

1-1 By: Watson, Hinojosa, Taylor of Collin S.B. No. 303  
1-2 (In the Senate - Filed February 24, 2017; February 27, 2017,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 March 29, 2017, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 8, Nays 0; March 29, 2017,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Huffman	X		
1-10	Hughes	X		
1-11	Birdwell	X		
1-12	Creighton	X		
1-13	Estes	X		
1-14	Lucio	X		
1-15	Nelson	X		
1-16	Schwertner		X	
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 303 By: Hughes

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to the continuation and functions of the Board of Law  
1-22 Examiners.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 82.001(b), Government Code, is amended  
1-25 to read as follows:

1-26 (b) The supreme court shall appoint the members of the board  
1-27 for staggered six-year terms, with the terms of one-third of the  
1-28 members expiring May [~~August~~] 31 of each odd-numbered year. A  
1-29 member is subject to removal by the supreme court as provided by  
1-30 Section 82.0021.

1-31 SECTION 2. Section 82.006, Government Code, is amended to  
1-32 read as follows:

1-33 Sec. 82.006. SUNSET PROVISION. The Board of Law Examiners  
1-34 is subject to Chapter 325 (Texas Sunset Act). Unless continued in  
1-35 existence as provided by that chapter, the board is abolished  
1-36 September 1, 2029 [~~2017~~].

1-37 SECTION 3. Section 82.0073, Government Code, is amended to  
1-38 read as follows:

1-39 Sec. 82.0073. SEPARATION OF RESPONSIBILITIES; DELEGATION.

1-40 (a) The Board of Law Examiners shall develop and implement  
1-41 policies that clearly separate the policymaking responsibilities  
1-42 of the board and the management responsibilities of the executive  
1-43 director and the staff of the board.

1-44 (b) Subject to supreme court rules, the Board of Law  
1-45 Examiners may delegate routine decisions to the executive director  
1-46 of the board, including waiver requests.

1-47 SECTION 4. Section 82.010, Government Code, is amended by  
1-48 amending Subsection (b) and adding Subsection (c) to read as  
1-49 follows:

1-50 (b) The training program must provide the person with  
1-51 information regarding:

1-52 (1) the law governing board operations [~~legislation~~  
1-53 ~~that created the board~~];

1-54 (2) the programs, functions, rules, and budget of  
1-55 [operated by] the board;

1-56 (3) [~~the role and functions of the board;~~

1-57 [~~(4) the rules of the board, with an emphasis on the~~  
1-58 ~~rules that relate to disciplinary and investigatory authority;~~

1-59 [~~(5) the current budget for the board;~~

1-60 [~~(6) the results of the most recent formal audit of~~

2-1 the board;

2-2 (4) ~~[(7)]~~ the requirements of:

2-3 (A) laws relating to ~~the~~ open meetings, ~~law,~~  
2-4 ~~Chapter 551,~~

2-5 ~~[(B) the] public information, [law, Chapter 552,~~

2-6 ~~[(C) the] administrative procedure, and~~

2-7 disclosing conflicts of interest [law, Chapter 2001]; and

2-8 (B) ~~[(D)]~~ other laws applicable to members of a

2-9 state policymaking body in performing their duties [relating to  
2-10 public officials, including conflict-of-interest laws]; and

2-11 (5) ~~[(8)]~~ any applicable ethics policies adopted by  
2-12 the board or the Texas Ethics Commission.

2-13 (c) The executive director of the Board of Law Examiners

2-14 shall create a training manual that includes the information

2-15 required by Subsection (b). The executive director shall

2-16 distribute a copy of the training manual annually to each member of

2-17 the board. On receipt of the training manual, each member of the

2-18 board shall sign and submit to the executive director a statement

2-19 acknowledging receipt of the training manual.

2-20 SECTION 5. Sections 82.023(b), (c), and (e), Government

2-21 Code, are amended to read as follows:

2-22 (b) The form for the declaration must clearly identify those

2-23 conditions of character and fitness ~~[set out in Section 82.027]~~

2-24 that may be investigated by the board and that may result in the

2-25 denial of the declarant's application to take the examination.

2-26 (c) The board shall notify each first-year law student who

2-27 files the declaration not later than the date established by

2-28 supreme court rule [on or before January 1 of the year in which the

2-29 student begins law school, not later than August 1 of the following

2-30 year,] of the board's decision as to the student's acceptable

2-31 character and fitness. The board shall notify all other declarants

2-32 not later than the date established by supreme court rule [not later

2-33 than the 270th day after the date the declaration was filed] whether

2-34 or not it has determined that the declarant has acceptable

2-35 character and fitness.

2-36 (e) If the board determines that an applicant may suffer

2-37 from chemical dependency, the board shall require the applicant to

2-38 meet with representatives of the Lawyers' Assistance Program of the

2-39 State Bar of Texas or a similar program of the state bar and may

2-40 require the applicant to submit to ~~[a treatment facility for]~~

2-41 evaluation by a licensed mental health professional designated by

2-42 this board. The board may seek advice and consultation from the

2-43 Lawyers' Assistance Program of the State Bar of Texas or a similar

2-44 program of the state bar in designating mental health professionals

2-45 qualified to conduct evaluations of declarants who may suffer from

2-46 chemical dependency.

2-47 SECTION 6. Sections 82.027(a), (b), and (c), Government

2-48 Code, are amended to read as follows:

2-49 (a) Each applicant to take a bar examination must file an

2-50 application with the Board of Law Examiners not later than the date

2-51 established by supreme court rule and pay the fee established by

2-52 supreme court rule [not later than the 180th day before the first

2-53 day of the examination for which the person is applying].

2-54 (b) The application must include a statement certifying

2-55 [consists of a verified affidavit stating] that since the filing of

2-56 the applicant's original declaration of intention to study law, the

2-57 applicant:

2-58 (1) has not been formally charged with any violation

2-59 of law, excluding:

2-60 (A) cases that have been dismissed for reasons

2-61 other than technical defects in the charging instrument;

2-62 (B) cases in which the applicant has been found

2-63 not guilty;

2-64 (C) minor traffic violations;

2-65 (D) cases in which the record of arrest or

2-66 conviction was expunged by court order;

2-67 (E) pardoned offenses; and

2-68 (F) Class C misdemeanors;

2-69 (2) ~~[is not mentally ill,~~

3-1                    [~~3~~] has not been charged with fraud in any legal  
3-2 proceeding; and  
3-3                    (3) [~~4~~] has not been involved in civil litigation or  
3-4 bankruptcy proceedings that reasonably bear on the applicant's  
3-5 fitness to practice law.

3-6                    (c) On a showing of good cause or to prevent hardship, the  
3-7 board may permit an applicant to file an application with the board  
3-8 not later than the date established by supreme court rule [~~not later~~  
3-9 ~~than the 60th day after the deadline prescribed by Subsection (a)~~]  
3-10 on payment of applicable late fees established by supreme court  
3-11 rule.

3-12                    SECTION 7. Sections 82.030(a) and (c), Government Code, are  
3-13 amended to read as follows:

3-14                    (a) The Board of Law Examiners shall assess each applicant's  
3-15 moral character and fitness based on:

3-16                    (1) the investigation of character and fitness  
3-17 performed after the filing of the declaration of intention to study  
3-18 law; and

3-19                    (2) the filing of the application [~~affidavit~~] required  
3-20 by Section 82.027 and the board's investigation into the accuracy  
3-21 and completeness of the application [~~affidavit~~].

3-22                    (c) If the board determines that an applicant may suffer  
3-23 from chemical dependency, the board shall require the applicant to  
3-24 submit to [~~a treatment facility for~~] evaluation by a licensed  
3-25 mental health professional designated by the board. The board may  
3-26 seek advice and consultation from the Lawyers' Assistance Program  
3-27 of the State Bar of Texas or a similar program of the state bar in  
3-28 designating mental health professionals qualified to conduct  
3-29 evaluations of applicants who may suffer from chemical dependency.

3-30                    SECTION 8. Section 82.033(d), Government Code, is amended  
3-31 to read as follows:

3-32                    (d) The supreme court may set reasonable fees for additional  
3-33 services provided by the board, but the fee for any single  
3-34 additional service, other than the late fee for an examination  
3-35 application, may not exceed \$150.

3-36                    SECTION 9. Subchapter B, Chapter 82, Government Code, is  
3-37 amended by adding Section 82.039 to read as follows:

3-38                    Sec. 82.039. LICENSING GUIDELINES. (a) To assist the  
3-39 Board of Law Examiners in making consistent and fair determinations  
3-40 related to the licensing of attorneys in this state, the board shall  
3-41 develop specific guidelines for:

3-42                    (1) determining the moral character and fitness of  
3-43 license applicants;

3-44                    (2) overseeing probationary license holders; and

3-45                    (3) granting waiver requests.

3-46                    (b) The Board of Law Examiners shall develop the guidelines  
3-47 required under Subsection (a) based on the board's past decisions  
3-48 and on any other criteria the board considers necessary. The board  
3-49 is not required to take any specific action provided in the  
3-50 guidelines.

3-51                    SECTION 10. Sections 82.023(g) and 82.030(f), Government  
3-52 Code, are repealed.

3-53                    SECTION 11. Section 82.001, Government Code, as amended by  
3-54 this Act, applies only to members appointed to the Board of Law  
3-55 Examiners on or after September 1, 2017.

3-56                    SECTION 12. (a) Except as provided by Subsection (b) of  
3-57 this section, Section 82.010, Government Code, as amended by this  
3-58 Act, applies to a member of the Board of Law Examiners appointed  
3-59 before, on, or after the effective date of this Act.

3-60                    (b) A member of the Board of Law Examiners who, before the  
3-61 effective date of this Act, completed the training program required  
3-62 by Section 82.010, Government Code, as that law existed before the  
3-63 effective date of this Act, is required to complete additional  
3-64 training only on subjects added by this Act to the training program  
3-65 as required by Section 82.010, Government Code, as amended by this  
3-66 Act. A board member described by this subsection may not vote,  
3-67 deliberate, or be counted as a member in attendance at a meeting of  
3-68 the board held on or after December 1, 2017, until the member  
3-69 completes the additional training.

4-1 SECTION 13. As soon as practicable after the effective date  
4-2 of this Act, the Texas Supreme Court shall modify the rules  
4-3 necessary to implement the changes in license application  
4-4 requirements made under Section 82.027, Government Code, as amended  
4-5 by this Act.

4-6 SECTION 14. Section 82.027, Government Code, as amended by  
4-7 this Act, applies only to an application to take the state bar  
4-8 examination that is submitted to the Board of Law Examiners on or  
4-9 after September 1, 2017.

4-10 SECTION 15. This Act takes effect September 1, 2017.

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