

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 283
By: Jackson
Government Organization
4/12/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

The Texas Board of Architectural Examiners (board) is subject to the Sunset Act and will be abolished on September 1, 2003, unless continued by the Texas Legislature. The Sunset review found that the board provides a needed function and that the board is generally successful in its mission. C.S.S.B. 283 continues the board for 12 years and makes certain provisions.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Board of Architectural Examiners is modified in SECTION 1.13 (Section 1051.202, Occupations Code), and SECTION 2.11 (Section 1051.355, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Board of Architectural Examiners in SECTION 1.20 (Section 1051.207, Section 1051.208, and Section 1051.211, Occupations Code), SECTION 2.06 (Section 1051.252, Occupations Code), SECTION 2.08 (Section 1051.301 and Section 1051.303, Occupations Code), SECTION 2.13 (Section 1051.402, Occupations Code), and SECTION 2.16 (Section 1051.452, Occupations Code), and SECTION 2.21 (Section 1051.504, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. PROVISIONS AFFECTING THE BOARD OF ARCHITECTURAL EXAMINERS AND RELATED ADMINISTRATIVE MATTERS

SECTION 1.01. Amends the heading to Chapter 1051, Occupations Code, to read as follows:

CHAPTER 1051. TEXAS BOARD OF ARCHITECTURAL EXAMINERS; GENERAL PROVISIONS AFFECTING ARCHITECTS, LANDSCAPE ARCHITECTS, AND INTERIOR DESIGNERS; PROVISIONS AFFECTING ONLY ARCHITECTS

SECTION 1.02. Amends Chapter 1051, Occupations Code, by adding a heading for a new Part 1 of that chapter, to read as follows:

PART 1. GENERAL PROVISIONS; BOARD OF ARCHITECTURAL EXAMINERS

SECTION 1.03. Provides that Subchapters A, C, D, and E, Chapter 1051, Occupations Code, are designated as part of the new Part 1 of Chapter 1051.

SECTION 1.04. Amends Sections 1051.001, 1051.002, and 1051.004, Occupations Code, as follows:

Sec. 1051.001. DEFINITIONS. Defines "interior design," "interior designer," "landscape architect," and "landscape architecture." Makes a conforming change.

Sec. 1051.002. EFFECT ON MUNICIPALITY. Provides that this subtitle, rather than chapter, does not preempt a municipal ordinance or restrict or expand the authority of a municipality.

Sec. 1051.003. APPLICATION OF SUNSET ACT. Redesignated from existing Section 1051.004. Provides that the Texas Board of Architectural Examiners (board) is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that unless continued in existence as provided by that chapter the board is abolished and this subtitle, rather than chapter, expires September 1, 2015, rather than 2003.

SECTION 1.05. Amends the heading to existing Subchapter C, Chapter 1051, Occupations Code, to read as follows:

SUBCHAPTER B. [Redesignated from C.] TEXAS BOARD OF ARCHITECTURAL EXAMINERS

SECTION 1.06. Amends Section 1051.103, Occupations Code, as follows:

Sec. 1051.103. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) Redefines "Texas trade association."

(b) and (c) Adds standard Sunset language regarding conflicts of interest for board members and employees.

SECTION 1.07. Amends Sections 1051.105(a) and (c), Occupations Code, as follows:

(a) Provides that there are certain grounds for removal from the board.

(c) Adds standard Sunset language regarding notification when grounds for removal exist.

SECTION 1.08. Amends Subchapter C, Chapter 1051, Occupations Code, by adding Section 1051.112, as follows:

Sec. 1051.112. TRAINING. Adds standard Sunset language regarding training for board members.

SECTION 1.09. Amends the heading to existing Subchapter D, Chapter 1051, Occupations Code, to read as follows:

SUBCHAPTER C. [Redesignated from D.] EXECUTIVE DIRECTOR AND PERSONNEL

SECTION 1.10. Amends Sections 1051.153, 1051.154, and 1051.156, Occupations Code, as follows:

Sec. 1051.153. DIVISION OF RESPONSIBILITIES. Requires the board to develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

Sec. 1051.154. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. Requires the executive director or the executive director's designee to provide to members of the board and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 1051.156. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT. (a) Requires the executive director or the executive director's designee to prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) Requires the policy statement to include certain information.

(c) Requires the policy statement to meet certain requirements.

SECTION 1.11. Amends Subchapter D, Chapter 1051, Occupations Code, by adding Section 1051.157, as follows:

Sec. 1051.157. INFORMATION ON STATE EMPLOYEE INCENTIVE PROGRAM. Requires the executive director or the executive director's designee to provide to board employees information and training on the benefits and methods of participation in the state employee incentive program under Subchapter B, Chapter 2108, Government Code.

SECTION 1.12. Amends the heading to existing Subchapter E, Chapter 1051, Occupations Code, to read as follows:

SUBCHAPTER D. [Redesignated from E.] BOARD POWERS AND DUTIES

SECTION 1.13. Amends Section 1051.202, Occupations Code, as follows:

Sec. 1051.202. GENERAL RULEMAKING AUTHORITY. Requires the board to adopt reasonable rules and bylaws and prescribe forms as necessary to administer or enforce this subtitle, including rules regulating the practices of architecture, landscape architecture, and interior design.

SECTION 1.14. Amends Sections 1051.203(a) and (b), Occupations Code, as follows:

- (a) Prohibits the board from adopting rules restricting advertising or competitive bidding by a certificate holder except to prohibit false, misleading, or deceptive practices.
- (b) Prohibits the board, in its rules to prohibit false, misleading, or deceptive practices, from including a rule that makes certain restrictions.

SECTION 1.15. Amends the heading to existing Section 1051.207, Occupations Code, to read as follows:

Sec. 1051.204. [Redesignated from 1051.207] SUBPOENA.

SECTION 1.16. Amends Section 1051.207(a), Occupations Code, to make a conforming change.

SECTION 1.17. Amends the heading to existing Section 1051.208, Occupations Code, to read as follows:

Sec. 1051.205. [Redesignated from 1051.208] PUBLIC RECORDS.

SECTION 1.18. Amends Section 1051.208, Occupations Code, by amending Subsection (b) and adding Subsection (d), as follows:

- (b) Requires the records to include certain information.
- (d) Requires the board to maintain records or an official roster showing certain information.

SECTION 1.19. Amends the heading to existing Section 1051.209, Occupations Code, to read as follows:

Sec. 1051.206. [Redesignated from 1051.209.] BOARD SEAL.

SECTION 1.20. Amends Subchapter E, Chapter 1051, Occupations Code, by adding Sections 1051.207-1051.212, as follows:

Sec. 1051.207. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.

Requires the board to adopt rules as necessary to comply with Chapter 53.

Sec. 1051.208. STANDARDS OF CONDUCT. Requires the board by rule to establish standards of conduct for persons regulated under this subtitle.

Sec. 1051.209. ATTORNEY GENERAL AS LEGAL ADVISOR. Requires the attorney general to act as legal advisor to the board and to provide legal assistance to enforce this subtitle. Provides that this section does not relieve a local prosecuting attorney of any duty under the law.

Sec. 1051.210. TECHNOLOGY POLICY. Requires the board to develop and implement a policy that requires the executive director and board employees to research and propose appropriate technological solutions to improve the board's ability to perform its functions. Requires the technological solutions to meet certain criteria.

Sec. 1051.211. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) Requires the board to develop and implement a policy to encourage the use of certain procedures.

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

(c) Requires the board to designate a trained person to perform certain acts.

Sec. 1051.212. JOINT ADVISORY COMMITTEE ON THE PRACTICES OF ENGINEERING, ARCHITECTURE, AND LANDSCAPE ARCHITECTURE. (a) Provides that the Joint Advisory Committee on the Practices of Engineering, Architecture, and Landscape Architecture is an advisory committee to the board and to the Texas Board of Professional Engineers. Provides that the advisory committee consists of certain members.

(b) Provides that members of the advisory committee serve staggered six-year terms, with the terms of one member appointed by the board and one member appointed by the Texas Board of Professional Engineers expiring each odd-numbered year.

(c) Requires the advisory committee to meet at least twice a year.

(d) Requires the advisory committee to work to resolve issues that result from the overlap between activities that constitute the practice of engineering and architecture and those that constitute the practice of engineering and landscape architecture. Requires the advisory committee to assist each agency in protecting the public rather than advancing the interests of either agency or the profession it regulates.

(e) Requires the advisory committee to issue advisory opinions to the board and to the Texas Board of Professional Engineers on matters relating to the practice of engineering and the practice of architecture or landscape architecture, including certain opinions, proceedings, and acts.

(f) Requires an agency, if the advisory committee issues an advisory opinion to the board or the Texas Board of Professional Engineers on a matter, to notify the committee of the final action taken with regard to the matter. Requires the advisory committee to consider the action taken by the agency on the matter in any advisory opinion subsequently issued by the committee on a related matter.

(g) Requires the board and the Texas Board of Professional Engineers to enter into a memorandum of understanding regarding the advisory committee that includes the composition and purpose of the committee.

ARTICLE 2. PROVISIONS AFFECTING ARCHITECTS, LANDSCAPE ARCHITECTS,
AND INTERIOR DESIGNERS

SECTION 2.01. Amends Chapter 1051, Occupations Code, by adding a heading for a new Part 2 of that chapter, as follows:

PART 2. GENERAL PROVISIONS APPLYING TO ARCHITECTS, LANDSCAPE
ARCHITECTS, AND INTERIOR DESIGNERS

SECTION 2.02. Designates Subchapters F, H, J, and K, Chapter 1051, Occupations Code, as part of the new Part 2 of Chapter 1051.

SECTION 2.03. Amends the heading to existing Subchapter F, Chapter 1051, Occupations Code, to read as follows:

SUBCHAPTER E. [Redesignated from F.] PUBLIC INTEREST INFORMATION AND
COMPLAINT PROCEDURES

SECTION 2.04. Amends the heading to Section 1051.251, Occupations Code, to read as follows:

Sec. 1051.251. PUBLIC INTEREST INFORMATION; DISPLAY OF CERTIFICATE.

SECTION 2.05. Amends Section 1051.251, Occupations Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Makes a conforming change.

(c) Requires the person, in each written contract in which a person registered under this subtitle agrees to practice the person's profession in this state, to include the name, mailing address, and telephone number of the board and a statement that the board has jurisdiction over a person registered under this subtitle.

(d) Requires a person registered under this subtitle to prominently display the person's certificate of registration in the person's place of business.

SECTION 2.06. Amends Sections 1051.252 and 1051.253, Occupations Code, as follows:

Sec. 1051.252. COMPLAINTS. (a) Requires the board by rule to establish a comprehensive procedure for receiving and adjudicating complaints from consumers and service recipients. Requires the rules to address each phase of the complaint process, including complaint intake, preliminary evaluation, investigation, adjudication, sanctions, and public disclosure.

(b) Makes conforming changes.

Sec. 1051.253. COMPLAINT INFORMATION. (a) Requires the board to maintain a file on each complaint filed with the board that the board has authority to resolve. Requires the file to include certain information.

(b) Requires the board to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution.

(c) Requires the board, at least quarterly until final disposition of the complaint,

to notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an investigation.

SECTION 2.07. Amends Section 1051.254(a), Occupations Code, to require the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

SECTION 2.08. Amends Chapter 1051, Occupations Code, by adding a new Subchapter F to the new Part 2 of that chapter, as follows:

SUBCHAPTER F. GENERAL REGISTRATION REQUIREMENTS

Sec. 1051.301. ADMINISTRATION OF EXAMINATION TO DISABLED APPLICANTS. Requires the board by rule to ensure that an examination under this subtitle is administered to applicants with disabilities in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) and its subsequent amendments.

Sec. 1051.302. EXAMINATION FEE. Authorizes the board, notwithstanding Section 2113.203, Government Code, to delegate the collection of any examination fee prescribed by the board to the person who conducts the examination.

Sec. 1051.303. REFUND POLICY. Requires the board by rule to adopt a comprehensive refund policy for applicants who are not able to take an examination under this subtitle after paying the examination fee. Requires the comprehensive refund policy to include certain information.

Sec. 1051.304. EXAMINATION RESULTS. (a) Requires the board, not later than the 30th day after the date a person takes an examination under this subtitle, to notify the person of the results of the examination.

(b) Requires the board if an examination is graded or reviewed by a testing service to notify the person of the results of the examination not later than the 14th day after the date the board receives the results from the testing service and requires the board, if notice of the examination results will be delayed for longer than 90 days after the examination date, to notify the person of the reason for the delay before the 90th day.

(c) Authorizes the board to require a testing service to notify a person of the results of the person's examination.

(d) Requires the board, if requested in writing by a person who fails an examination administered under this subtitle, to provide the person with an analysis of the person's performance on the examination.

Sec. 1051.305. RECIPROCITY. (a) Authorizes the board to waive any prerequisite to obtaining a certificate of registration under this subtitle for an applicant who holds a license or certificate of registration issued by another jurisdiction under certain conditions.

(b) Authorizes the board to make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

(c) Requires an applicant under this section to perform certain acts.

Sec. 1051.306. FIRM REGISTRATION NOT REQUIRED. Prohibits the board from requiring a firm, partnership, corporation, or association engaged in the practice of architecture, landscape architecture, or interior design to register with the board under this

subtitle.

Sec. 1051.307. ROSTER OF APPLICANTS. Requires the board to maintain a roster of all persons who apply for a certificate of registration under this subtitle. Requires the roster to include certain information about each applicant.

SECTION 2.09. Amends the heading to existing Subchapter H, Chapter 1051, Occupations Code, to read as follows:

SUBCHAPTER G. [Redesignated from H.] RENEWAL OF CERTIFICATE OF
REGISTRATION

SECTION 2.10. Amends Sections 1051.351-1051.354, Occupations Code, as follows:

Sec. 1051.351. ANNUAL RENEWAL REQUIRED. (a) Authorizes a person who is otherwise eligible to renew a certificate of registration under this subtitle to renew an unexpired certificate by paying the required renewal fee to the board before the expiration date of the certificate. Prohibits a person whose certificate of registration has expired from engaging in activities that require registration until the certificate of registration has been renewed.

(b) Authorizes the board by rule to adopt a system under which certificates of registration expire on various dates during the year.

(c) Requires the board, for the year in which the certificate of registration expiration date is changed, to prorate renewal fees on a monthly basis so that each certificate holder pays only that portion of the registration fee that is allocable to the number of months during which the certificate is valid. Provides that on renewal of the certificate of registration on the new expiration date, the total registration renewal fee is payable.

Sec. 1051.352. NOTICE OF EXPIRATION. Requires the board, not later than the 30th day before the date a person's certificate of registration is scheduled to expire, to send written notice of the impending expiration to the person at the person's last known address according to the records of the board.

Sec. 1051.353. PROCEDURE FOR RENEWAL. (a) Authorizes a person to renew an unexpired certificate of registration by submitting proof satisfactory to the board of compliance with the board's continuing education requirement.

(b) Authorizes a person whose certificate of registration has been expired for 90 days or less to renew the certificate by paying to the board a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) Authorizes a person whose certificate of registration has been expired for more than 90 days but less than one year to renew the certificate by paying to the board a renewal fee equal to two times the normally required renewal fee.

(d) Prohibits a person whose certificate of registration has been expired for one year or more from renewing the certificate. Authorizes a person to obtain a new certificate of registration by complying with the requirements and procedures, including the examination requirements, for obtaining an original certificate.

(e) Authorizes a person who was registered in this state, moved to another state, and is currently licensed or registered and has been in practice in the other state for the two years preceding the date of the application to obtain a new certificate of registration without reexamination. Requires the person to pay to the board a fee that is equal to two times the normally required renewal fee for the certificate of registration.

Sec. 1051.354. FEE EXEMPTION FOR MILITARY PERSONNEL. (a) Provides that a person required to register under this subtitle who is on active duty as a member of the United States military is exempt from the payment of any fee during the person's term of service if the person meets certain requirements.

(b) Provides that a person who is exempt from payment of a fee under Subsection (a) is exempt for the remainder of the fiscal year during which the person's active duty status expires and is entitled to have the person's name continued on the list of architects, landscape architects, or interior designers.

SECTION 2.11. Amends Section 1051.355, Occupations Code, by amending Subsections (a), (b), and (c) and adding Subsection (e), as follows:

(a) Makes a conforming change.

(b) Requires the board to prescribe the renewal fee under this subsection in an amount equal to the sum of the amount determined by the board as reasonable and necessary to cover the costs of administering this section and except as provided by Subsection (e), the additional amount required under Section 1051.651(b)(1)(B) for the examination fee scholarship program.

(c) Makes a conforming change.

(e) Provides that the additional amount of the renewal fee described by Subsection (b)(2) does not apply to a person registered under Chapter 1052 or 1053.

SECTION 2.12. Amends Sections 1051.356(a) and (d), Occupations Code, as follows:

(a) Requires the board to recognize, prepare, or administer continuing education programs for its certificate holders. Requires a certificate holder to participate in the programs to the extent required by the board to keep the person's certificate of registration.

(d) Makes a conforming change.

SECTION 2.13. Amends Chapter 1051, Occupations Code, by adding a new Subchapter H to the new Part 2 of that chapter, as follows:

SUBCHAPTER H. GENERAL DISCIPLINARY PROCEDURES

Sec. 1051.401. RIGHT TO HEARING; APPEAL. (a) Provides that if the board proposes to suspend, revoke, or refuse to renew a person's certificate of registration, the person is entitled to a hearing. Requires the hearing to be held by an administrative law judge of the State Office of Administrative Hearings.

(b) Requires the board to prescribe procedures by which a decision to suspend or revoke or a refusal to renew a certificate of registration is made by or is appealable to the board.

(c) Provides that a hearing under this section is a contested case subject to Chapter 2001, Government Code, and requires it to be conducted under rules enacted by the State Office of Administrative Hearings under Chapter 2003, Government Code.

Sec. 1051.402. PUBLICATION OF DISCIPLINARY ORDERS AND SANCTIONS. Requires the board by rule to provide for the publication of all disciplinary orders and sanctions imposed by the board under this subtitle. Prohibits a certificate holder from negotiating with the board to keep the board from publishing the settlement of a

disciplinary action.

Sec. 1051.403. REINSTATEMENT. (a) Prohibits a person whose application for the issuance of an original or renewal certificate of registration is denied or whose certificate of registration is revoked or suspended from applying to the board for the issuance or reinstatement of a certificate of registration before the 180th day after the date of the denial, revocation, or suspension.

(b) Authorizes the board to issue or reinstate a certificate of registration under this section to an applicant who meets certain criteria.

SECTION 2.14. Amends the heading to existing Subchapter J, Chapter 1051, Occupations Code, to read as follows:

SUBCHAPTER I. [Redesignated from J.] ADMINISTRATIVE PENALTY

SECTION 2.15. Amends Section 1051.451, Occupations Code, as follows:

Sec. 1051.451. IMPOSITION OF ADMINISTRATIVE PENALTY. Makes conforming and nonsubstantive changes.

SECTION 2.16. Amends Section 1051.452, Occupations Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Prohibits the amount of an administrative penalty from exceeding \$5,000, rather than \$1,000.

(c) Requires the board by rule to adopt an administrative penalty schedule for violations of this subtitle or board rules to ensure that the amounts of penalties imposed are appropriate to the violation. Requires the board to provide the administrative penalty schedule to the public on request.

SECTION 2.17. Amends the existing heading to Subchapter K, Chapter 1051, Occupations Code, to read as follows:

SUBCHAPTER J. [Redesignated from K.] OTHER PENALTIES AND ENFORCEMENT PROVISIONS

SECTION 2.18. Amends Section 1051.501, Occupations Code, as follows:

Sec. 1051.501. GENERAL ENFORCEMENT AUTHORITY. Makes conforming changes.

SECTION 2.19. Amends Section 1051.502(a), Occupations Code, to make conforming changes.

SECTION 2.20. Amends Section 1051.504, Occupations Code, as follows:

Sec. 1051.503. [Redesignated from 1051.504.] CUMULATIVE EFFECT OF PROVISIONS. Makes a conforming change.

SECTION 2.21. Amends existing Subchapter K, Chapter 1051, Occupations Code, by adding Sections 1051.504 and 1051.505, as follows:

Sec. 1051.504. CEASE AND DESIST ORDER. (a) Authorizes the board after providing to the person notice and the opportunity for a hearing, if it appears to the board that a person who is not registered under this subtitle is violating or has violated this subtitle, a rule adopted under this subtitle, or another state statute or rule relating to the practice of architecture, landscape architecture, or interior design, to issue a cease and desist order prohibiting the conduct described in the notice.

(b) Authorizes the board, if the person does not request a hearing before the 22nd day after the date of receiving notice under Subsection (a), to issue a cease and desist order and refer the violation to the attorney general for further action.

(c) Requires the board, if the person requests a hearing before the 22nd day after the date of receiving notice under Subsection (a), to hold the hearing not later than the 30th day after the date the board receives the request for the hearing.

(d) Provides that a hearing under this section is subject to Chapter 2001, Government Code.

(e) Requires the board to adopt rules necessary to implement this section.

Sec. 1051.505. RESTITUTION. (a) Authorizes the board to order a person registered under this subtitle to pay restitution to a consumer instead of or in addition to assessing an administrative penalty under this chapter.

(b) Prohibits the amount of restitution ordered by the board from exceeding the amount the consumer paid the person for a service regulated under this subtitle. Prohibits the board from including an estimation of other damages or harm in a restitution order.

ARTICLE 3. PROVISIONS AFFECTING ONLY ARCHITECTS

SECTION 3.01. Amends Chapter 1051, Occupations Code, by adding a heading for a new Part 3 of that chapter, as follows:

PART 3. PROVISIONS APPLYING ONLY TO ARCHITECTS

SECTION 3.02. Redesignates existing Subchapters B, G, and I, Chapter 1051, Occupations Code, as a part of the new Part 3 of Chapter 1051.

SECTION 3.03. Amends Chapter 1051, Occupations Code, by adding a new Subchapter K to the new Part 3 of that chapter, as follows:

SUBCHAPTER K. GENERAL PROVISIONS: ARCHITECTS

Sec. 1051.551. ENFORCEMENT BY CERTAIN PUBLIC OFFICIALS. (a) Authorizes a public official of this state or of a political subdivision of this state who is responsible for enforcing laws that affect the practice of architecture to accept an architectural plan, specification, or other related document only if the plan, specification, or document is prepared by an architect or by a person acting under the supervision of an architect, as evidenced by the architect's seal.

(b) Provides that Subsection (a) does not apply to a plan, specification, or document that is subject to an exemption from this chapter.

SECTION 3.04. Amends the heading to existing Chapter 1051B, Occupations Code, as follows:

SUBCHAPTER L. [Redesignated from B.] EXEMPTIONS

SECTION 3.05. Amends the heading to Section 1051.051, Occupations Code, to read as follows:

Sec. 1051.601. [Redesignated from 1051.051.] ACTIVITIES OF LICENSED ENGINEER.

SECTION 3.06. Amends the heading to Section 1051.052, Occupations Code, to read as

follows:

Sec. 1051.602. [Redesignated from 1051.052.] ACTIVITIES OF ARCHITECT OR ENGINEER EMPLOYEE.

SECTION 3.07. Amends Section 1051.053, Occupations Code, to read as follows:

Sec. 1051.603. [Redesignated from 1051.053.] LANDSCAPE ARCHITECTURE. Provides that this part, rather than chapter, does not limit the practice of landscape architecture or prohibit the use of the title "Landscape Architect" by a qualified person.

SECTION 3.08. Amends Section 1051.054, Occupations Code, to read as follows:

Sec. 1051.604. [Redesignated from 1051.054.] INTERIOR DESIGN. Makes a conforming change.

SECTION 3.09. Amends the heading to Section 1051.055, Occupations Code, to read as follows:

Sec. 1051.605. [Redesignated from 1051.055.] EMPLOYEE OF CERTAIN UTILITIES OR AFFILIATES.

SECTION 3.10. Amends Section 1051.055(b), Occupations Code, to provide that this chapter does not limit the use of a job title or personnel classification by an employee described by Subsection (a) if the employee does not use certain titles.

SECTION 3.11. Amends the heading to Section 1051.056, Occupations Code, to read as follows:

Sec. 1051.606. [Redesignated from 1051.056.] ACTIVITIES OF CERTAIN PERSONS NOT REPRESENTED TO BE ARCHITECTS.

SECTION 3.12. Amends Section 1051.056(a), Occupations Code, to provide that this chapter does not apply to a person who does not represent that the person is an architect or architectural designer, or use another business or professional title that uses a form of the word "architect," and who meets certain criteria. Includes among the exceptions a person who prepares the architectural plans and specifications for or observes or supervises the construction, enlargement, or alteration of a privately owned building that is a commercial building that does not exceed a height of two stories or a square footage of 20,000 square feet, or a warehouse that has limited public access.

SECTION 3.13. Amends Chapter 1051, Occupations Code, by adding a new Subchapter M to the new Part 3 of that chapter, as follows:

SUBCHAPTER M. BOARD POWERS AND DUTIES: ARCHITECTS

Sec. 1051.651. FEES. (a) Authorizes the board to 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 chapter, unless the amount of the fee is set by this chapter or by the General Appropriations Act.

(b) Requires the board to set the required renewal fee for certain persons.

(c) Authorizes the board to accept payment of a fee by electronic means. Authorizes the board to charge a fee to process the payment made by electronic means. Requires the board to set the processing fee in an amount that is reasonably related to the expense incurred by the board in processing the payment made by electronic means, not to exceed five percent of the amount of the fee for which the payment is made.

(d) Prohibits a fee set by the board under this section from being used for the purpose of earning additional revenue for the board.

Sec. 1051.652. FEE INCREASE. (a) Provides that the fee for the issuance of a certificate to an applicant possessing a license or certificate to practice architecture in another state and the fee for the renewal of a certificate under this chapter are increased by \$200.

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

Sec. 1051.653. EXAMINATION FEE SCHOLARSHIPS. (a) Requires the board to administer scholarships to applicants for examination under this part in a manner the board determines best serves certain public purposes.

(b) Requires the board, in determining what best serves the public purpose of the scholarships as described by Subsection (a), to consider at least the financial need of each person who applies for a scholarship under this section.

(c) Provides that the amount of the scholarship is the lesser of \$500 or the amount of the required examination fee.

(d) Provides that scholarships under this section are funded by the amount added to each renewal fee under Section 1051.651(b). Prohibits the board from using 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. 1051.654. DESIGN AND APPROVAL OF ARCHITECT'S SEAL. (a) Requires the board to prescribe and approve the seal to be used by an architect.

(b) Requires the design of the seal to 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 Architectural Examiners."

SECTION 3.14. Amends the heading to existing Subchapter G, Chapter 1051, Occupations Code, to read as follows:

SUBCHAPTER N. [Redesignated from C.] REGISTRATION OF ARCHITECTS

SECTION 3.15. Amends Section 1051.301, Occupations Code, as follows:

Sec. 1051.701. [Redesignated from 1051.301.] REGISTRATION REQUIRED. (a) Prohibits a person from engaging in the practice of architecture or offering or attempting to engage in the practice of architecture unless the person is registered as an architect under this chapter.

(b) Makes a conforming change.

SECTION 3.16. Amends the heading to existing Section 1051.302, Occupations Code, to read as follows:

Sec. 1051.702. [Redesignated from 1051.302.] USE OF ARCHITECT'S SEAL.

SECTION 3.17. Amends existing Section 1051.302, Occupations Code, by adding Subsection (d) to prohibit a person from presenting or attempting to use as the person's own the seal of another person.

SECTION 3.18. Amends the heading to existing Section 1051.303, Occupations Code, to read as follows:

Sec. 1051.703. [Redesignated from 1051.303.] CERTAIN PLANS OR SPECIFICATIONS TO BE PREPARED ONLY BY ARCHITECT.

SECTION 3.19. Amends the heading to existing Section 1051.304, Occupations Code, to read as follows:

Sec. 1051.704. [Redesignated from 1051.304.] EXAMINATION; ISSUANCE OF CERTIFICATE.

SECTION 3.20. Amends the heading to existing Section 1051.305, Occupations Code, to read as follows:

Sec. 1051.705. [Redesignated from 1051.305.] ELIGIBILITY AND APPLICATION FOR EXAMINATION.

SECTION 3.21. Amends existing Section 1051.305, Occupations Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Makes nonsubstantive changes.

(c) Requires the board to set an examination fee in an amount reasonable and necessary to cover the cost of the examination. Authorizes the board to delegate the collection of an examination fee to the person who conducts the examination.

SECTION 3.22. Amends the heading to existing Subchapter I, Chapter 1051, Occupations Code, to read as follows:

SUBCHAPTER O. [Redesignated from I.] DISCIPLINARY PROCEDURES FOR ARCHITECTS

SECTION 3.23. Amends existing Sections 1051.401 and 1051.402, Occupations Code, as follows:

Sec. 1051.751. [Redesignated from 1051.401.] DISCIPLINARY POWERS OF BOARD. (a) Requires the board, on a determination that a ground for discipline exists under Section 1051.752, to take certain actions.

(b) Authorizes the board to place on probation a person whose certificate of registration is suspended. Authorizes the board, if the suspension is probated to require the person to follow certain guidelines.

Sec. 1051.752. [Redesignated from 1051.402.] GROUNDS FOR DISCIPLINARY ACTION. Provides that a person is subject to disciplinary action under Section 1051.751 for certain acts.

SECTION 3.24. Amends Chapter 1051, Occupations Code, by adding a new Subchapter P to the new Part 3 of that chapter, as follows:

SUBCHAPTER P. OTHER PENALTIES AND ENFORCEMENT PROVISIONS: ARCHITECTS

Sec. 1051.801. CRIMINAL PENALTY. (a) Provides that a person, whether acting independently or on behalf of the person's firm, commits an offense if, in violation of this chapter, the person engages in certain activities.

(b) Provides that an offense under this section is a misdemeanor punishable by a fine of not less than \$250 and not more than \$1,000. Provides that each day of violation is a separate offense.

(c) Authorizes the board, in an action brought under this section to be represented by a district or county attorney or by other counsel as necessary.

ARTICLE 4. PROVISIONS AFFECTING ONLY LANDSCAPE ARCHITECTS

SECTION 4.01. Amends Subchapter A, Chapter 1052, Occupations Code, by adding Sections 1052.004 and 1052.005, as follows:

Sec. 1052.004. **ACTIVITIES OF LANDSCAPE ARCHITECT EMPLOYEE.** Provides that this chapter does not limit the ability of an employee of a landscape architect to act under the landscape architect's instructions, control, or supervision.

Sec. 1052.005. **ACTIVITIES OF CERTAIN PERSONS NOT REPRESENTED TO BE LANDSCAPE ARCHITECTS.** (a) Provides that this chapter does not apply to a certain persons.

(b) Authorizes a person described by Subsection (a) who agrees to perform or represents that the person is able to perform a professional service involved in the practice of landscape architecture to perform a landscape architectural service in this state only if, in performing the service, the person follows certain guidelines.

SECTION 4.02. Amends Section 1052.054, Occupations Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Makes a nonsubstantive change.

(d) Prohibits a fee set by the board under this section from being used for the purpose of earning additional revenue for the board.

SECTION 4.03. Amends the heading to Section 1052.056, Occupations Code, to read as follows:

Sec. 1052.056. **DESIGN AND APPROVAL OF LANDSCAPE ARCHITECT'S SEAL.**

SECTION 4.04. Amends Section 1052.056(a), Occupations Code, to require the board to prescribe and approve the seal to be used by a landscape architect.

SECTION 4.05. Amends Sections 1052.251 and 1052.252, Occupations Code, as follows:

Sec. 1052.251. **DISCIPLINARY POWERS OF BOARD.** (a) Requires the board, on a determination that a ground for discipline exists under Section 1052.252 to take certain actions.

(b) Authorizes the board to place on probation a person whose certificate of registration is suspended. Authorizes the board, if the suspension is probated, to require the person to follow certain guidelines.

Sec. 1052.252. **GROUND FOR DISCIPLINARY ACTION.** Provides that a person is subject to disciplinary action under Section 1052.251 for certain acts.

ARTICLE 5. PROVISIONS AFFECTING ONLY INTERIOR DESIGNERS

SECTION 5.01. Amends Section 1053.002, Occupations Code, as follows:

Sec. 1053.002. **APPLICATION.** (a) Provides that this chapter does not apply to certain persons.

(b) Authorizes a person described by Subsection (a) (1) who agrees to perform or represents that the person is able to perform an interior design service to perform

an interior design service in this state if, in performing the service, the person performs certain acts.

SECTION 5.02. Amends Section 1053.052, Occupations Code, by adding Subsection (d), to prohibit a fee set by the board under this section from being used for the purpose of earning additional revenue for the board.

SECTION 5.03. Amends Subchapter B, Chapter 1053, Occupations Code, by adding Section 1053.058, as follows:

Sec. 1053.058. DESIGN AND APPROVAL OF INTERIOR DESIGNER'S SEAL. (a) Requires the board to prescribe and approve the seal to be used by an interior designer.

(b) Requires the design of the seal to be the same as the design used by the board, except that the words "Registered Interior Designer, State of Texas" must be used instead of "Texas Board of Architectural Examiners."

SECTION 5.04. Amends Section 1053.160, Occupations Code, as follows:

Sec. 1053.160. USE OF INTERIOR DESIGNER'S SEAL. (a) Requires an interior designer to maintain a seal described by Section 1053.058 and to stamp or impress the seal on each drawing or specification issued from the interior designer's office for use in this state.

(b) Prohibits a person from using or attempting to use an interior designer's seal, a similar seal, or a replica of the seal unless the use is by or through an interior designer.

(c) Prohibits an interior designer from permitting a person who is not an interior designer from using the interior designer's seal without the interior designer's personal supervision.

(d) Prohibits a person from presenting or attempting to use as the person's own the seal of another person.

SECTION 5.05. Amends Sections 1053.251(a) and (b), Occupations Code, as follows:

(a) Requires, rather than authorizes, the board, on a determination that a ground for disciplinary action exists under Section 1053.252, to take certain actions.

(b) Authorizes the board to place on probation a person whose certificate of registration is suspended. Authorizes the board, if the suspension is probated, to require the person to follow certain guidelines.

SECTION 5.06. Amends Section 1053.252, Occupations Code, as follows:

Sec. 1053.252. GROUNDS FOR DISCIPLINARY ACTION. Provides that a person is subject to disciplinary action under Section 1053.251 for certain acts.

SECTION 5.07. Amends the heading to Subchapter H, Chapter 1053, Occupations Code, to read as follows:

SUBCHAPTER H. PENALTIES

ARTICLE 6. REPEALER; TRANSITION PROVISIONS; EFFECTIVE DATE

SECTION 6.01. (a) Repealer: Subchapters C, E, and G, Chapter 1052(Landscape Architects) and Subchapters C, E, and G, Chapter 1053 (Interior Designers), Occupations Code.

(b) Repealer: Existing Sections 1051.003, 1051.204-1051.206, 1051.210, 1051.306, 1051.307, 1051.403, 1051.503, 1052.001, 1052.051-1052.053, 1052.055, 1052.057, 1052.058, 1052.155, 1052.156, 1052.253, 1053.001, 1053.051, 1053.054-1053.057, 1053.156, 1053.157, 1053.161, 1053.253, and 1053.254, Occupations Code.

SECTION 6.02. Requires the Texas Board of Architectural Examiners, not later than March 1, 2004, to perform certain acts.

SECTION 6.03. (a) Provides that in accordance with Section 311.031(c), Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Section 1051.355(b), Occupations Code, as set out in this Act, gives effect to changes made by Section 3, Chapter 861, Acts of the 77th Legislature, Regular Session, 2001.

(b) Provides that in accordance with Section 311.031(c), Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Section 1051.402, Occupations Code, set out in this Act as new Section 1051.752, Occupations Code, gives effect to changes made by Section 2, Chapter 861, Acts of the 77th Legislature, Regular Session, 2001.

(c) Provides that in accordance with Section 311.031(c), Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Section 1052.252, Occupations Code, as set out in this Act, gives effect to changes made by Section 6, Chapter 861, Acts of the 77th Legislature, Regular Session, 2001.

(d) Provides that in accordance with Section 311.031(c), Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Section 1053.252, Occupations Code, as set out in this Act, gives effect to changes made by Section 9, Chapter 861, Acts of the 77th Legislature, Regular Session, 2001.

(e) Provides that to the extent of any conflict, this Act prevails over another Act of the 78th Legislature, Regular Session, 2003, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 6.04. (a) Provides that the changes in law made by this Act by the amendment of Section 1051.103, Occupations Code, and the addition of Section 1051.112, Occupations Code, in the prohibitions on or qualifications of members of the Texas Board of Architectural Examiners do not affect the entitlement of a member serving on the Texas Board of Architectural Examiners immediately before September 1, 2003, to continue to serve and function as a member of the Texas Board of Architectural Examiners for the remainder of the member's term. Makes application of this Act prospective.

(b) Requires the Texas Board of Architectural Examiners, before adopting an administrative penalty schedule under Section 1051.452(c), Occupations Code, as added by this Act, to hold a public hearing that addresses the proposed administrative penalty schedule. Requires the board to allow members of the public to present oral testimony or written documentation at the hearing.

SECTION 6.05. Effective date: September 1, 2003.