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SENATE BILL 230

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Mary Jane M. Garcia

AN ACT

RELATING TO GOVERNMENT EFFICIENCY; CREATING THE ARCHITECTS BOARD BY COMBINING THE FUNCTIONS OF THE BOARD OF LANDSCAPE ARCHITECTS AND THE BOARD OF EXAMINERS FOR ARCHITECTS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] ARCHITECTS BOARD CREATED.--The "architects board" is created and is administratively attached to the regulation and licensing department.

Section 2. [NEW MATERIAL] ARCHITECTURE FUND CREATED.--The "architecture fund" is created in the state treasury. All funds received by the architects board and money collected pursuant to the Architectural Act and the Landscape Architects Act shall be deposited in the fund. All expenses certified by

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1 the board as properly and necessarily incurred in the discharge
2 of its duties shall be paid on the warrant of the secretary of
3 finance and administration issued upon vouchers signed by the
4 chair of the architects board or the chair's designee;
5 provided, however, that at no time shall the total warrants
6 issued exceed the total amount of funds accumulated under the
7 Architectural Act or the Landscape Architects Act. The
8 secretary of finance and administration shall retain
9 subaccounts representing income and expenses for examination,
10 certification, registration and other items related to
11 implementing and retaining professional standards for
12 architects and landscape architects, respectively. Balances
13 in the fund at the end of a fiscal year shall not revert and
14 shall remain in the architecture fund for use in accordance
15 with the provisions of the Architectural Act and the Landscape
16 Architects Act.

17 Section 3. [NEW MATERIAL] MEMBERS--QUALIFICATIONS--TERMS--
18 VACANCIES--REMOVAL.--

19 A. The architects board consists of nine members
20 appointed by the governor for staggered terms of three years
21 each. Three of the members shall be professional architects
22 who have been registered as architects in New Mexico for at
23 least ten years, one of whom is in architectural education in
24 an accredited college of architecture. Three members shall be
25 professional landscape architects who have been registered as

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1 landscape architects for at least five years. Three members
2 shall be members of the public who shall not have been licensed
3 as architects or landscape architects and shall have no
4 financial interest, direct or indirect, in the occupations
5 regulated.

6 B. The members of the architects board, each of
7 whom shall be at least thirty years of age, a citizen of the
8 United States and a resident of New Mexico for at least five
9 years prior to the date of appointment, shall be appointed by
10 the governor. Initial appointments shall be made in a manner
11 that the terms of three members expire on June 30 of each year.
12 Each member shall serve until the member's successor has been
13 appointed and qualified. A vacancy shall be filled for the
14 unexpired term by appointment by the governor of a person
15 having similar qualifications as the member replaced.

16 C. The architects board shall meet within sixty
17 days of the beginning of a fiscal year and elect from its
18 membership a chair and vice chair. The board shall meet at
19 other times as necessary or as deemed advisable by the chair
20 and a majority of the members or the governor, but not less
21 than four times per year. Reasonable notice of all meetings
22 shall be given in the manner prescribed by the board. A
23 majority of the board shall constitute a quorum at a meeting or
24 hearing.

25 D. The governor may select members from the board

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1 of examiners for architects and the board of landscape
2 architects whose terms have not expired on their respective
3 former boards.

4 E. An architects board member shall receive a
5 certificate of appointment from the governor and file with the
6 secretary of state the constitutional oath of office prior to
7 beginning the member's first term of office. The governor may
8 remove any member from the board for neglect of a duty required
9 by law, for incompetence or, if the member is a licensed
10 architect or a licensed landscape architect, for any improper
11 or unprofessional conduct as defined by rule of the board.

12 F. An architects board member is limited to two
13 consecutive full terms in office, and a member who fails to
14 attend three consecutive meetings shall be removed
15 automatically from the board unless excused for reasons given
16 by board rule.

17 Section 4. [NEW MATERIAL] ARCHITECTS BOARD OPERATION.--

18 A. An architects board member may participate in a
19 meeting of the board by means of a conference telephone or
20 other similar communications equipment so long as each member
21 participating by conference telephone can be identified when
22 speaking; all participants are able to hear each other at the
23 same time; and members of the public attending the meeting are
24 able to hear all board members who speak during the hearing.

25 B. The records of the board shall be prima facie

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1 evidence of the proceedings of the board set forth in the
2 record and a transcript of the record, duly certified by the
3 board under seal, shall be admissible in evidence with the same
4 force and effect as if the original were produced.

5 C. The board shall keep a register of all
6 applications for registration, which shall show the name, age
7 and residence of each applicant, the date of application, the
8 applicant's place of business, the applicant's educational and
9 other qualifications, whether an examination was required,
10 whether the applicant was rejected, whether a certificate of
11 registration was granted, the date of the action of the board
12 and any other information deemed necessary by the board.

13 D. The board shall protect from public disclosure
14 board records and papers that are of a confidential nature and
15 are not public records. These include examination material for
16 examinations not yet given, file records of examination problem
17 solutions, letters of inquiry and references concerning
18 applicants, board inquiry forms concerning applicants and
19 investigation files. All data, communications and information
20 acquired by the board relating to actual or potential
21 disciplinary action is confidential and shall not be disclosed.

22 E. The board shall make an annual roster to the
23 secretary of state and each registered architect showing the
24 names and addresses of all registered architects. Copies of
25 the roster may be distributed or sold to the public.

1 Section 5. [NEW MATERIAL] BOARD POWERS AND DUTIES.--

2 A. The architects board may:

3 (1) administer oaths and take sworn testimony
4 on matters within the board's jurisdiction;

5 (2) subpoena a party for a hearing on
6 licensure or discipline of a registrant or the denial,
7 suspension or revocation of a certificate of registration;

8 (3) offer, engage in and promote educational
9 and other activities as it deems necessary to fulfill its duty
10 to promote the public welfare;

11 (4) establish by rule for continuing education
12 standards and requirements;

13 (5) set criteria for the training of intern
14 architects and intern landscape architects;

15 (6) grant, deny, renew, suspend or revoke
16 certificates of registration to practice landscape architecture
17 in accordance with the provisions of the Uniform Licensing Act
18 for any cause stated in the Landscape Architects Act and the
19 Architectural Act;

20 (7) grant, deny, renew, suspend or revoke
21 landscape architect in training certificates in accordance with
22 the provisions of the Uniform Licensing Act for any cause
23 stated in the Landscape Architects Act and the Architectural
24 Act;

25 (8) conduct hearings upon charges relating to

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1 discipline of a registrant or the denial, suspension or
2 revocation of a certificate of registration; and

3 (9) take a civil action to enforce the
4 provisions of the Landscape Architects Act and the
5 Architectural Act.

6 B. The architects board shall:

7 (1) promulgate, adopt and modify rules to
8 carry out the provisions of the Architectural Act and the
9 Landscape Architects Act;

10 (2) provide by rule for architects and
11 landscape architects examinations, registration and re-
12 registration of applicants and keep a complete record of all
13 examinations and set examination fees;

14 (3) establish at least three subcommittees:
15 one to carry out the licensing, regulation and certification of
16 architects; the second to carry out the licensing, regulation
17 and certification of landscape architects; and the third, a
18 joint practice committee, in conjunction with the state board
19 of licensure for professional engineers and surveyors, to
20 promote the public welfare, promote and develop the highest
21 professional standards in design, planning and construction and
22 resolve ambiguities concerning the professions. The
23 composition of the joint practice committee and its powers and
24 duties shall be in accordance with identical resolutions
25 adopted by the architects board and the state board of

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1 licensure for professional engineers and surveyors; and

2 (4) submit annually to the governor a report
3 of its transactions of the preceding year accompanied by a
4 complete statement of the receipts and expenditures of the
5 board. The report shall be available to the public.

6 Section 6. Section 61-15-2 NMSA 1978 (being Laws 1979,
7 Chapter 362, Section 2, as amended) is amended to read:

8 "61-15-2. DEFINITIONS.--As used in the Architectural Act:

9 A. "architect" means [~~any~~] an individual registered
10 under the Architectural Act to practice architecture;

11 B. "architectural services" means the services, as
12 defined by rule of the board, performed in the practice of
13 architecture. These services include predesign services,
14 programming and planning, providing designs, drawings,
15 specifications, other technical submissions, administration of
16 construction contracts, coordination of technical submissions
17 prepared by others and such other professional services as may
18 be necessary to the planning, progress and completion of any
19 architectural services. An architect who has complied with all
20 of the laws of New Mexico relating to the practice of
21 architecture has a right to engage in the incidental practice
22 of activities properly classifiable as engineering; provided
23 that the architect does not [~~hold himself out to be~~] make any
24 representation as being an engineer or as performing
25 engineering services and further provided that the architect

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1 performs only that part of the work for which the architect is
2 professionally qualified and uses qualified professional
3 engineers, architects or others for those portions of the work
4 in which the contracting architect is not qualified.

5 Furthermore, the architect shall assume all responsibility for
6 compliance with all laws, codes, rules and ordinances of the
7 state or its political subdivisions pertaining to documents
8 bearing an architect's professional seal;

9 C. "board" means the architects board [~~of examiners~~
10 ~~for architects~~];

11 D. "construction administration", when performed by
12 an architect, means the interpretation of the drawings and
13 specifications, the establishment of standards of acceptable
14 workmanship and the observation of construction to determine
15 its consistency with the general intent of the construction
16 documents. Inspection of buildings by contractors,
17 subcontractors or building inspectors or their agents shall not
18 constitute construction administration;

19 E. "incidental practice" means the performance of
20 other professional services that are related to an architect's
21 performance of architectural services;

22 F. "intern architect" means a person who is
23 actively pursuing completion of the requirements for
24 diversified training in accordance with rules of the board;

25 G. "practice of architecture" means rendering or

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1 offering to render architectural services in connection with
2 the design, construction, enlargement or alteration of a
3 building or group of buildings and the space within the site
4 surrounding those buildings, which have as their principal
5 purpose human occupancy or habitation. "Practice of
6 architecture" does not include the practice of engineering as
7 defined in the Engineering and Surveying Practice Act but may
8 include such engineering work as is incidental practice;

9 H. "project" means the building or group of
10 buildings and the space within the site surrounding the
11 buildings as defined by the construction documents; and

12 I. "responsible charge" means that all
13 architectural services have been or will be performed under the
14 direction, guidance and restraining power of a registered
15 architect who has exercised professional judgment with respect
16 thereto."

17 Section 7. Section 61-24B-3 NMSA 1978 (being Laws 1985,
18 Chapter 151, Section 3, as amended) is amended to read:

19 "61-24B-3. DEFINITIONS.--As used in the Landscape
20 Architects Act:

21 A. "board" means the architects board [~~of landscape~~
22 ~~architects~~];

23 B. "general administration of a construction
24 contract" means the interpretation of drawings and
25 specifications, the establishment of standards of acceptable

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1 workmanship and the periodic observation of construction to
2 facilitate consistency with the general intent of the
3 construction documents;

4 C. "landscape architect" means an individual
5 registered under the Landscape Architects Act to practice
6 landscape architecture;

7 D. "landscape architect in training" means an
8 individual certified under the Landscape Architects Act who is
9 actively pursuing completion of the requirements for licensure
10 pursuant to that act; and

11 E. "landscape architecture" means the art,
12 profession or science of designing land improvements, including
13 consultation, investigation, research, design, preparation of
14 drawings and specifications and general administration of
15 contracts. Nothing contained in this definition shall be
16 construed as authorizing a landscape architect to engage in the
17 practice of architecture, engineering or land surveying as
18 defined by Chapter 61, Articles 15 and 23 NMSA 1978."

19 Section 8. TEMPORARY PROVISION--TRANSFER OF FUNDS AND
20 POWERS--REFERENCES IN LAW.--On July 1, 2010, all money from the
21 fund of the board of examiners for architects and the landscape
22 architects fund shall be transferred to the architecture fund.
23 All references in law to the board of examiners for architects
24 and the board of landscape architects shall be construed to be
25 references to the architects board. On the effective date of

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1 this act, all powers and duties provided by law for the board
2 of examiners for architects and the board of landscape
3 architects are transferred to the architects board.

4 Section 9. TERMINATION OF BOARD LIFE--DELAYED REPEAL.--
5 The architects board is terminated on July 1, 2015 pursuant to
6 the Sunset Act. The board shall continue to operate until July
7 1, 2016. Effective July 1, 2016, the Architectural Act and the
8 Landscape Architects Act are repealed.

9 Section 10. REPEAL.--Sections 61-15-3 through 61-15-5,
10 61-15-13, 61-24B-6, 61-24B-7, 61-24B-14, 61-24B-15 and
11 61-24B-17 NMSA 1978 (being Laws 1979, Chapter 362, Section 3,
12 Laws 1931, Chapter 155, Sections 3 and 4, Laws 1979, Chapter
13 362, Section 10 and Laws 1985, Chapter 151, Sections 6, 7, 14,
14 15 and 18, as amended) are repealed.

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