

SECOND REGULAR SESSION
[PERFECTED]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1007
91ST GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, March 5, 2002, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

Senate Committee Substitute adopted March 20, 2002.

Taken up March 20, 2002. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

4197S.02P

AN ACT

To repeal sections 327.011, 327.031, 327.081, 327.401 and 327.411, RSMo, relating to the board of architects, engineers, surveyors and landscape architects, and to enact in lieu thereof five new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 327.011, 327.031, 327.081, 327.401 and 327.411, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as 327.011, 327.031, 327.081, 327.401 and 327.411, to read as follows:

327.011. As used in this chapter, the following words and terms shall have the meanings indicated:

(1) "Accredited degree program from a school of architecture", a degree from any school or other institution which teaches architecture and whose curricula for the degree in question have been, at the time in question, certified as accredited by the National Architectural Accrediting Board;

(2) "Accredited school of landscape architecture", any school or other institution which teaches landscape architecture and whose curricula on the subjects in question are or have been

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

at the times in question certified as accredited by the Landscape Architecture Accreditation Board of the American Society of Landscape Architects;

(3) "Accredited school of engineering", any school or other institution which teaches engineering and whose curricula on the subjects in question are or have been, at the time in question certified as accredited by the engineering accreditation commission of the accreditation board for engineering and technology or its successor organization;

(4) "Architect", any person authorized pursuant to the provisions of this chapter to practice architecture in Missouri, as the practice of architecture is defined in section 327.091;

(5) "Board", the Missouri board for architects, [professional] engineers, [professional land] surveyors and landscape architects;

(6) "Corporation", any general business corporation, professional corporation or limited liability company;

(7) "Department", the department of economic development;

(8) "Division", the division of professional registration in the department of economic development;

(9) "Landscape architect", any person licensed pursuant to the provisions of sections 327.600 to 327.635 who is qualified to practice landscape architecture by reason of special knowledge and the use of biological, physical, mathematical and social sciences and the principles and methods of analysis and design of the land, has demonstrated knowledge and ability in such areas, and has been duly licensed as a landscape architect by the board on the basis of professional education, examination and experience in landscape architecture;

(10) "Partnership", any partnership or limited liability partnership;

(11) "Person", any person, corporation, firm, partnership, association or other entity;

(12) "Professional engineer", any person authorized pursuant to the provisions of this chapter to practice as a professional engineer in Missouri, as the practice of engineering is defined in section 327.181;

(13) "Professional land surveyor", any person authorized pursuant to the provisions of this chapter to practice as a professional land surveyor in Missouri as the practice of land surveying is defined in section 327.272.

327.031. 1. The "Missouri Board for Architects, [Professional] Engineers, [Professional Land] Surveyors and Landscape Architects" is hereby established and shall consist of fourteen members: a chairperson, who may be either an architect, a professional engineer or a professional land surveyor; three architects, who shall constitute the architectural division of the board; three professional engineers, who shall constitute its professional engineering division; three professional land surveyors, who shall constitute its professional land surveying division; three landscape architects, who shall constitute its landscape architecture division; and a voting public member.

2. After receiving his or her commission and before entering upon the discharge of his or her official duties, each member of the board shall take, subscribe to and file in the office of the secretary of state the official oath required by the constitution.

3. The chairperson shall be the administrative and executive officer of the board, and it shall be his or her duty to supervise and expedite the work of the board and its divisions, and, at his or her election, when a tie exists between the divisions of the board, to break the tie by recording his or her vote for or against the action upon which the divisions are in disagreement. Each member of the architectural division shall have one vote when voting on an action pending before the board; each member of the professional engineering division shall have one vote when voting on an action pending before the board; the chairperson of the landscape architecture division or the chairperson's designee shall have one vote when voting on an action pending before the board; and each member of the professional land surveying division shall have one vote when voting on an action pending before the board. Every motion or proposed action upon which the divisions of the board are tied shall be deemed lost, and the chairperson shall so declare, unless the chairperson shall elect to break the tie as provided in this section. Seven voting members of the board and two members of each division shall constitute a quorum, respectively, for the transaction of business.

4. Each division of the board shall, at its first meeting in each even-numbered year, elect one of its members as division chairperson for a term of two years. The chairpersons of the architectural division, professional engineering division and the professional land surveying division so elected shall be vice chairpersons of the board, and when the chairperson of the board is an architect, the chairperson of the architectural division shall be the ranking vice chairperson, and when the chairperson of the board is a professional engineer, the chairperson of the professional engineering division shall be the ranking vice chairperson, and when the chairperson of the board is a professional land surveyor, the chairperson of the professional land surveying division shall be the ranking vice chairperson. The chairperson of each division shall be the administrative and executive officer of his or her division, and it shall be his or her duty to supervise and expedite the work of the division, and, in case of a tie vote on any matter, the chairperson shall, at his or her election, break the tie by his or her vote. Every motion or question pending before the division upon which a tie exists shall be deemed lost, and so declared by the chairperson of the division, unless the chairperson shall elect to break such tie by his or her vote.

5. Any person appointed to the board, except a public member, shall be a currently licensed architect, licensed professional engineer, licensed professional land surveyor or registered or licensed landscape architect in Missouri, as the vacancy on the board may require, who has been a resident of Missouri for at least five years, who has been engaged in active practice as an architect, professional engineer, professional land surveyor or landscape architect, as the case

may be, for at least ten consecutive years immediately preceding such person's appointment and who is and has been a citizen of the United States for at least five years immediately preceding such person's appointment. Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of engineering shall be regarded as active practice of engineering, for the purposes of this chapter. Active service as a faculty member, after meeting the qualifications required by section 327.314, while holding the rank of assistant professor or higher in an accredited school of engineering and teaching land surveying courses shall be regarded an active practice of land surveying for the purposes of this chapter. Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of architecture shall be regarded as active practice of architecture for the purposes of this chapter; provided, however, that no faculty member of an accredited school of architecture shall be eligible for appointment to the board unless such person has had at least three years' experience in the active practice of architecture other than in teaching. The public member shall be, at the time of appointment, a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

6. The governor shall appoint the chairperson and the other members of the board when a vacancy occurs either by the expiration of a term or otherwise, and each board member shall serve until such member's successor is appointed and has qualified. The position of chairperson shall alternate among an architect, a professional engineer and a professional land surveyor. All appointments, except to fill an unexpired term, shall be for terms of four years; but no person shall serve on the board for more than two consecutive four-year terms, and each four-year term shall be deemed to have begun on the date of the expiration of the term of the board member who is being replaced or reappointed, as the case may be. Any appointment to the board which is made when the senate is not in session shall be submitted to the senate for its advice and consent at its next session following the date of the appointment.

7. In the event that a vacancy is to occur on the board because of the expiration of a term, then ninety days prior to the expiration, or as soon as feasible after a vacancy otherwise occurs, the president of the American Institute of Architects/Missouri if the vacancy to be filled

requires the appointment of an architect, the president of the Missouri Association of Landscape Architects if the vacancy to be filled requires the appointment of a landscape architect, the president of the Missouri Society of Professional Engineers if the vacancy to be filled requires the appointment of an engineer, and the president of the Missouri Society of Professional Surveyors if the vacancy to be filled requires the appointment of a land surveyor, shall submit to the director of the division of professional registration a list of five architects or five professional engineers, five landscape architects or five professional land surveyors, as the case may require, qualified and willing to fill the vacancy in question, with the recommendation that the governor appoint one of the five persons so listed; and with the list of names so submitted, the president of the appropriate organization shall include in a letter of transmittal a description of the method by which the names were chosen. This subsection shall not apply to public member vacancies.

8. The board may sue and be sued as the Missouri board for architects, [professional] engineers, [professional land] surveyors and landscape architects, and its members need not be named as parties. Members of the board shall not be personally liable either jointly or severally for any act or acts committed in the performance of their official duties as board members, nor shall any board member be personally liable for any court costs which accrue in any action by or against the board.

9. Upon appointment by the governor and confirmation by the senate of the landscape architecture division, the landscape architectural council is hereby abolished and all of its powers, duties and responsibilities are transferred to and imposed upon the Missouri board for architects, [professional] engineers, [professional land] surveyors and landscape architects established pursuant to this section. Every act performed by or under the authority of the Missouri board for architects, [professional] engineers, [professional land] surveyors and landscape architects shall be deemed to have the same force and effect as if performed by the landscape architectural council pursuant to sections 327.600 to 327.635. All rules and regulations of the landscape architectural council shall continue in effect and shall be deemed to be duly adopted rules and regulations of the Missouri board of architects, [professional] engineers, [professional] **surveyors and** landscape architects [and land surveyors] until such rules and regulations are revised, amended or repealed by the board as provided by law, such action to be taken by the board on or before January 1, 2002.

10. Upon appointment by the governor and confirmation by the senate of the landscape architecture division, all moneys deposited in the landscape architectural council fund created in section 327.625 shall be transferred to the state board for architects, [professional] engineers, [professional land] surveyors and landscape architects fund created in section 327.081. The landscape architectural council fund shall be abolished upon the transfer of all moneys in it to the state board of architects, [professional] engineers, [land] surveyors and landscape architects.

327.081. 1. All funds received pursuant to the provisions of this chapter shall be

deposited in the state treasury to the credit of the "State Board for Architects, [Professional] Engineers, [Land] Surveyors and Landscape Architects Fund" which is hereby established. All expenditures authorized by this chapter shall be paid from funds appropriated to the board by the general assembly from this fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

327.401. 1. The right to practice as an architect or to practice as a professional engineer or to practice as a professional land surveyor **or to practice as a landscape architect** shall be deemed a personal right, based upon the qualifications of the individual, evidenced by such individual's professional license and shall not be transferable; but any architect or any professional engineer or any professional land surveyor **or any landscape architect** may practice his or her profession through the medium of, or as a member or as an employee of, a partnership or corporation if the plans, specifications, estimates, plats, reports, surveys or other like documents or instruments of the partnership or corporation are signed and stamped with the personal seal of the architect, professional engineer or professional land surveyor **or landscape architect** by whom or under whose immediate personal supervision the same were prepared and provided that the architect or professional engineer or professional land surveyor **or landscape architect** who affixes his or her signature and personal seal to any such plans, specifications, estimates, plats, reports or other documents or instruments shall be personally and professionally responsible therefor.

2. Any domestic corporation formed under the corporation law of this state, or any foreign corporation, now or hereafter organized and having as one of its purposes the practicing of architecture or professional engineering or professional land surveying **or landscape architecture** and any existing corporation which amends its charter to propose to practice architecture or professional engineering or professional land surveying **or landscape architecture** shall obtain a certificate of authority for each profession named in the articles of incorporation or articles of organization from the board which shall be renewed in accordance with the provisions of section 327.171 or 327.261 or 327.351, as the case may be, and from and after the date of such certificate of authority and while the authority or a renewal thereof is in effect, may offer and render architectural or professional engineering or professional land surveying **or landscape architectural** services in this state if:

(1) At all times during the authorization or any renewal thereof the directors of the corporation shall have assigned responsibility for the proper conduct of all its architectural or professional engineering or professional land surveying **or landscape architectural** activities in this state to an architect licensed and authorized to practice architecture in this state or to a professional engineer licensed and authorized to practice engineering in this state or to a professional land surveyor licensed and authorized to practice professional land surveying in this state, **or to a landscape architect licensed and authorized to practice landscape architecture in this state**, as the case may be; and

(2) The person or persons who is or are personally in charge and supervises or supervise the architectural or professional engineering or professional land surveying **or landscape architectural** activities, as the case may be, of any such corporation in this state shall be licensed and authorized to practice architecture or professional engineering or professional land surveying **or landscape architecture**, as the case may be, as provided in this chapter; and

(3) The corporation pays such fees for the certificate of authority, renewals or reinstatements thereof as are required.

327.411. 1. Each architect and each professional engineer and each professional land surveyor **and each landscape architect** shall have a personal seal in a form prescribed by the board, and he or she shall affix the seal to all final documents including, but not limited to, plans, specifications, estimates, plats, reports, surveys, proposals and other documents or instruments prepared by the licensee, or under such licensee's immediate personal supervision, and such licensee shall be held personally responsible for the contents of all such documents sealed by such licensee.

2. The personal seal of an architect or professional engineer or professional land surveyor **or landscape architect** shall be the legal equivalent of the licensee's signature whenever and wherever used, and the owner of the seal shall be responsible for the architectural, engineering **[or]**, surveying **or landscape architectural** documents, as the case may be, when the licensee places his or her personal seal on such plans, specifications, estimates, plats, reports, surveys or other documents or instruments for, or to be used in connection with, any architectural **[or]**, engineering **[project or]**, survey **or landscape architectural project**.

3. Any architect, professional engineer **[or]**, professional land surveyor **or landscape architect** may, but is not required to, attach a statement over his or her signature, authenticated by his or her personal seal, specifying the particular plans, specifications, plats, reports, surveys or other documents or instruments, or portions thereof, intended to be authenticated by the seal, and disclaiming any responsibility for all other plans, specifications, estimates, reports, or other documents or instruments relating to or intended to be used for any part or parts of the architectural **[or]**, engineering **[project or]**, survey **or landscape architectural project**.

4. Nothing in this section, or any rule or regulation of the board shall require any professional to seal preliminary or incomplete documents.

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