

BILL ANALYSIS

Senate Research Center

S.B. 266
By: Lucio
Government Organization
6/26/2003
Enrolled

DIGEST AND PURPOSE

The Board of Law Examiners (board) determines individuals' eligibility for admission to practice law in Texas. The board is not subject to legislative appropriations. Instead, the Texas Supreme Court sets fees and approves the annual budget of the board. S.B. 266 continues the board for the standard 12-year period and revises its administrative provisions.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Supreme Court in SECTION 9 (Section 82.027, Government Code) and to the Board of Law Examiners subject to supreme court approval in SECTION 11 (Section 82.030, Government Code) of this bill.

Note- "Under the general rulemaking authority already granted to the Supreme Court to govern the administration of the Board of Law Examiners' functions related to the licensing of lawyers, rules may be developed to implement other new provisions found in this bill."

This language was added to make it clear that the Supreme Court has rulemaking authority over the Board of Law Examiners.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 82.001(b) and (c), Government Code, as follows:

(b) Requires the supreme court to appoint the members of the Board of Law Examiners (board) for staggered six-year terms, rather than two-year terms, with the terms of one-third of the members expiring August 31 of each odd-numbered year.

(c) Requires appointments to the board to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

SECTION 2. Amends Section 82.002, Government Code, to update standard Sunset language relating to conflicts of interest.

SECTION 3. Amends Sections 82.0021(a) and (c), Government Code to update and add standard Sunset language relating to grounds for removal from the board.

SECTION 4. Amends Section 82.003, Government Code, by amending Subsections (a) and (c) and adding Subsections (d) and (e), as follows:

(a) Makes a conforming change.

(c) Requires board deliberations, hearings, and determinations, relating to moral character and fitness of applicants to be closed to the public, and records relating to these subjects

are confidential. Provides that an applicant, on written request, is entitled to certain information and procedures.

(d) Created from existing text. Makes a conforming change.

(e) Requires board deliberations, hearings, and determinations relating to a request by an applicant who has a disability for testing accommodations under Section 82.0272 on the bar examination to be closed to the public, and provides that records relating to that subject are confidential.

SECTION 5. Amends Section 82.006, Government Code, to continue the Board of Law Examiners for the standard 12-year period until September 1, 2015.

SECTION 6. Amends Subchapter A, Chapter 82, Government Code, by amending Section 82.007 and adding Sections 82.0071-82.0073, as follows:

Sec. 82.007. New heading: CAREER LADDER; ANNUAL PERFORMANCE EVALUATIONS. Deletes existing text regarding qualifications for employment and the responsibilities of the board and the staff of the board.

Sec. 82.0071. New heading: EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) Created from existing text of Section 82.007. Requires the executive director of the board or the executive director's designee to prepare and maintain a written policy statement that implements a program to ensure that all personnel decisions are made without regard to certain factors.

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

(c) Requires the policy statement to be updated annually, reviewed by the Commission on Human Rights for compliance with Subsection (b)(1) and filed with the governor's office and the supreme court. Deletes existing text regarding the policy statement.

Sec. 82.0072. STANDARDS OF CONDUCT. Requires the executive director or the executive director's designee to provide to board members and to board 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. 82.0073. SEPARATION 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 board staff.

SECTION 7. Amends Subchapter A, Chapter 82, Government Code, by adding Sections 82.010 through 82.013, as follows:

Sec. 82.010. TRAINING PROGRAM REQUIRED. (a) Provides that a person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) Requires the training program to provide the person with certain information.

Sec. 82.011. WRITTEN COMPLAINTS. (a) Requires the board to maintain a file on each written complaint filed with the board. 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 undercover investigation.

Sec. 82.012. 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.

Sec. 82.013. EFFECTIVE USE OF TECHNOLOGY. Requires the board to develop and implement a policy requiring 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 ensure certain factors are met.

SECTION 8. Amends Subchapter B, Chapter 82, Government Code, by adding Section 82.0242, as follows:

Sec. 82.0242. LAW STUDY REQUIREMENT FOR CERTAIN STUDENTS. (a) Provides that notwithstanding any other provision of law, the law study requirement for taking the bar examination is satisfied and a person is eligible to take the bar examination if the person has pursued the study of law at an approved law school or schools and has satisfied all requirements for graduation with a J.D. degree or its equivalent, other than completing the final 12 semester hours or the equivalent of 12 semester hours in quarter hours required for graduation.

(b) Prohibits any person qualifying to take the bar examination under Subsection (a) from being licensed to practice law until graduation or until satisfying all requirements for graduation.

(c) Provides that if a person described by Subsection (a) has not graduated with a J.D. degree or satisfied all requirements for graduation within two years from the date that the person satisfactorily completes all parts of the bar examination, the person's examination scores are void.

(d) Provides that this section expires September 1, 2004.

SECTION 9. Amends Section 82.027, Government Code, by adding Subsections (c) and (d), as follows:

(c) Authorizes the board, on a showing of good cause or to prevent hardship, to permit an applicant to file an application with the board not later than the 60th day after the deadline prescribed by Subsection (a) on payment of applicable late fees.

(d) Provides that the filing deadlines and late fees do not apply to an applicant who failed the preceding bar examination. Authorizes any such applicant to take the next examination administered on filing an application with the board and paying the required examination fees not later than the date established by supreme court rule.

SECTION 10. Amends Subchapter B, Chapter 82, Government Code, by adding Section 82.0272, 82.029, and 82.0291, as follows:

Sec. 82.0272. TESTING ACCOMMODATIONS FOR APPLICANTS WITH DISABILITIES. Authorizes an applicant who has a physical, mental, or developmental disability to request that the board provide testing accommodations on the bar examination. Authorizes an applicant whose request is denied to appeal the decision to a committee appointed by, and

composed of three or more members of, the board.

Sec. 82.029. RELEASE OF BAR EXAMINATION RESULTS. (a) Requires the board, on request of a law school that is conducting research on the achievement of the law school's students or graduates on the Texas bar examination, to provide the law school with information concerning the results of a bar examination and the achievement of particular applicants on the examination, including examination results desegregated by section or portion of the examination and any relevant statistics related to the results of the examination.

(b) Authorizes an applicant to request that the board not release the applicant's identity to a law school that requests information under Subsection (a). Requires the board to grant the applicant's request if certain conditions exist.

(c) Provides that a law school that receives information from the board under Subsection (a) is subject to any restriction on the release of the information under federal or state law.

(d) Provides that notwithstanding any other law, information that the board provides to a law school under Subsection (a) is confidential and may not be disclosed under any law related to open records or public information.

Sec. 82.0291. REPORT ON APPLICANTS WHO FAIL EXAMINATION. (a) Requires the board to compile a report indicating the number of applicants who fail the July 2004 bar examination. Requires the data to be aggregated by gender, ethnicity, and race. Requires the report to also include an analysis of the identifiable causes of failure and recommendations, if any, to address the causes of failure. Requires the board to report to the legislature not later than December 31, 2004.

(b) Provides that this section expires January 1, 2005.

SECTION 11. Amends Section 82.030, Government Code, by amending Subsection (f) and adding Subsection (g), as follows:

(f) Deletes the existing definition for "chemical dependency" and provides that "treatment facility" has the meaning assigned by Section 462.001, Health and Safety Code.

(g) Requires the board, subject to supreme court adoption by rule, to define "chemical dependency."

SECTION 12. Amends Section 82.038, Government Code, by amending Subsection (i) and adding Subsection (j), as follows:

(i) Requires the board, on request, in coordination with the State Bar of Texas to inform a member of the public whether a particular person holds a probationary license. Provides that any information that forms the basis for the issuance of the probationary license is confidential.

(j) Provides that "chemical dependency" has the meaning provided by supreme court rule adopted under Section 82.030.

SECTION 13. Repealer: Sections 82.025, 82.031, and 82.032, Government Code.

SECTION 14. Requires the Texas Supreme Court, in appointing members of the board for terms beginning in September 1, 2003, to appoint three persons to terms expiring August 31, 2005, three persons to terms expiring August 31, 2007, and three persons to terms expiring August 31, 2009.

SECTION 15. Makes application of Section 82.038(i), Government Code, prospective.

SECTION 16. Effective date: September 1, 2003.