency of the judicial branch.

DIGEST: HB 1331 would add sec. 82.0295 to the Government Code to prohibit the Board of Law Examiners from posting or otherwise displaying at any location or in any manner that is accessible to the public, including on the board's Internet website, the names of examinees who passed or did not pass the Texas bar examination. The bill would not prohibit the board from posting or displaying the results of the examination in a manner that used only unique identifiers assigned to examinees that concealed the examinees' identities from the public.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

HB 1331 would protect the privacy of Texas bar examinees and prevent incomplete information from being posted on the Board of Law Examiners' website. Currently, the Texas Board of Law Examiners posts on its website the results of candidates who took the Texas bar exam, using the full name of the applicant along with the test identification number. This public display raises concerns about privacy of the candidates because there is no opt-out process to prevent having results posted on the Internet. The public display also can send an incomplete message to the public because bar exam passage alone does not allow a person to practice law in Texas. Judges who rely on the public display on the board's website could be misled into improperly administering an oath when the candidate had not fulfilled all legal requirements to practice law.

To address these concerns, the bill would prohibit the public display of the candidates' names. To determine whether or not an attorney is legally practicing law, the state bar already maintains a database of Texas attorneys and information on their license status and any disciplinary actions. This bill would allow Texas to use a display similar to that used in West Virginia, Utah, and Florida, where only the candidates' test numbers, and not their names, are allowed to be posted. Fears of examinees losing their examinee numbers are unfounded due to the significant weight most examinees place on the exam and on the retrieval of their exam results.

**OPPONENTS
SAY:**

The implementation of HB 1331 could prove frustrating for examinees and judges who wanted ready access to Texas bar exam results. Examinees who lost their examinee numbers might have considerable difficulty retrieving their results. The examinee number is not linked to a social security number or any other common identifier, but is a unique test examinee number used only for seating and anonymous grading for the bar exam. The number is not easily remembered or retrieved once lost. Those examinees who did not have access to their examinee numbers would then be mailed their results. This could pose a problem because examinees often change addresses shortly after taking the exam and would not receive timely notice of their results in the mail. A few hundred people could be caught in a frustrating delay finding out their results to enable them to begin practicing law. In addition, under the bill, the board might not be allowed to give pass list names over the phone, making it difficult

for judges easily to retrieve an attorney's bar status. Publicly accessible pass lists would aid judges in administering oaths to examinees who needed to begin practicing law and did not attend the formal ceremony in Austin.