

BILL ANALYSIS

Senate Research Center
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H.B. 2284
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is concern that state law does not address the overlap between the professions of engineering and architecture leading to a dispute regarding the scope of the practice of engineering. H.B. 2284 seeks to remedy this situation by clarifying the statutes at issue and creating an administrative review process that allows an engineer to engage in the practice of architecture under certain conditions.

H.B. 2284 amends current law relating to the practice of architecture and engineering.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1001.003, Occupations Code, by adding Subsection (d), to provide that the practice of engineering does not include the practice of architecture defined by Sections 1051.001(7)(A) (relating to practice of architecture), (B) (relating to integrated building systems and construction details), and (C) (relating to conformance of architectural plans) 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 (board) in effect on April 1, 2011.

SECTION 2. Amends Subchapter J, Chapter 1001, Occupations Code, by adding Section 1001.4524, as follows:

Sec. 1001.4524. PROHIBITED PRACTICES. Prohibits an engineer, except for the actions described by Sections 1051.001(7)(D) (relating to programming for construction projects), (E) (relating to construction project delivery systems), (F) (relating to expert opinion and testimony), (G) (relating to research to expand the knowledge base), and (H) (relating to pedagogical theory in academic settings) and the preparation of plans and specifications that an engineer is authorized to prepare under the rules of the board in effect on April 1, 2011, from performing, offering to perform, or attempting 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) (relating to preparing architectural plans or supervision of construction of a certain building); or
- (2) the engineer is authorized to practice architecture by the board.

SECTION 3. Amends Subchapter F, Chapter 1051, Occupations Code, by adding Section 1051.308, as follows:

Sec. 1051.308. INTERN DEVELOPMENT PROGRAM. Requires the board to allow an engineer enrolled in an accredited architectural professional degree program in this state

to enroll concurrently in the intern development program required by board rules before an applicant may take the examination under this chapter.

SECTION 4. Amends Subchapter L, Chapter 1051, Occupations Code, by adding Section 1051.607, as follows:

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

(b) Prohibits an engineer from engaging or offering to engage in the practice of architecture unless:

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

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

(c) Requires the board to list each engineer who:

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

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

(3) provides to the board documentation of at least three projects described by Section 1051.703(a)(2) (relating to new buildings having construction costs that exceed \$100,000) that were prepared by the engineer, and adequately and safely built before January 1, 2011.

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

(e) Requires the board to issue written confirmation to each engineer listed under this section that, notwithstanding the requirements of Section 1051.701 (Registration Required), the engineer is authorized to lawfully engage and offer to engage in the practice of architecture without a license under this chapter.

(f) Authorizes the engineer, if the board declines to list an engineer who applies under this section, to appeal the decision to an arbitration panel composed of:

(1) two architects selected by the board;

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

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

(g) Requires a judge of a district court in Travis County selected by the two boards under Subsection (f) to select the arbitrator described by Subsection (f)(3) if the arbitrators selected under Subsections (f)(1) and (2) do not select the arbitrator described by Subsection (f)(3) before the 11th day after the date the last arbitrator is selected under Subsections (f)(1) and (2).

(h) Requires the board and the Texas Board of Professional Engineers to pay equally the costs of the arbitration.

(i) Provides that the decision of a majority of the arbitrators is binding on the engineer requesting arbitration.

(j) Provides that the Texas Board of Professional Engineers has exclusive regulatory oversight over an engineer listed under Subsection (a).

SECTION 5. Amends Section 1051.703(b), Occupations Code, as follows:

(b) Provides that this section does not prohibit an owner of a building from contracting with an architect or engineer, rather than choosing an architect or engineer, as the prime design professional for a building construction, alteration, or addition project. Provides that designation as the prime design professional does not expand the scope of practice of an architect or engineer beyond the scope of practice that the architect or engineer is authorized to practice under Chapter 1001 or 1051 (Texas Board of Architectural Examiners; General Provisions Affecting Architects, Landscape Architects, and Interior Designers; Provisions Affecting only Architects).

SECTION 6. Repealer: Section 1001.216 (Joint Advisory Committee on the Practice of Engineering and Architecture), Occupations Code.

Repealer: Section 1051.212 (Joint Advisory Committee on the Practices of Engineering Architecture, and Landscape Architecture), Occupations Code.

SECTION 7. Effective date: September 1, 2011.