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S.B. No. 303

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Board of Law
Examiners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 82.001(b), Government Code, is amended
to read as follows:

(b) The supreme court shall appoint the members of the board
for staggered six-year terms, with the terms of one-third of the
members expiring May [~~August~~] 31 of each odd-numbered year. A
member is subject to removal by the supreme court as provided by
Section 82.0021.

SECTION 2. Section 82.006, Government Code, is amended to
read as follows:

Sec. 82.006. SUNSET PROVISION. The Board of Law Examiners
is subject to Chapter 325 (Texas Sunset Act). Unless continued in
existence as provided by that chapter, the board is abolished
September 1, 2029 [~~2017~~].

SECTION 3. Section 82.0073, Government Code, is amended to
read as follows:

Sec. 82.0073. SEPARATION OF RESPONSIBILITIES; DELEGATION.
(a) The Board of Law Examiners shall 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.

1 (b) Subject to supreme court rules, the Board of Law
2 Examiners may delegate routine decisions to the executive director
3 of the board, including waiver requests.

4 SECTION 4. Section 82.010, Government Code, is amended by
5 amending Subsection (b) and adding Subsection (c) to read as
6 follows:

7 (b) The training program must provide the person with
8 information regarding:

9 (1) the law governing board operations [~~legislation~~
10 ~~that created the board~~];

11 (2) the programs, functions, rules, and budget of
12 ~~operated by~~ the board;

13 (3) [~~the role and functions of the board,~~

14 [~~(4) the rules of the board, with an emphasis on the~~
15 ~~rules that relate to disciplinary and investigatory authority,~~

16 [~~(5) the current budget for the board,~~

17 [~~(6)~~] the results of the most recent formal audit of
18 the board;

19 (4) [~~(7)~~] the requirements of:

20 (A) laws relating to [~~the~~] open meetings, [~~law,~~
21 ~~Chapter 551,~~

22 [~~(B) the~~] public information, [~~law, Chapter 552,~~

23 [~~(C) the~~] administrative procedure, and
24 disclosing conflicts of interest [~~law, Chapter 2001~~]; and

25 (B) [~~(D)~~] other laws applicable to members of a
26 state policymaking body in performing their duties [~~relating to~~
27 ~~public officials, including conflict-of-interest laws~~]; and

1 (5) [~~(8)~~] any applicable ethics policies adopted by
2 the board or the Texas Ethics Commission.

3 (c) The executive director of the Board of Law Examiners
4 shall create a training manual that includes the information
5 required by Subsection (b). The executive director shall
6 distribute a copy of the training manual annually to each member of
7 the board. On receipt of the training manual, each member of the
8 board shall sign and submit to the executive director a statement
9 acknowledging receipt of the training manual.

10 SECTION 5. Sections 82.023(b), (c), and (e), Government
11 Code, are amended to read as follows:

12 (b) The form for the declaration must clearly identify those
13 conditions of character and fitness [~~set out in Section 82.027~~]
14 that may be investigated by the board and that may result in the
15 denial of the declarant's application to take the examination.

16 (c) The board shall notify each first-year law student who
17 files the declaration not later than the date established by
18 supreme court rule [~~on or before January 1 of the year in which the~~
19 ~~student begins law school, not later than August 1 of the following~~
20 ~~year,~~] of the board's decision as to the student's acceptable
21 character and fitness. The board shall notify all other declarants
22 not later than the date established by supreme court rule [~~not later~~
23 ~~than the 270th day after the date the declaration was filed]~~ whether
24 or not it has determined that the declarant has acceptable
25 character and fitness.

26 (e) If the board determines that an applicant may suffer
27 from chemical dependency, the board shall require the applicant to

1 meet with representatives of the Lawyers' Assistance Program of the
2 State Bar of Texas or a similar program of the state bar and may
3 require the applicant to submit to [~~a treatment facility for~~]
4 evaluation by a licensed mental health professional designated by
5 this board. The board may seek advice and consultation from the
6 Lawyers' Assistance Program of the State Bar of Texas or a similar
7 program of the state bar in designating mental health professionals
8 qualified to conduct evaluations of declarants who may suffer from
9 chemical dependency.

10 SECTION 6. Sections 82.027(a), (b), and (c), Government
11 Code, are amended to read as follows:

12 (a) Each applicant to take a bar examination must file an
13 application with the Board of Law Examiners not later than the date
14 established by supreme court rule and pay the fee established by
15 supreme court rule [~~not later than the 180th day before the first~~
16 ~~day of the examination for which the person is applying~~].

17 (b) The application must include a statement certifying
18 [~~consists of a verified affidavit stating~~] that since the filing of
19 the applicant's original declaration of intention to study law, the
20 applicant:

21 (1) has not been formally charged with any violation
22 of law, excluding:

23 (A) cases that have been dismissed for reasons
24 other than technical defects in the charging instrument;

25 (B) cases in which the applicant has been found
26 not guilty;

27 (C) minor traffic violations;

1 (D) cases in which the record of arrest or
2 conviction was expunged by court order;

3 (E) pardoned offenses; and

4 (F) Class C misdemeanors;

5 (2) ~~[is not mentally ill,~~

6 ~~(3)]~~ has not been charged with fraud in any legal
7 proceeding; and

8 (3) ~~(4)]~~ has not been involved in civil litigation or
9 bankruptcy proceedings that reasonably bear on the applicant's
10 fitness to practice law.

11 (c) On a showing of good cause or to prevent hardship, the
12 board may permit an applicant to file an application with the board
13 not later than the date established by supreme court rule ~~[not later~~
14 ~~than the 60th day after the deadline prescribed by Subsection (a)]~~
15 on payment of applicable late fees established by supreme court
16 rule.

17 SECTION 7. Sections 82.030(a) and (c), Government Code, are
18 amended to read as follows:

19 (a) The Board of Law Examiners shall assess each applicant's
20 moral character and fitness based on:

21 (1) the investigation of character and fitness
22 performed after the filing of the declaration of intention to study
23 law; and

24 (2) the filing of the application ~~[affidavit]~~ required
25 by Section 82.027 and the board's investigation into the accuracy
26 and completeness of the application ~~[affidavit]~~.

27 (c) If the board determines that an applicant may suffer

1 from chemical dependency, the board shall require the applicant to
2 submit to [~~a treatment facility for~~] evaluation by a licensed
3 mental health professional designated by the board. The board may
4 seek advice and consultation from the Lawyers' Assistance Program
5 of the State Bar of Texas or a similar program of the state bar in
6 designating mental health professionals qualified to conduct
7 evaluations of applicants who may suffer from chemical dependency.

8 SECTION 8. Section 82.033(d), Government Code, is amended
9 to read as follows:

10 (d) The supreme court may set reasonable fees for additional
11 services provided by the board, but the fee for any single
12 additional service, other than the late fee for an examination
13 application, may not exceed \$150.

14 SECTION 9. Subchapter B, Chapter 82, Government Code, is
15 amended by adding Section 82.039 to read as follows:

16 Sec. 82.039. LICENSING GUIDELINES. (a) To assist the
17 Board of Law Examiners in making consistent and fair determinations
18 related to the licensing of attorneys in this state, the board shall
19 develop specific guidelines for:

20 (1) determining the moral character and fitness of
21 license applicants;

22 (2) overseeing probationary license holders; and

23 (3) granting waiver requests.

24 (b) The Board of Law Examiners shall develop the guidelines
25 required under Subsection (a) based on the board's past decisions
26 and on any other criteria the board considers necessary. The board
27 is not required to take any specific action provided in the

1 guidelines.

2 SECTION 10. Sections 82.023(g) and 82.030(f), Government
3 Code, are repealed.

4 SECTION 11. Section 82.001, Government Code, as amended by
5 this Act, applies only to members appointed to the Board of Law
6 Examiners on or after September 1, 2017.

7 SECTION 12. (a) Except as provided by Subsection (b) of
8 this section, Section 82.010, Government Code, as amended by this
9 Act, applies to a member of the Board of Law Examiners appointed
10 before, on, or after the effective date of this Act.

11 (b) A member of the Board of Law Examiners who, before the
12 effective date of this Act, completed the training program required
13 by Section 82.010, Government Code, as that law existed before the
14 effective date of this Act, is required to complete additional
15 training only on subjects added by this Act to the training program
16 as required by Section 82.010, Government Code, as amended by this
17 Act. A board member described by this subsection may not vote,
18 deliberate, or be counted as a member in attendance at a meeting of
19 the board held on or after December 1, 2017, until the member
20 completes the additional training.

21 SECTION 13. As soon as practicable after the effective date
22 of this Act, the Texas Supreme Court shall modify the rules
23 necessary to implement the changes in license application
24 requirements made under Section 82.027, Government Code, as amended
25 by this Act.

26 SECTION 14. Section 82.027, Government Code, as amended by
27 this Act, applies only to an application to take the state bar

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1 examination that is submitted to the Board of Law Examiners on or
2 after September 1, 2017.

3 SECTION 15. This Act takes effect September 1, 2017.