

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Staff Report

to the

Sunset Advisory Commission

February 20, 1978

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## INTRODUCTION

This report is submitted pursuant to Section 1.06, Subsection (3) of the Texas Sunset Act and contains a review of the operations of the Texas Board of Architectural Examiners. Termination of the Texas Board of Architectural Examiners has been scheduled for September 1, 1979 unless it is continued by law.

The material contained in the report is divided into three major sections: background, review of operations and conclusions. The Background section contains a brief history of legislative intent and a discussion of the original need for the Texas Board of Architectural Examiners. The Review of Operations section contains a review of the operation of the agency, and uses the self-evaluation report submitted by the agency as the basis of review unless noted. The information contained in the self-evaluation report was verified, and additional data were obtained through interviews and review of agency files and other data sources. The Conclusions section summarizes the import of material developed in the individual criteria, from the standpoint of whether or not Sunset criteria are being met, and develops approaches relative to these findings.

This report is designed to provide an objective view of agency operations, based on the evaluation techniques utilized to date. Together with pertinent information obtained from public hearings, a factual base for the final recommendations to the Legislature will be provided.

## BACKGROUND

## HISTORICAL DEVELOPMENT

### Introduction

Regulation of architecture and the building industry dates back as far as the Babylonian period, where the Codes of Hamurabi assigned harsh punishment to irresponsible builders. Historically, the magnitude of potential consequences resulting from architectural incompetence has focused public attention upon the profession in most societies.

The licensing and registration of architects has become one of the fundamental methods for regulation of the profession. The basic objectives of licensing and registration laws are to insure a minimum level of competence and minimum standards of conduct. Most of these laws determine who can enter into the practice of architecture, establish the conditions for continuing in practice, and provide penalties for violation of requirements.

### Historical Development of Texas Regulation

Although there is evidence of architectural associations in Texas as early as the 1890's, there was no regulation by the state until the passage of the Architects' Registration Law in 1937. Until this time, the marketplace served as the chief regulatory mechanism, and anyone who could develop and maintain a professional practice was considered an architect.

The specific circumstances leading up to the enactment of the Architects' Registration Law are not altogether clear from available documents. Apparently, the drive to establish industry-related professional regulatory boards was initiated and guided by prominent architects and engineers in the state. By the mid-1930's, the state and the nation were beginning the slow rise out of the Great Depression, and professional registration came to be generally regarded as one element of a

much broader social and economic revitalization process. The New London school disaster of March 18, 1937, in which 295 students and teachers were killed by the explosion and collapse of a school building, apparently sparked widespread public concern regarding standards for the building industry and set the stage for decisive legislative action. The Forty-fifth Legislature in Regular Session enacted legislation which created the Engineering Registration Board on May 28, 1937. Shortly thereafter, on June 9, 1937, the Architects' Registration Law was also enacted, creating the Board of Architectural Examiners, which later became the Texas Board of Architectural Examiners.

Since original enactment, the Architects' Registration Law has been amended six times by the Legislature (1941, Forty-seventh Legislature; 1943, Forty-eighth Legislature; 1951, Fifty-second Legislature; 1955, Fifty-fourth Legislature; 1969, Sixty-first Legislature; 1973, Sixty-third Legislature). These legislative changes, which are discussed in greater detail in the body of the Background material, have resulted in a gradual lessening of statutory restrictions upon the operations of the Board and a gradual tightening of restrictions upon entry into the profession of architecture.

#### Board of Architectural Examiners

The Registration Law has as its primary purpose the protection of the public health, safety and welfare by insuring that the practice of architecture is conducted in a competent and ethical manner by qualified professionals. The major objectives of the Board are to register qualified architects in a manner which is consistent with the requirements of the state and the profession, and to regulate the profession of architecture by effectively enforcing standards of practice and ethical conduct. Funds for the Board's operations are provided from Legislative

appropriation out of statutory fees collected and deposited in the State Treasury to the credit of a special fund known as the Architects' Registration Fund.

#### Composition

The Board of Architectural Examiners was originally composed of three members appointed by the Governor and approved by the Senate to six-year overlapping terms. In 1951, the Fifty-second Legislature amended the Act to increase the number of Board members to six. Each member must be a practicing architect and must have resided in the State of Texas and have been actively engaged in the practice of architecture for five years preceding his appointment. Not more than one member may have direct financial interest nor supervisory nor faculty involvement in any school of architecture.

#### Administration

The original Act placed the bulk of administrative responsibility in the hands of a secretary-treasurer who was both a member of the Board and appointed by the Board. Compensation for the secretary-treasurer was set by the Board at a rate not to exceed \$1,800 per year. Amendments by the Fifty-second Legislature in 1951 deleted these statutory limits in favor of a more flexible approach allowing the Legislature to fix salary levels biennially. In 1955, amendments to the Act allowed the employment of such clerical employees as may be needed to assist the secretary-treasurer, and authorized the compensation of all such employees out of the Architects' Registration Fund. Further amendments in 1973 authorized the employment of an executive director to conduct the affairs of the Board under the direction of the Board and at a salary determined by the Board. In addition, the amendments introduced in 1973 provided that the secretary-treasurer henceforth may, but need not necessarily be a member of the Board.

The Board is currently administered by an Executive Director and three full-time assistants. There are also appropriations for seasonal part-time help, which the agency routinely employs.

The original act included provisions which placed requirements upon the Board for public notification within 15 days after any rule changes. These requirements were broadened in 1955 to include 10-day prior notification of meetings considering rule changes. These requirements upon the Board were repealed by amendments introduced in 1973 by the Sixty-third Legislature. Currently, there are no statutory requirements for the Board to make such notification.

#### Funding

The Board's operations are funded out of various fees collected from applicants and registrants which are deposited in the State Treasury to the credit of the Architects' Registration Fund. All expenditures from this Fund are paid out only by warrants of the State Comptroller for the purposes and in the amounts fixed by the Legislature. Disbursements from the Fund are prohibited from being in any way a charge upon the General Revenue Fund of the state.

As enacted in 1937, all money over and above \$5,000 on hand in the Fund at the time of auditing was to be permanently diverted to the General Revenue Fund. This amount was raised to \$6,500 in 1941, and to \$10,000 in 1951. In 1955, the Fifty-fourth Legislature amended this provision to read "... at the end of each fiscal year, there shall be transferred from the Architects' Registration Fund to the General Fund of the State of Texas, ten percent of the gross income as full compensation for all governmental services rendered the Texas Board of Architectural Examiners." This provision was repealed in 1973 by the Sixty-third Legislature, which allowed all moneys collected to accumulate in the Architects' Registration Fund.

The current Act specifies generally the maximum fees that may be collected for various examinations and licenses issued, but the Board may establish and collect such fees at or below the statutory limits. The Act was amended by the Sixty-first and the Sixty-third Legislatures thereby making it possible to adjust fees upward to meet current conditions. Further adjustments are possible within the present law, as amended, as future needs develop. Thus, fees are conditioned by the Board's level of expenditure.

### Responsibilities

The Board's primary responsibilities are those of licensing and enforcement. The Board is granted the authority to promulgate rules and regulations as needed to ensure the effective administration of these responsibilities.

In regard to licensing responsibilities, the Board establishes standards of education and experience which must be met by applicants, administers examinations, processes annual license renewal, issues certificates of registration and collects necessary fees. In addition, the Board develops procedures for reciprocal registration with other state architectural licensing agencies.

In regard to enforcement responsibilities, the Board investigates complaints and all charges of alleged violations. Voluntary compliance programs are augmented by legal action and license revocation proceedings when necessary. Enforcement activities, however, are limited by the various exceptions to the applicability of the registration law. In general terms, these exceptions include members of related professional groups, such as engineers and landscape architects; employees of various public or quasi-public entities; and those persons performing architectural services who do not hold themselves out to be architects nor use in any form the word "architect". This final exception to the Act basically means

that anyone can practice architecture in the State of Texas provided that he does not call himself an architect.

#### Certification of Architects

The general relaxation of statutory requirements upon the operations of the Board has been paralleled by increasingly rigorous requirements upon individuals entering the profession of architecture. The original act of 1937 included a grandfather clause which awarded certification as an architect to any person of good moral character who was engaged in the practice of architecture for at least six months prior to the Act's passage. Until 1955, any individual who had completed an approved technical course in architecture together with evidence of three years experience in architectural practice was not required to take an examination in order to obtain registration. The amendments introduced in 1955 require that any applicant for examination must present evidence of having completed not less than eight years satisfactory experience in the offices of registered architects, or any combination of architectural schooling and experience totalling eight years. Amendments to the Act which were introduced by the Sixty-third Legislature in 1973 further specify that after June 30, 1980, all persons qualifying for examination must have graduated from a recognized school of architecture, in addition to all other requirements.

NCARB. The Board's examination and reciprocal licensing functions are closely tied to the operations of the National Council of Architectural Registration Boards (NCARB). The NCARB is a non-profit membership organization based in Washington, D.C., comprising the legally constituted architectural registration boards of all states and territories of the United States.

The chief activities of the NCARB concern the development of uniform national architectural examinations and the maintenance of a nationwide system of interstate reciprocity. The NCARB develops professional examinations which are used by all state registration boards to ascertain professional competence. The NCARB also develops recommended standards of education and experience which most states have adopted to determine qualification for examination. In addition to these services rendered to member boards, the NCARB administers for individual architects a system of nationwide certification which facilitates reciprocal registration. For a fee, NCARB evaluates and certifies the qualifications of individual architects. All states recognize the NCARB Certificate as evidence of an applicant's qualifications to practice.

Thus, to a great extent, NCARB standards determine the requirements for certification as an architect in Texas. These standards have grown progressively more demanding during the past few years. Recently, the NCARB has initiated the requirement for a new design problem to be administered separately as an element of the professional examination. Additionally, internship requirements are being increasingly formalized by NCARB, requiring the fulfillment of specific experiential criteria rather than simply a period of employment.

## Comparative Analysis

To determine the pattern of regulation of the occupation of architecture within the United States, a survey of the 50 states was conducted to determine how this has been addressed in other states.

The need to regulate the occupation of architecture is currently expressed through licensing requirements imposed by 50 of the 50 states surveyed. From the standpoint of organizational patterns, 24 states, including Texas, meet this expressed need through an independent board or commission whose members are appointed by the chief executive. In 26 states, the function is carried out through a governmental department charged with the regulation of multiple occupations.

In those states which utilize independent boards and commissions, 16 require that appointees be confirmed by the Legislature; and membership in 36 states is limited to persons who are licensed members of the occupation. In Texas, appointees are confirmed by the Legislature and membership is limited to persons who are licensed members of the occupation. Thirty-eight percent of the states, as does Texas, utilize independent governing bodies limiting the responsibilities of the membership to that of policy-making as distinguished from the role of full-time administrators.

A majority of the states, including Texas, indicate that the revenue sources of the regulatory body, regardless of organizational form, were derived from fees collected. Only 23 states, indicated that these bodies were not solely supported by fees and charges of the agency.

All 50 of the state boards which regulate the occupation of architecture administer national examinations. In 38 states, licensees are required to renew their licenses annually. Texas licenses for a one-year period. Enforcement

activities in all 50 states involve investigation of complaints from consumers and others engaged in the occupation of architecture. Hearings are conducted inside the regulating agency in 48 states. In Texas, hearings are conducted by the agency.

States which regulate the occupation of architecture indicated the necessity of performing the basic functions of administration, testing, license issuance, and enforcement. These basic functions also constitute the primary elements of the operations of the Texas Board of Architectural Examiners and are examined in light of specific criteria required in the Texas Sunset Act in the material which follows.

## REVIEW OF OPERATIONS

## Criterion I

The efficiency with which the agency or advisory committee operates.

The review under this criterion centered on financial data and other records of the agency. This information was analyzed to determine if funds available to the agency had been utilized in a reasonable manner to achieve the purposes for which the agency was created and to determine if areas existed in which greater efficiency of operations could be achieved.

The Texas Board of Architectural Examiners is a self-supporting agency with operating costs financed out of the Architects Registration Fund #109, maintained at the State Treasury. The Board is responsible for the licensing and regulation of architects in the State of Texas.

### Administration

The Board is administered by a small staff, consisting of an Executive Director and three full-time administrative assistants, plus part-time seasonal help. These staff members appear to be conscientious, efficient, and effective in the performance of their individual duties.

In order to accomplish the overall program objectives of licensing and enforcement, the staff is responsible for performing a variety of specific and interrelated tasks which can be grouped under the following general categories:

1. Licensing procedures.
2. Records maintenance.
3. Accounting responsibilities.
4. Report preparation.
5. Administration of Board activities.
6. General support activities.

### Licensing Procedures

Administration of licensing functions represents the largest component of the agency's annual workload, and the particular elements of this function will be examined in greater detail throughout the remainder of this report. Licensing procedures include all tasks associated with examination, annual registration and reciprocal registration. Professional and Qualifying Examinations are administered in December and June respectively. Annual registration is carried out between February and July. Applications for examination and reciprocal registration are received and processed on a continuing basis throughout the year.

In reviewing the elements outlined above, it was observed that authority and responsibility for all tasks are clearly defined and cross referenced between members of the staff. The cyclical licensing operations described have been appropriately staggered throughout the year to facilitate an even work flow. In this regard, no backlogs were observed which could be attributed to inadequate scheduling or inefficient personnel utilization. In general, the examination indicated that procedures for administering the various functions involved in the licensing process are efficient.

### Record Maintenance

A significant portion of the Board's administrative responsibilities involve record maintenance activities. Records are maintained on applicants, examinees, licensees, Board meetings, moneys received and expended, and all renewals and refusals of certificates.

The agency's system of record maintenance is logically arranged and appropriate for an agency of this size. The agency has developed effective procedures for periodic review of materials on file. Records are maintained in

compliance with recommended retention period guidelines prepared by the Record Preservation Advisory Committee. The most recent request to destroy records was dated June 6, 1977.

#### Accounting Responsibilities

The Board's accounting function is handled primarily by the executive director's chief administrative assistant. In carrying out its accounting work, the agency is supported through computer services provided through the Board of Control. These services are used to make the computational operations associated with the deposit, expenditure, and control of agency revenues.

No problems in the agency's accounting procedures were found. Conversations with the State Auditor's Office indicated that these bookkeeping functions are handled in accordance with accepted accounting principles. Additionally, no grounds were found for the issuance of management letters in the 1974-1976 period covered in the last audit.

#### Report Preparation

The staff is responsible for the preparation of a yearly roster distributed to all registrants, an annual report, as well as budget submissions and performance reports filed in accordance with requirements of the Governor's Budget and Planning Office and the Legislative Budget Office. Quarterly reports include Social Security Quarterly Report, IRS Quarterly Report, and the TEC Quarterly Report. Monthly reports include the IRS Deposit, Employees Group Insurance, Employees Retirement Report, TEC Report, and the Social Security Report.

Analysis indicated that these reporting functions are conducted in an appropriate manner and in compliance with requirements.

### Administration of Board Activities

The staff is responsible for the planning and preparations for all Board meetings and hearings, recording of minutes, research and notification requirements. In addition, agency staff assists and coordinates with Attorney General's staff in regard to the prosecution of violations of the Act.

Board meetings are held approximately 4-6 times per year. Each Board member receives \$25 for each day he is engaged in the duties of this office, including time spent in necessary travel, together with actual expenses incurred in the performance of duties.

### General Support Activities

The staff is responsible for miscellaneous correspondence, purchasing, and distributing responsibilities which represent a significant portion of the agency's workload. Analysis of these processes and materials indicated that operations are orderly and efficient.

### Financial Position

A detailed presentation of Board expenditures as a percentage of total expenditures for fiscal year 1977 is presented in Exhibit I-1. As indicated in the exhibit, the largest component of cost is in personnel. The expenditure pattern shown below is generally typical of other licensing agencies of similar size.

#### EXHIBIT I-1

#### Board of Architectural Examiners

#### Expenditures for the Fiscal Year 1977

	Amount	%
<u>Personnel Costs</u>		
Salaries	\$ 60,063.96	43.6
Seasonal Help	1,999.50	1.5
Benefits	9,232.49	6.7
	<u>(71,295.95)</u>	<u>(51.8)</u>

Expenditures for the Fiscal Year 1977

	Amount	%
<u>Board Expenses</u>		
Per Diem	\$ 3,350.00	2.4
Travel	13,286.46	9.7
	(16,636.46)	(12.1)
 <u>Operating Expenses</u>		
NCARB Exam Material	26,512.50	19.3
Postage	7,819.90	5.7
Office Rental	4,541.40	3.3
Telephone and Telegraph	1,184.61	.8
Association and Registration Fees	1,800.00	1.3
Stationery, Painting, Office Supplies	4,238.05	3.1
Other Operating Expense	3,582.81	2.6
	(49,679.27)	(36.1)
	\$(137,611.68)	(100)

Unit Cost of Administering Registration

The number of registered architects has grown progressively over the past ten years at a rate of approximately 5.7 percent. The cost of operating the agency has increased at a substantially higher rate, as indicated in the following table.

EXHIBIT I-2

Historical Unit Cost

Fiscal Year	Annual Expenses*	No. of Reg. Architects	Unit Cost
1968	\$ 26,039	2,982	\$ 8.73
1969	31,025	3,133	9.90
1970	45,805	3,323	13.79
1971	51,686	3,505	14.75
1972	58,955	3,829	15.40
1973	75,993	4,084	18.61
1974	91,021	4,349	20.93
1975	99,216	4,555	21.78
1976	129,445	4,800	26.97
1977	137,345	5,039	27.26

\* Comptroller's Annual Report Figures

The rapid escalation in unit cost over the past three years can be attributed primarily to inflation and to the added personnel costs associated with the executive director taking on full time responsibilities in 1975. Stabilization of those elements associated with salaries and benefits, is expected to moderate the projected rate of increase in unit cost.

The unit cost of administration by the Board of Architectural Examiners is comparable to that of other state licensing agencies as indicated in Exhibit I-3. The significantly lower unit costs of the much larger Board of Registration for Professional Engineers suggests that there are certain economies of scale built into the structure of regulatory agencies.

EXHIBIT I-3

Cost Per License - FY 1977

Agency	No. Regulated	Total Expenditures*	Cost Per License
Board of Registration for Professional Engineers	31,181	\$450,688	\$14.45
Board of Architectural Examiners	5,039	\$137,345	\$27.26
Board of Registrations for Public Surveyors	1,328	\$ 41,744	\$31.43
Board of Landscape Architects	960	\$ 50,622	\$52.73

\* From Comptroller's 1977 Annual Report

This unit cost information must be considered in light of the range of services offered by the agency and the efficiency with which these operations are carried out. As indicated in Criterion 4, Exhibit IV-1, the agency undertakes several specific tasks on behalf of applicants and registrants which are not ordinarily performed by other licensing agencies. These aspects of expanded workload include

the development of a photo identification system for examination procedures, the annual distribution of a roster to all registrants, and direct advisory coordination with educational institutions. Moreover, the performance of these activities is characteristically of high quality.

Projected Revenues and Expenditures

Summaries and projections of revenues and expenditures of the Board of Architectural Examiners are presented for fiscal year-1968 to 1982 in Exhibit I-4.

EXHIBIT I-4

Analysis of Revenues and Expenditures  
Architect's Registration Fund

Fiscal Year	Revenues			Total	Expenditures	Fund Balance
	Transfers to Gen. Rev.	Licenses & Fees	Other			
1968	\$ (3,941)	\$ 37,100	\$ 1,183	\$ 34,342	\$ 26,039	\$ 93,874
1969	(4,218)	39,285	1,191	36,258	31,029	99,103
1970	(4,392)	43,923	(1,599)	37,932	45,809	91,226
1971	(5,837)	58,365	(263)	52,265	51,686	91,805
1972	(4,628)	46,275	1	41,648	58,955	74,498
1973	-	79,025	(908)	78,117	75,993	76,622
1974	-	120,537	5	120,542	91,021	106,143
1975	-	123,640	320	123,960	99,216	130,887
1976	-	132,520	(519)	132,001	129,445	133,443
1977	-	162,820	151	162,971	137,345	159,069
<u>Projections</u>						
1978	-	183,415	-	183,415	152,101	190,383
1979	-	193,290	-	193,290	154,517	229,156
1980	-	216,195	-	216,195	169,472	275,879
1981	-	235,215	-	235,215	185,584	325,510
1982	-	254,234	-	254,234	201,696	378,048

The projections indicate that the rate of increase in expenditures is expected to level off to a rate of approximately 6.9 percent, due to the stabilization of unit costs previously discussed. Fund balances, on the other hand, can be expected to increase dramatically during the next five years assuming continuation of present revenue funds. The current fee structure on which these revenues are based is shown below.

EXHIBIT I-5

Schedule of Fees

	Statutory Limitations Effective <u>6-12-73</u>	Set By Board Effective <u>9-22-73</u>
Examinations	\$ NTE 100.00	
Application Processing		\$ 10.00
Residents		65.00
Nonresidents		90.00
Reciprocity	100.00	100.00
Annual Registration Renewal		
Residents	NTE 50.00	20.00
Nonresidents	NTE 100.00	30.00
Emeritus		5.00
Late Renewal	20.00	20.00
Reinstatement	NTE 100.00	50.00
Re-examination Fee		
Residents:		
Professional Examination		65.00
Equivalency Examination, Per Part		25.00
Nonresidents		
Professional Examination		90.00
Equivalency Examination, Per Part		30.00

## Summary

The Texas Board of Architectural Examiners performs its operations in an efficient and comprehensive manner. Administrative responsibilities are clearly defined and procedures are logically and effectively implemented.

The largest component of expenditure is personnel costs which are comparable with those of similar agencies. The unit cost of administration has risen steadily during the past ten years, primarily as a result of inflation and increased personnel cost. While the Board's unit cost is higher than that of some larger licensing agencies, the agency offers various services which are not usually provided in other organizations. Moreover, those operations are carried out efficiently. Projections of revenues and expenditures indicate that fund balances may be expected to increase substantially unless changes occur that will bring revenues generated more in line with the agency's cash flow pattern.

While the agency carries out its functions efficiently, a review of its operations in the overall context of information presented indicates certain potential areas for cost savings. A great deal of staff time and operating expense is associated with the processing of annual renewal fees. Savings could be achieved by processing renewals of registration on a biennial rather than annual basis. Currently, 13 other states process renewals on a biennial basis.

Similarly, much staff time and an annual amount of approximately \$10,000 are devoted to the yearly development of a roster of the state's registered architects. This roster is distributed to all registrants free of charge. The advisability of continuing this function in its present form is questionable, given the costs and time involved. Consideration could therefore be given to achieving cost savings through the modification or discontinuance of the roster procedure.

## Criterion 2

An identification of the objectives intended for the agency or advisory committee and the problem or need which the agency or advisory committee was intended to address, extent to which the objectives have been achieved, activities of the agency in addition to those granted by statute and the authority for these activities.

The review under this criterion centered on an identification of the agency's statutory objectives as they related to the perceived need and the extent to which agency methods used can reasonably be expected to achieve those objectives. Statutes were reviewed to determine if objectives described in the self-evaluation report presented an accurate reflection of statutory duties. Agency viewpoints were sought to provide additional clarification; and appropriate files were reviewed to collect and verify selected data presented under this criterion.

The overall objective of the Texas Board of Architectural Examiners is to protect the public health safety and welfare by insuring that the practice of architecture is conducted in a competent and ethical manner by qualified professionals. To accomplish this broad objective the agency undertakes a variety of tasks which are organized under two primary functions: licensing and enforcement.

### Licensing

Licensing of architects in Texas calls for initial examination for certification, annual renewal of registration and the reciprocal registration of out-of-state architects.

### Examination

The architectural examination process requires the establishment of stan-

dards for education and experience and administration of examinations.

1. Establishment of Standards

Section 7(a) of the Architects' Registration Law specifies that an applicant for examination in Texas must be of good moral character, a graduate of a recognized school of architecture and demonstrate satisfactory experience in the offices of registered architects. Education and experience requirements are calculated according to a somewhat complicated table of equivalent. For the most part, however, these requirements translate into an educational component consisting of a five-year Bachelor's degree in architecture, plus three years of internship experience in the offices of registered architects.

Section 7(c) of the Architects' Registration Law stipulates that until June 30, 1980, applicants who have not graduated from a recognized school of architecture may still be eligible for examination if they demonstrate evidence of satisfactory architectural education and experience totaling eight years, and if they pass the NCARB Qualifying Test prior to Professional Examination.

To a great extent, standards for examinations are established by the National Council of Architectural Registration Boards. The preface of the rules and regulations of the Texas Board of Architectural Examiners states that:

The Texas position, with respect to registration, will likely always be very near the NCARB guidelines. One of 55 State and Territorial Member Boards of NCARB, Texas will support and implement NCARB programs possible under Texas law.

In fact, Texas standards for education and experience are identical to those of the NCARB with only minor exceptions. The primary exception is that, while NCARB requires the fulfillment of experience requirements to receive NCARB Certification, these requirements are not essential to qualify for the Professional

Examination. Some states allow applicants who have graduated from a school of architecture to take the examination before all experience requirements have been fulfilled. Texas, on the other hand, requires applicants to complete a three-year internship program prior to the Professional Examination.

## 2. Administration of Exams

The Texas Board of Architectural Examiners administers two examinations. Both examinations are developed by NCARB. The Qualifying Test is administered to individuals who have not received an architectural degree. The Professional Examination is administered to those individuals who pass the preliminary Qualifying Test and to those who possess an architectural degree from an accredited university.

### a. Qualifying Test

The Qualifying Test is essentially a screening device to determine that non-degreed individuals are qualified for the Professional Exam. The Qualifying Test is administered at three locations (Austin, Houston and Arlington) in June of each year. The test is administered in a three-day period. The test period totals 22 hours. The test covers these architectural subjects: a) Structural Technology, b) Materials and Methods of Construction, c) Environmental Control Systems, d) Architectural History, e) Principles of Site Planning and Architectural Design, and f) a Design Problem.

The Qualifying Test is developed by NCARB and, with the exception of the design problem, it is graded by computer by the Educational Testing Service in Princeton N.J. The design problem is graded by the Board of Architectural Examiners. Inspection of Qualifying Test tabulations indicates that this section of the examination is not graded unfairly nor arbitrarily by the Texas Board since the ratio of passing on this section is generally higher than other sections of the examination.

The Qualifying Test is distributed by NCARB to the state boards at a cost of \$52.50 per test. The Texas Board of Architectural Examiners administers the Qualifying Test to residents for a fee of \$65, and to non-residents for a fee of \$90. Individuals who pass parts of the test may retake only those parts which they have failed. The cost for retakes is \$25 per part.

Results of the Qualifying Test in the last five years:

	QUALIFYING TEST									
	FY '73		FY '74		FY '75		FY '76		FY '77	
	#	%	#	%	#	%	#	%	#	%
Pass	0		22	22	20	18	23	19	35	23
Fail	10	100	79	78	90	82	97	81	118	77
Total	10		101		110		120		153	

b. Professional Examination

The Professional Examination is developed by NCARB. It is the fundamental prerequisite for national certification as an architect. All state architectural registration boards use the NCARB Professional Examination to measure professional competence and to establish a basis for licensing.

The Professional Examination is administered at three locations (Austin, Houston and Arlington) in December of each year. The examination is conducted in a two-day period and totals 16 hours (1977 Examination). The examination is on these subjects: a) Environmental Analysis, b) Architectural Programming, c) Design and Technology, and d) Construction.

The current Professional Examination is developed by NCARB, and is graded by computer by the Educational Testing Service in Princeton, N.J.

The Professional Examination is distributed by NCARB to the various state boards for \$52.50 per examination. The Texas Board of Architectural Examiners

administers the Professional Examination to residents for a fee of \$65 and to non-residents for a fee of \$90. The entire examination is currently graded on a pass/fail basis. Applicants who fail any part must retake the entire examination.

Results of the Professional Examination in the last five years:

PROFESSIONAL EXAMINATION

	FY '73		FY '74		FY '75		FY '76		FY '77	
	#	%	#	%	#	%	#	%	#	%
Pass	184	65	193	58	199	55	202	51	272	59
Fail	100	35	139	42	163	45	198	49	192	41
Total	284		332		362		400		464	

Registration

The registration process involves annual license renewal and reciprocal registration.

1. Annual License Renewal

The Architects' Registration Law requires all architects to register annually with the Board and pay an annual renewal fee. The current renewal fee is \$20 for residents and \$30 for non-residents. The annual registration renewal deadline is March 1. The late registration penalty is \$20. Failure to remit the annual renewal fee, plus penalty fee, by June 1, may result in a Board hearing for revocation of registration. The individual's license may be reinstated for a fee of \$50 plus payment of renewal fees and penalties.

DELIQUENT REGISTRANTS

	1975	1976	1977
Number	281	334	329
Percent	6.2	7.0	6.5

Currently, there are no additional requirements for demonstration of qualification for renewal of registration. NCARB has proposed a system of continuing professional development and testing. However, this proposal is still in early stages. It will not be effective for some time.

## 2. Reciprocal Registration

Section 8(a) of the Architects Registration Law states that the Board of Architectural Examiners is authorized to grant a certificate of practice to any architect who possesses a valid certificate from another state if the state's requirements are equivalent to those of Texas and the state extends the similar privilege of reciprocity to Texas architects. The initial registration fee for reciprocal licensing in Texas is \$100.

Reciprocal registration is coordinated by the National Council of Architectural Registration Boards. The applicant is responsible for all arrangements for development of a Council Record and Certification. This is a summary of individual professional background and certification that the applicant meets all standards for NCARB licensing. The NCARB charges the applicant a total of \$230 for the development and transfer of these records.

For the most part, architects who have fulfilled all requirements for NCARB Certification are uniformly granted reciprocal registration by the Texas Board since the NCARB requirements are equivalent to those of Texas. The only exceptions are cases in which derogatory comments or appraisals are included in the individual's record. In these cases, the Board may request a personal interview before acting on reciprocal registration. An inspection of the minutes of Board meetings indicates that reciprocal licensing has been denied 11 times in the last

three years. Six of the cases were individuals who lacked two years of experience following base-state registration--an NCARB requirement which has since been dropped. Five cases were individuals who were requesting direct reciprocal licensing without first obtaining NCARB Certification. In only one case has the Texas Board approved this type of application for direct reciprocal registration.

Exhibit I-1 summarizes the net increase of registered architects between 1968 and 1977. Exhibits II-2 and II-3 detail this net increase by indicating breakdowns of both the additions and the decreases in registration. During this period, most additions have resulted from examination and, to a lesser extent, reciprocal transfer. Most of the decreases have resulted from non-payment of renewal fees or by death. Only two instances have involved revocation for dishonest practice.

The effectiveness of the licensing process can be evaluated from several perspectives. The agency has been very effective in the administration of examination procedures. But the entire registration process appears to have been removed from the jurisdiction and control of the state. The critical process of establishing standards has been largely delegated to the NCARB. With the exception of grading the design problem, the testing process is controlled by NCARB. The reciprocal licensing process is also dominated by NCARB procedures. A full consideration of the advantages and disadvantages of a national system of architectural registration would be beyond the scope of this report. On balance, however, the advantages of such a system would seem to outweigh disadvantages.

Effectiveness, however, should be considered in terms of supply and demand relationships as they apply to a particular situation. Although there is no known standard for optimal allocation of architects, comparison with that of other states may provide some indication of need. Exhibit II-4 presents a comparative

EXHIBIT II-I

BREAKDOWN OF NET INCREASES  
IN REGISTERED ARCHITECTS - 1968 THRU 1977  
LICENSED BY THE BOARD OF ARCHITECTURAL EXAMINERS

	<u>1968</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>
Registered Architects at the Beginning of Year	2,840	3,829	4,084	4,349	4,555	4,800
Net Increase	<u>142</u>	<u>255</u>	<u>265</u>	<u>206</u>	<u>245</u>	<u>238</u>
Registered Architects at End of Year	2,982	4,084	4,349	4,555	4,800	5,039
Residence of These Registrants:						
Texas	2,197	2,881	3,077	3,205	3,419	3,602
Out-of-Texas	<u>785</u>	<u>1,203</u>	<u>1,272</u>	<u>1,350</u>	<u>1,381</u>	<u>1,437</u>
	2,982	4,084	4,349	4,555	4,800	5,039

EXHIBIT II-2

BREAKDOWN OF ADDITIONS  
 IN REGISTERED ARCHITECTS 1968-1977  
 LICENSED BY THE BOARD OF ARCHITECTURAL EXAMINERS

	1968	1973	1974	1975	1976	1977
New Registrations by:						
Written Examinations	120	167	205	193	206	202
Education and Training	2	2	-	-	-	-
Reciprocal Transfers	<u>61</u>	<u>157</u>	<u>164</u>	<u>119</u>	<u>134</u>	<u>134</u>
Total New Registrations	185	326	369	312	340	336
Reinstatements	<u>1</u>	<u>7</u>	<u>7</u>	<u>4</u>	<u>7</u>	<u>11</u>
Total Additions	186	333	376	316	347	347

EXHIBIT II-3  
 BREAKDOWN OF ATTRITION  
 IN NUMBER OF REGISTERED ARCHITECTS 1968-1977  
 LICENSED BY THE BOARD OF ARCHITECTURAL EXAMINERS

	<u>1968</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>
Decreases						
<u>By Revocation:</u>						
Non Payment of Renewal Fees	21	49	76	84	88	85
Dishonest Practice	-	-	-	1	1	-
By Death	<u>23</u>	<u>29</u>	<u>35</u>	<u>25</u>	<u>13</u>	<u>24</u>
Total Decreases	44	78	111	110	102	109

## EXHIBIT II-4

COMPARATIVE SUPPLY OF ARCHITECTS  
AMONG SELECTED STATES

	<u>No. Registered Architects</u>	<u>Total State Population (Thousands)</u>	<u>Architects Per 1000 Population</u>	<u>\$ Construction Non-Residential (millions)</u>	<u>Architects Per \$ Construction Non-Residential (millions)</u>
Texas	5,039	12,487	.40	1482.1	3.40
New York	7,180	18,084	.40	636.9	11.27
Louisiana	2,300	3,841	.60	294.1	7.82
Colorado	2,080	2,583	.81	300.8	6.91
Virginia	2,900	5,320	.55	473.5	6.12
Maryland	2,469	4,144	.60	365.5	6.76
Michigan	2,914	9,104	.32	599.3	4.86
Florida	4,645	8,421	.55	879.5	5.28

of the number of registered architects per 1000 population for several states. In these terms, Texas ranks slightly lower than most other states surveyed, indicating that there are proportionately fewer architects practicing in Texas than elsewhere. This factor stands in decided contrast to the level of construction and architectural opportunity in this state, compared with other states. Among the eight states surveyed, Texas has registered fewest architects in relation to dollar value of non-residential construction. On the basis of those figures, it would appear that the supply of architects in Texas probably does not match demand for their services, relative to the situation in other states. Thus, the licensing activities of the Texas Board of Architectural Examiners, while effective in terms of insuring that architects meet an acceptable level of competence, may have also had the effect of restricting the supply of registered architects in this state.

#### Enforcement

Enforcement activities of the Texas Board of Architectural Examiners are restricted primarily to complaint processing, hearings involving registered architects and injunctive powers on alleged violations by unlicensed individuals. Each of these elements of the enforcement process is discussed in greater detail under Criterion 6.

The scope of the agency's enforcement activities is constrained by the nature of the enabling statute. The fundamental limitation is this provision: anyone can practice architecture as long as they do not represent themselves as a licensed architect by using the word "architect". Thus, the agency's enforcement function must be defined much more narrowly than most other licensing agencies.

#### Complaint Processing

The Board receives no appropriation for investigative staff and, thus, enforcement activities are limited mostly to receiving and acting upon complaints.

Most complaints received by the agency are those lodged against unlicensed individuals. Most of these complaints involve the improper use of the title "architect" rather than reported malpractice.

Complaints against registered architects must be presented in writing. The licensee is notified by the Board and allowed to provide a brief of his defense. Complaints against registered architects may range from relatively minor infractions to more serious issues of ethical conduct.

#### Enforcement Procedures

Violations by registered architects may be handled by informal reprimand or formal hearing. The Board has authority to suspend or revoke registration for gross incompetency, recklessness in construction of buildings or dishonest practice.

Violations by unlicensed persons may result in a warning or by use of the Board's injunctive power to restrain the individual from violating provisions of the Registration Law.

#### Effectiveness

The effectiveness of enforcement procedures must be considered in relation to the limitations of the agency's statute.

Analysis of agency records indicates that the Board generally applies enforcement of registered architects in a firm and equitable manner. There is little indication that the Board attempts to shield licensees from criticism or soften the consequences related to unprofessional behavior. However, most complaints against architects usually are on issues of professional ethics instead of consumer-oriented protection of the public.

Most Board enforcement activities are directed toward insuring that unlicensed individuals and firms do not improperly use the word "architect." This

type of enforcement implies public protection in the sense of maintaining a recognizable standard of professionalism for public reliance. But this type of enforcement may be more effective in terms of protecting the jurisdiction of the profession than the public interest.

The agency and its licensee membership have criticized the Registration Law and have urged a broadening of the statute to include restrictions upon the practice of architecture regardless of title used. Most states have adopted this more restrictive approach to regulating the practice of architecture.

In this state, the increasingly restrictive requirements for architectural registration combined with a lack of absolute restrictions upon the practice of architecture have created a gap in services which has been partially filled by building designers. The Texas Institute of Building Designers currently has 133 full professional members. While this number may seem insignificant in comparison with registered architects, it should be noted that there are no requirements for membership in the Institute, and the actual number of practicing building designers is estimated to be 500 to 1000. Individuals providing this type of service are not covered under licensing regulation.

The impact of building designers upon the construction industry in Texas may be much greater than their numbers would indicate. Representations of both the Institute of Building Designers and the Board of Architectural Examiners estimate that building designers perform 40 percent to 60 percent of the small building design in this state.

Building designers are valued by general contractors who are able to use their services for smaller projects at a lower cost than architects. Representatives of

the Institute of Building Designers claim that they perform a valuable public function by providing an alternative to architects, thereby insuring free trade and holding down costs to the public. Some representatives of the architecture profession regard most building designers as incompetent and destructive of the public environment. There are no requirements, either for education or experience, to become a building designer in Texas.

These considerations frame the evaluation of enforcement activities of the Texas Board of Architectural Examiners. The agency's enforcement activities are effective to the extent that they tend to insure a minimum standard of conduct on behalf of registered architects. However, by nature of its statutory authority, the agency cannot restrict the practice of architecture to qualified persons who have demonstrated their competence through licensing.

#### Educational Assistance

The agency reports that one of its objectives is assistance in the educational process by coordinating its activities with schools of architecture. In pursuit of this objective, the agency spends an estimated 10 percent of its time in this educational function.

Analysis of the Architects' Registration Law indicates there is no direct authorization for educational assistance. The Executive Director of the agency reports that such authority is implicit in the broad mandate to establish qualifications of applicants for registration (Section 7a). Upon inspection this would seem to be a questionable interpretation of statutory authority.

Interviews with representatives of architecture schools, however, indicated that this function of coordination on behalf of the agency is in fact necessary for the effective processing of candidates into the profession of architecture. Thus,

while the activity of educational assistance is not specifically authorized, it is directly related to the overall objectives of the agency. Specific authorization should be provided by amending the current statute or by modification of the Board's rules and regulations.

### Summary

In summary, the Texas Board of Architectural Examiners performs its primary functions by licensing and enforcement. Licensing calls for examination and registration. The examination process requires the establishment of qualifications for applicants and the administration of both a preliminary Qualifying Test for non-degreed applicants, and a Professional Examination for those who comply with all other qualifications. The registration process centers on annual license renewal and reciprocal registration procedures. NCARB standards and procedures heavily influence the operations of the state architectural licensing board.

Licensing activities of the Texas Board are effective in terms of insuring that registered architects meet an acceptable level of competence. But licensing activities may also have indirectly restricted the supply of registered architects in this state.

Enforcement activities of the Board are restricted primarily to complaint processing, hearings on registered architects, and use of injunctive powers on alleged violations by unlicensed individuals. Most complaints are on improper use of the title "architect" by unlicensed individuals.

Enforcement activities of the Board are effective to the extent that they tend to insure a minimum standard of conduct by registered architects. The existence of a significant population of unregulated building designers, who practice architecture outside the jurisdiction of the Registration Law, calls to

question the effectiveness of that law. By nature of its statutory authority, the Board is ineffective in restricting the practice of architecture to qualified persons who have demonstrated their competence by qualifying for licenses.

The reported objective of educational assistance by the agency is not mandated by statute. However, this appears to be a legitimate function of the Board which may justify formal authorization.

### Criterion 3

An assessment of less restrictive or other alternative methods of performing any regulation that the agency performs which could adequately protect the public.

The review under this criterion centered on analyses of the agency's regulatory functions in terms of 1) changes over time in the restrictive nature of agency functions, as seen in the agency's statutory history; 2) significant effects of this regulation on the public and the industry; and 3) alternative methods of performing the agency's regulatory tasks. These analyses were obtained through the agency's self-evaluation report, literature concerning occupational licensing, and surveys of similar licensing functions in other states.

#### Evolution of Agency Functions

The operations of the Texas Board of Architectural Examiners are a reflection of changes which have occurred in the agency's enabling statute. Exhibit III-1 summarizes these statutory changes.

The number and subjects of changes from the original law are listed below. They show the emphasis and direction resulting from proposals enacted:

Licensing Requirements	12
Budgetary Requirements	8
Board Composition and Administration	7
Enforcement Capabilities	1

The amendments effected these general changes: 1) to broaden the authority and autonomy of the Board and to reduce restrictions upon its operations; and 2) to raise requirements on individuals for entry into the occupation of architecture. On balance, the regulation of architecture in Texas has become progressively more restrictive.

EXHIBIT III-1

ARCHITECTS' REGISTRATION LAW STATUTORY EVOLUTION

Year	Board Composition and Administration	Licensing Requirements	Enforcement Capabilities	Budgetary Requirements
1937	Board of Architectural Examiners established. Three members, appointed by Governor, approved by Senate. Six-year terms, one member associated with school of architecture. Secretary-Treasurer responsible for administration; public notification of any rule changes within 15 days. Annual report to Secretary of State. Secretary of State maintains roster of registered architects.	Grandfather clause: licensing to anyone practicing six months prior to passage of act. Examination requirements: good moral character, 21 years old. No examination required of applicants with architecture degree and three years of experience. Examination fee: \$5 Registration fee: \$25 Reciprocal Registration fee: \$30 Annual Renewal fee: \$10	Board empowered with injunctive powers. Noncompliance fine: not less than \$25 or more than \$200.	Architects Registration Fund established. Disbursements prohibited from being charged upon General Revenue Fund. Appropriation \$4,000/year. Any balance over \$5,000 reverts to General Revenue Fund. Compensation to Secretary-Treasurer at \$1,800/year. Compensation to any other member of Board: \$300 per year; Board per diem: \$10
1941				Appropriation for salaries and compensation raised to \$6,500 per year. Any balance over \$6,500 reverts to General Revenue Fund. Increased compensation for Board members to \$600 per year.
1943		Exemption of registered architects in military from paying fees until after discharge.		
1951	Increased Board members from three to six. Removed requirement for agency to submit annual report to Secretary of State, and for Secretary of State to maintain roster of registered architects.			Abolished limit on appropriation, allowed biennial appropriation based upon review by Legislature. Any balance over \$10,000 reverts to General Revenue Fund.

	Board Composition and Administration	Licensing Requirements	Enforcement Capabilities	Budgetary Requirements
1955	All rule changes required to be submitted to Attorney General for approval. Ten-day public notice required for any meeting considering rule changes.	Examination requirements: architecture degree and satisfactory experience; or eight years of experience and education. Examination fee: \$25 Reciprocal Registration fee: \$50 Annual Renewal fee: NLT \$5; NTE \$20		Abolished prior requirements for transfer of balances; 10 percent of gross annual income to be transferred to General Revenue Fund.
1969	Authorization for employment of Board secretary and other clerical assistance to assist Secretary-Treasurer in administration.	Examination fee: NTE \$50	Clause indicating no restriction or limitation of architects individual liability.	
1973	Repeal requirements for public notification of Board meetings involving rule changes.	Examination fee: NTE \$100 Examination requirements: after June 30, 1980, all applicants must have architecture degree. Annual renewal fee: a) residents NTE \$50 b) nonresidents NTE \$100  Late registration penalty fee: \$20 Renewal fee after revocation \$100 Reexamination optional after revocation for nonpayment.	Deleted provision indicating no limitation in architects individual liability.	Boat 1 per diem \$25 Repealed provision for transfer of 10 percent gross income to General Revenue Fund.
1975		Revocation date for nonpayment of annual fees changed from April of the "following year" to "same year".		

### Significant Effects of Regulation

The most significant effects of the regulation of architecture are the increased restrictions upon entry into the occupation and increased accountability for practitioners.

#### Restriction Upon Entry into Occupation

Restrictive regulatory measures indirectly reduce the supply of practitioners. Evidence presented in Criterion 2 suggests the supply of architects in Texas may be proportionately less than the supply in other states in relation to population and construction activity.

Theoretically, the impact of reduced labor supply raises the cost of services. Secondary effects are income redistribution from consumers to licensees, restriction of services delivered by licensees, and an increase in practitioners offering alternative services outside the jurisdiction of existing regulation. There is no data available on architectural regulation in Texas which would directly measure and verify these theoretical effects.

#### Professional Standards

Licensing of practitioners is intended to establish a minimum level of competence and acceptable standards of conduct. Analysis of enforcement activities presented in Criterion 6 suggests that the Texas Board does effectively enforce a standard of professional conduct by licensees. No data is available to measure directly the quality of services resulting from regulation.

### Alternative Methods of Regulation

All of the 50 states regulate the occupation of architecture. Conceding that the occupation should be regulated, the following categories present alternative approaches to regulation:

#### Type of Statute

Statutes regulating the occupation of architecture fall into two categories:

"title" statutes and "practice" statutes.

Title statutes regulate the use of professional practice titles. The major goal of title statutes is protection of the public regarding practitioners' qualifications. An indirect objective of title statutes is encouragement of professionals to become licensed in order to identify themselves as architects. The Texas Architects' Registration Law is a "title" statute. In Texas, anyone may practice architecture as long as he does not identify himself as an architect. Only 12 other states employ title statutes for the regulation of architecture.

Practice statutes require a license to practice architecture. Thirty-eight states use practice statutes for the regulation of architecture. Similar to Texas, most specify a list of professionals, including Engineers, Landscape Architects, Architects' employees, U.S. employees, etc., which are exceptions within the limits of their professional jurisdiction to the restrictions of the law. Then, varying in scope, many practice statutes define sizes and types of buildings that may be designed by unlicensed individuals. Implicit in a practice statute is the requirement for greatly expanded enforcement capabilities because violations are much more difficult to identify than under a title law.

Primary beneficiaries of the title law in Texas are building designers who are allowed to practice without registration. But building designers are not entirely unregulated. Their activities are under limited control by these categories of indirect regulation: 1) Engineering Practice Act, which requires that any structure above specified limits must bear the seal of a registered engineer, whether it is designed by an architect or a building designer; 2) building codes, specifying minimum structural requirements and enforced by building inspectors; and 3) marketplace regulation, imposed by lending institutions requiring architectural certification to finance major construction projects.

The Texas Board of Architectural Examiners has consistently lobbied for a broader statute which would regulate practice instead of limiting scope to title (See Criterion 5, H.B. 432). The agency wants to be responsible for regulation of building designers.

Representatives of the Institute of Building Designers introduced legislation in 1973 and 1975 to establish a separate agency under a Board composed of practicing building designers which would regulate the occupation. The Institute resists regulation of building designers by the Board of Architectural Examiners. It holds this would jeopardize their occupational security.

California is the only state to combine regulation of architects and building designers in a single agency.

Broadening the Architects' Registration Law to apply to practice and title considerations would cause more restrictive regulation of architecture and would require increased funding and staffing. Increased public protection is implied, although the need for this protection is not altogether apparent (See Criterion 6).

#### Standards of Education

The Texas Architects' Registration Law now permits the licensing of qualified applicants who complete not less than eight years of combined architectural experience and education. A degree in architecture is not required now. Amendments to this law, introduced in 1973, require that after June 30, 1980, all applicants must possess an architecture degree from an accredited school.

The American Institute of Architects and NCARB have not recommended an architectural degree requirement for certification. Many states do not apply this requirement.

### Standards of Experience

Currently, most applicants for registration in Texas have received a Bachelor's degree in architecture. In addition to formal training, these graduates are required to complete a three-year internship in the offices of registered architects before qualifying for the professional examination. Some states allow applicants to take the professional examination before completing a period of internship. Completion of internship, however, is still usually required for licensing in these states. NCARB requires a three-year internship after graduation before granting national certification.

Internship has been frequently criticized for wide variation in qualitative experience, for distorting market value of services rendered, and for lack of effective control mechanisms. Performance reports of the Board of Architectural Examiners indicate that frequently candidates for examination may be deferred from certification by an inability to obtain suitable internship positions due to economic conditions.

In an effort to overcome these difficulties, NCARB has proposed a new Intern Development Program. The program would channel all internship procedures through the national organization. It would require fulfillment of specific experience criteria rather than simply a duration of time. The Texas Board of Architectural Examiners, and the Texas Society of Architects supported development of this program.

The NCARB internship program appears to be a more restrictive approach to architectural regulation. It implies more centralized control over licensing and requires intensified efforts at national and state levels to effectively monitor results. A less restrictive approach would be examination immediately after graduation and de-emphasis of internship, allowing the marketplace to regulate beyond the certification of minimum qualifications.

### Examination Requirements

The NCARB has recently determined that the Professional Examination should also include a separate Graphic Design Problem. Starting with the next series of examinations in 1978, member boards will be required to include a design problem for registrants to meet national certification requirements. The design problem will be the same problem required for the Qualifying Test. It will be administered with the Qualifying Test in June each year. Applicants for registration will be required to complete a design problem successfully in June, followed by the Professional Examination in December.

The Texas Board, concurring with most member boards, voted for the adoption of the design problem for the Professional Examination. Accordingly, the Board has requested, as of January 26, 1978, that the Governor grant permission to transfer \$20,000 per year from the Architects Registration Fund to the agency's 1978 and 1979 budgets to pay added costs to administer the new section.

The new design problem appears to be a more restrictive approach to examination requirements. It requires more state-level administrative efforts. A less restrictive approach would be reliance on the basic Professional Examination, assuming candidates have already been subjected to sufficient evaluation of design capabilities in a 5-year architectural education process.

### Continuing Education Requirements

Continuing education beyond certification is an extension of professional regulation. Currently, there are no requirements for continuing education of architects in Texas. NCARB, however, has proposed a program to create a national system of mandatory professional education and testing.

## Summary

In summary, the result of statutory changes in the Architects' Registration Law has been an increase in the authority and autonomy of the Board and stiffer requirements on individuals seeking architectural certification. Theoretically, the effect of occupational regulation is restriction of the supply of practitioners and improvement in the quality of services. These effects are difficult to measure directly and to verify in regard to the situation in Texas.

Evaluation of alternative methods of regulation indicates the possibility for both more restrictive and less restrictive approaches. Most states utilize "practice" statutes which are more restrictive than the "title" statute used in Texas. Limitations of the current statute provide the opportunity for unregistered building designers to practice outside the jurisdiction of the Act. Building designers, however, are subject to other indirect forms of regulation. Broadening the Registration Law to apply to practice rather than simply title considerations would produce more restrictive regulation of architecture and would require increased funding and staffing of the agency.

The regulation of architecture in this state is directly affected by policies and procedures adopted by the NCARB. Standards for education, internship, examination and continuing education tend to determine the restrictiveness of regulation. In each of these areas, a trend, developed by NCARB and supported strongly by the Texas Board, has been established toward increasingly restrictive, centralized regulation of the occupation of architecture. Less restrictive approaches to regulation in these areas would probably involve rejection of suggested national standards.

#### Criterion 4

The extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies.

The review of this criterion was directed at evaluating the agency's definition of its target population. The existence of other similar populations was explored and the extent of any overlap and duplication of services offered was analyzed. When applicable, the review also dealt with any efforts to establish coordinative relationships between agencies serving similar target groups and to minimize any duplication of services. This information was collected through discussions with agency personnel, review of statutes and rules, and the identification of other agencies with the potential ability to offer these same services.

#### Regulatory Jurisdiction

The Texas Board of Architectural Examiners is mandated by Article 249A the responsibility for the regulation of the profession of architecture. The agency's specific target population is thus registered architects in the State of Texas. The agency's implicit target population includes all potential architectural registrants as well as those who are directly impacted by the operations of the agency. This group would include architecture students, applicants for reciprocal licensing, and members of related professions such as landscape architects, engineers, and building designers.

#### Overlapping Functions

To the extent that the basic processes of occupational regulation are

fundamental, the Board of Architectural Examiners shares a certain degree of correspondence with all state licensing agencies. However, due to common professional orientation, the Board is particularly similar in function to three other agencies: Board of Landscape Architects; Board of Registration for Professional Engineers; and Board of Registration for Public Surveyors. Exhibit IV-1 presents a comparative summary of the correlation between specific regulatory tasks of these four agencies.

These agencies vary significantly in terms of staff size and number of registrants; however, organization and regulatory activities are quite similar. Each Board is composed of practicing professional members, paralleled by a corresponding professional society which provides input into the regulatory system. With the exception of public surveyors, the operation of these agencies are characterized by licensing responsibilities which are linked in some way with national regulatory associations influencing qualification standards, examination procedures, and reciprocal licensing arrangements. The scope of enforcement capabilities differs considerably between agencies.

As a result of their shared orientation, the Board of Architectural Examiners and the Board of Registration for Professional Engineers have developed informal patterns of cooperation. The Board of Registration for Professional Engineers routinely reports violations of the Architects' Registration Law when these are uncovered by the investigative staff of the larger agency. Whenever a registered member of one of these professions is found to be in violation of the other profession's regulations, the agencies have developed informal arrangements of reciprocal notification which allows the parent agency to exercise initial corrective authority over its own registrant.

EXHIBIT IV-1  
Comparative Regulatory Functions

					Agency Functions
Land Surveyors	Professional Engineers	Landscape Architects	Public Surveyors	Architectural, Examiners	
X			X		establish qualification standards independently
	X			X	qualification standards suggested by national organization
X		X	X		develop written examinations
	X	X		X	utilize national exams
X	X	X	X	X	process exam applications
X	X	X	X	X	evaluate qualifications for examination
				X	prepare and send candidate ID cards
X	X	X	X	X	collect and process exam fees
					administer exams annually
	X		X	X	administer exams semi-annually
		X			administer exams on multiple occasions
	X	X		X	administer multiple exams
	X	X		X	national exam grading procedure
X		X	X	X	agency exam grading procedure
X	X	X	X	X	record and report grades
X	X	X	X	X	prepare and distribute certificates of registration
X	X	X	X	X	process annual license renewal
X	X	X	X	X	collect renewal fees
X	X	X	X	X	mail notification of delinquency
	X	X	X		reciprocal registration processed independently
	X			X	reciprocal registration processed thru national org.
	X	X	X	X	collect reciprocal registration fees
X	X	X	X	X	receive and investigate complaints
	X				field investigation capability
	X	X	X	X	issue warnings
X	X	X	X	X	consult legal counsel reference violations
	X		X	X	invoke injunctive powers
X	X	X	X	X	arrange agendas for Board meetings
X	X	X	X	X	administer Board meetings
X	X		X	X	prepare roster
X			X	X	distribute roster
	X			X	coordinate activities with educational institutions

The lack of a clear definition of professional jurisdiction between the practices of architecture and landscape architecture has created some difficulties between these respective Boards. Nevertheless, there is a common background in terms of design orientation between these professional groups. This common orientation does not appear to apply equally to landscape irrigators, however. Nor is the practice of surveying conceptually linked with the profession of architecture.

### Consolidation Potential

The agency reports that consolidation with the Board of Registration for Professional Engineers would effectively dissolve the agency, resulting in a distortion of professional jurisdiction and a disruption of individualized services to registered architects and applicants. Both the professional society (TSA) and representatives of architectural schools concur in the belief that regulation of the occupation of architecture would be adversely affected by consolidation with the much larger body of professional engineers.

Although the Board of Architectural Examiners does not seek consolidation with any other group, the agency is much more amenable to a combination with the smaller bodies of Landscape Architects or Building Designers. Since building designers are not currently regulated in Texas, such consolidation would imply the creation of an entirely new segment of occupational regulation. The Institute of Building Designers emphatically rejects the concept of regulation under the jurisdiction of the Board of Architectural Examiners, claiming that to do so would seriously jeopardize the occupational integrity of building designers throughout the state. Likewise, the Board of Landscape Architects expresses the concern that their occupational group would not receive equitable treatment if placed under the administrative jurisdiction of the architects.

### Required Professional Expertise

One aspect of consolidation potential is the identification of those areas where technical expertise is essential for the efficient and effective functioning of the agency. In this respect, the agency stresses the importance of maintaining professional expertise in the administration of the agency and the operations of the Board.

Analysis of the duties and responsibilities of the Board indicate three primary areas where professional expertise seems necessary. First, architectural design capabilities are required for grading the design portion of the Qualifying Test and the newly expanded Professional Exam. Secondly, hearings before the Board may in certain circumstances require a fundamental understanding of technical issues, as in the case of charges of incompetency. And, thirdly, professional expertise is implicit in the requirement for periodic review and updating of experience and education requirements for examination and registration.

A review of the minutes of Board meetings, however, suggests that these particular circumstances occur relatively infrequently. Moreover, there appears to be little need for all members of the Board to demonstrate such technical expertise.

The agency is fortunate in having an Executive Director whose background and experience are so well suited to the administration of an architectural regulatory Board. The present Executive Director is occasionally required to interpret drawings and specifications preliminary to referral to Board meetings. There is no doubt that practical professional experience and familiarity with architectural principles and concepts are valuable attributes which may very well create their own demand in such a position. However, this type of technical expertise does not appear to be absolutely necessary for the execution of

administrative responsibilities.

Summary

In summary, the agency's target population includes registered architects and potential registered architects, as well as those directly impacted by the operations of the agency. The Board of Architectural Examiners shares a certain degree of similarity in function and nature with the Board of Landscape Architects, Board of Registration for Professional Engineers, and Board of Registration for Public Surveyors; however, consolidation potential is not clearly established. Responsibilities of the Board suggest that professional expertise is required under certain circumstances.

### Criterion 5

Whether the agency has recommended to the legislature statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution the agency regulates.

The review under this criterion centered on statutory changes which affect the operations of the agency. In the period covering the last three legislative sessions, the review focused on both proposed and adopted changes in the law; prior to that period, the staff review was limited to only adopted changes. In analyzing these changes, the approach was taken that a statutory modification must be of clear benefit to the state's citizens to be considered to be in the interest of the public.

Recommendations made by the Texas Board of Architectural Examiners to the Sixty-third, Sixty-fourth, and Sixty-Fifth Legislatures are outlined in Exhibit V-1. The nature of those recommendations range from innocuous alterations in wording to more substantive attempts to broaden the statutory purview of the agency as well as the professional jurisdiction of architecture in this state. Statutory recommendations of the agency are developed with the advice and cooperation of the Texas Society of Architects.

#### Analysis of Recommendations

H.B. 1204, recommended by the agency and passed by the Sixty-third Legislature, deleted several sections of the Architects' Registration Law.

One section which was deleted defined "reputable" school or college of architecture. Its deletion represented merely a clarification of the language and meaning of the statute.

Another section, which was deleted, had been added to the statute by the

EXHIBIT V-1

Recommended Statutory Changes

LEGISLATION	NATURE OF PROPOSED CHANGE
H.B. 1204, 63rd Leg. June 12, 1973 passed	Deleted Section 7 (b) - defines reputable school or college  Deleted Section 12(c) - a firm may engage in architecture provided such practice is performed only by registered architects; nothing shall restrict or limit the personal liability of any registered architect.
H.B. 1098, 64th Leg. May 27, 1975 passed	Amended Section 12 (b) - in the event that renewal is not made before the first day of April <u>of the same year</u> ( <del>the year following</del> ), such certificate may be revoked.
H.B. 432, 64th Leg. failed	Amend Section 13: changes " <u>and</u> " to " <u>or</u> ", and deletes "or supervising the construction of", thus making business of planning or designing buildings without registration subject to penalty <u>regardless</u> of whether or not the word "architect" is used.  Amend Section 14.5: replaces title clause with specific description of buildings which can be designed by non-architect: 1) single family, 2) alterations not requiring structural changes, 3) buildings no more than two stories, nor 24' clear span, nor 25,000 sq. ft.  Add Section 7 (b): person with eight years experience of which three or more years is under registered architect or active practitioner of building design for three years prior to September 1, 1975 is entitled to take NCARB Professional Examination.
H.B. 1174, 65th Leg. failed	Amend Sections 12 (a) and 12 (b): change annual registration renewal date from January 1 to March 1. Change penalty date from April 1 to June 1. - thus fee paid after March 1 and before June 1, subject to \$20 penalty; after June 1, license revoked and examination may be required plus penalty of \$100.

Sixty-first Legislature in 1969 and specified that a firm may engage in the practice of architecture provided that such practice is performed only by registered architects, and further that this not restrict or limit the personal liability of any registered architect practicing under those circumstances. Deletion of this provision appears to favor practicing architects by eliminating conditions concerning individual liability. In this regard, Chapter VII of the Board's current Rules and Regulations states that:

"Firms engaging in both Engineering and Architecture shall first file notice with this office stating that:

- a. The actual practice of Architecture on behalf of such firms, partnerships, or corporations is to be carried out only by architects registered in this state who will be responsible to this Board for acts and conduct of such firms.
- b. That such architects named in such notice have authority from the governing body of such business entity as would result in it being legally liable for all professional acts and conduct of the architects named."

H.B. 1098, recommended by the agency and passed by the Sixty-fourth Legislature, contained an amendment to correct wording which implied the availability of an additional year beyond a 90-day grace period in which to renew registration without penalty or revocation and additional \$100 fee. This statutory change has no clear and direct public benefit, but does clarify the law and simplify the agency's administrative responsibilities.

H.B. 432, recommended by the agency and rejected by the Sixty-fourth Legislature, is the most ambitious and far reaching recent statutory change proposed by the agency. This bill would have amended provisions of the law in such a way as to place specific limitations upon the size and type of buildings which could be legally designed by nonregistrants. Under the present law, there is no restriction on the practice of architecture by any person, regardless of qualifications, so long as he does not call himself an architect. The recommended changes would have exerted

a significant impact upon unregistered building designers. - The benefits of such legislation would clearly favor registered architects by legally defining professional jurisdiction. The amendments would also expand the regulatory function of the agency and require intensified enforcement activities.

H.B. 1174, recommended by the agency and rejected by the Sixty-fifth Legislature, would have amended the law so as to change the annual registration renewal date from January 1 to March 1 of each year. This amendment would have also changed the license revocation date from April 1 to June 1 for failure to renew registration. These changes were sought in order to reduce the agency's yearly workload congestion caused by December examinations followed closely by January renewals. Such a change would increase agency efficiency and thus benefit the public as well as the regulated profession. This change was, in fact, implemented through a rule change adopted by the Board which allows for variable renewal dates.

## Criterion 6

The promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency.

The review under this criterion centered on: 1) an identification of the type and frequency of complaints received by the agency, 2) the adequacy of administrative procedures used to process these complaints, and 3) the appropriateness and patterns of actions taken to address the complaints. Information for the review was obtained through interviewing agency staff, examining complaint files, and analyzing data presented in the agency's self-evaluation report.

The Texas Board of Architectural Examiners is required by statute to "adopt all reasonable and necessary rules, regulations and by-laws ... for the performance of their duties in this Act." For enforcement of the Act, the Board has developed effective procedures for the receipt and disposition of complaints involving violations of the Registration Law.

### Complaint Processing

Complaint processes can be divided most easily into two distinct groups: complaints against registered architects and complaints against unlicensed individuals.

Complaints against Licensees alleging any infractions of the Registration Law or any rule or regulation of the Board may be made by any person or group. The complaint must be presented to the Board in writing with supporting evidence. The Board then furnishes the licensee with a copy of the complaint materials, and allows the respondent 10 days to furnish a brief of his defense, a copy of which, in turn, is supplied to the complainant. The Executive Director determines whether there is sufficient evidence to warrant a formal hearing. If a hearing is warranted,

the respondent is allowed at least 20 days to prepare. If a hearing is unwarranted, the complainant and respondent are so notified and the issue is dropped.

Complaints alleging violation of the Architects' Registration Law by unlicensed individuals are handled in a similar fashion. Upon receipt of the complaint, the Executive Director investigates the charge and either dismisses it for lack of evidence, corresponds with the person charged and requests assurances that violations cease, or refers the matter to the Board for hearing.

### Complaint Analysis

As indicated by the table below, the greatest number of complaints are those against unlicensed individuals.

<u>Complaint Against</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>
Unlicensed Individual	29	38	22
Registered Architect	9	12	38

Comparatively few of the complaints against unlicensed individuals involve or arise from actual malpractice of architecture, but rather from the improper and illegal use of the title. Many of these alleged violations are merely the result of an ignorance of the law or an oversight. A smaller number represent an attempt to deceive or defraud. Only a few reflect outright incompetence on behalf of unregistered individuals.

The majority of complaints against unlicensed individuals are received from registered architects. Others are received from individuals within architectural societies or related professional licensing boards. Still others are discovered by the agency through such means as inspection of advertising mediums. Relatively few of these complaints against unlicensed individuals come from the general public. Whether this is the result of a lack of knowledge on behalf of the public or a lack of

dissatisfaction is uncertain. Neither the Austin Better Business Bureau nor the Consumer Protection Division of the Attorney General's Office have any record of complaints regarding architectural services, either licensed or unlicensed.

Many of the complaints against registered architects come from other registered architects; others are lodged by customers, partners, employees and other business associates. These complaints range in nature from charges of mild infractions, such as improper advertising, to more serious issues of ethical conduct, including fraud, plagiarism, and kickbacks.

It should be noted that the large number of complaints recorded against registered architects in 1977 is more a reflection of an administrative notification process than actual complaint processing. Current Board rules require that architectural firms using assumed names must notify the Board of the responsible registered principal. Letters written to firms who were not current in their notification were recorded as complaints against registered architects.

#### Enforcement Procedures

The Texas Board of Architectural Examiners is authorized to enforce the provisions of the Statute through formal hearings and injunctive power (Article 249A, Section 5,c).

The Board may hold hearings to investigate complaints of malpractice or misconduct by registered architects. Notices of such hearings are filed with the Texas Register Division of the Office of the Secretary of State. The Board has the power to issue reprimand or censure, to suspend or revoke the certification of any registered architect after due process in the case of gross incompetency, recklessness in the construction of buildings, or dishonest practice. Any ruling of the Board may be appealed to a District Court in the county of residence of the defendant.

In the case of violations by unlicensed persons, the Board may apply to a

court of competent jurisdiction to restrain an individual from violating the provisions of the Architects' Registration Law. In this respect, the Board may be represented by the Attorney General's Office, the District Attorney, or County Attorney.

Less than five percent of the complaints filed with the Board result in action more serious than the issuance of a warning. During the period covered by fiscal years, 1975-1977, there were four cases of hearings which resulted in the censure, suspension or revocation of licenses of registered architects. In only one of these cases has the ruling of the Board been appealed and that ruling has been upheld. During the same period, there were four cases in which legal action was taken against unregistered individuals, and convictions were obtained in two of the four cases.

#### Complaint Records

The Board is required to maintain a current file of all complaints and dispositions of violations. A selective inspection of the complaint files indicated that the agency generally handles complaint processing in a thorough and equitable fashion. Information is efficiently filed and easily accessible. Correspondence is generally precise, courteous and timely. Although there are lengthy delays in the processing of certain types of complaints, these delays are generally attributable to particular circumstances such as non-response and change of address, rather than to an inefficiency on the part of the agency. There are seldom excessive backlogs in complaint processing, and the agency's records seem adequate.

#### Summary

In summary, the agency has developed effective procedures for the receipt and disposition of complaints. Most complaints are those registered against unlicensed individuals for the improper use of the word "architect." The Board

maintains and exercises its authority to censure or revoke the registration of architects found guilty of malpractice or misconduct. Likewise, the Board may apply injunctive power to restrain the activities of unlicensed individuals. The agency maintains adequate records of complaints and administers complaint processing in an efficient manner.

### Criterion 7

The extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates, and the extent to which the public participation has resulted in rules compatible with the objectives of the agency.

The review under this criterion began with a determination of the statutory requirements regarding public participation both in the agency's enabling law and general statutes. The agency's procedures were reviewed to determine compliance with these statutes. The agency files and self-evaluation report were reviewed to determine the nature and extent of public participation and any results which might be attributed to public participation.

#### Public Participation

Interviews of agency personnel and documented evidence indicate that there has been no specific effort on behalf of the Board to inform the general public of the agency's purposes and functions. There is no budget allocation for media advertising and, consequently, there has been none. The agency has conducted no seminars, conferences or training sessions which might have been available to the public. The agency distributes no consumer-oriented materials designed to inform the public of its operations.

The only publications of the agency are the annual Roster of registered architects and the current rules and regulations of the Board. The Roster is available for a charge of \$5.00 and the rules and regulations are free on request.

The agency reports that there is very little interest in the operations of the agency on behalf of the general public and that there are very seldom requests for

general information. There has been no attempt to develop bilingual capabilities regarding agency operations and publications.

There are no statutory requirements for notification of the public regarding Board meetings or rule changes, other than through compliance with the Open Meetings Act. In this regard, the agency provides formal notification of scheduled Board meetings through the Texas Register Division of the Office of the Secretary of State. Licensees are generally notified of Board meetings and agenda through their association with the Texas Society of Architects and the Texas chapter of the American Institute of Architects.

The agency reports that there is negligible participation by the general public in open meetings held by the Board. There is little participation, in fact, by licensees unless specifically involved in hearings.

There are no advisory bodies to the Board through which interests of the general public could be focused and current requirements for Board membership do not allow representation of the public.

Participation by the public and registrants, in the affairs of this kind of agency, probably could not be increased given current resources. General public membership on the Board is regarded with skepticism by the agency. Statements by agency staff indicate that public membership would dilute the high level of technical knowledge required of Board members as well as the benefit of the common background and understanding essential to cooperative administration.

### Summary

In summary, there has been little effort on behalf of the agency to provide public participation; however, direct participation by the public in this type of agency is unlikely under usual circumstances.

### Criterion 8

The extent to which the agency has complied with applicable requirements of an agency of the United States or of this state regarding equality of employment opportunity and the rights and privacy of individuals.

The review under this criterion centered on an identification of agency Equal Employment Opportunity reporting requirements and policies regarding the rights and privacy of individuals. Federal and state statutes were reviewed; agency policies and procedures were documented; and appropriate agency files were inspected to determine the adequacy of records maintained to verify the data presented under this criterion. The Governor's Office of Personnel and Equal Employment Opportunity was consulted. The general procedures regarding personnel actions and protection of the rights and privacy of individuals were examined through interviews and review of files.

### Affirmative Action

The Texas Board of Architectural Examiners has filed an Affirmative Action Plan with the Governor's Equal Employment Opportunity Office, covering the period March 1, 1974 - February 28, 1975. The plan has not been updated since that time; however, representatives of the Governor's EEO office report that this is characteristic of a small agency with a low rate of turnover in personnel.

The agency's affirmative action plan covers the elements of plan development, communication and administration, as well as recruitment, selection and training of new employees. The objective of the plan is to provide a mechanism for the recruitment of minority applicants, with specific actions to utilize selective advertising media in the event of a staff opening. The plan appears to be adequate given the size and history of the agency's employment patterns.

Staff Composition

Agency staff consists of an executive director and three full-time support staff, with appropriated funding for seasonal and part-time help. The State Auditor's Employee Classification Office reports that no full-time personnel turnover has taken place since 1974. Shown below is the breakdown of agency personnel by category:

Executive Director	Full-time	1	Male	White
Admin. Technician IV	Full-time	1	Female	White
Admin. Technician III	Full-time	1	Female	White
Clerk	Full-time	1	Female	White

Charges of Discrimination

There have been two charges of discrimination filed against the agency, one of which was not reported as such by the agency in its self-evaluation report. Both charges are related to the administration of licensing requirements, rather than the employment policies of the agency.

Gregg M. Fraga filed a complaint of discrimination against the agency with the San Antonio District Office of the Equal Employment Opportunity Commission, on January 1, 1976. Julio del Carpio filed a complaint with the Governor's EEO Office in Austin on October 25, 1976. Both complaints involved separate disagreements regarding the interpretation of rules relating to the weighting of educational background, work experience, and consideration to take exams early. In both cases, EEOC investigators found no evidence of any unequal or discriminatory application of the rules and regulations of the Board. Initial decisions by the executive director of the agency were upheld after review by the Board and were confirmed by independent EEOC investigators. No other information obtained during evaluation has suggested that the agency has been involved in any activities which would appear discriminatory.

## Summary

In summary, the procedures and record of the agency in the area of affirmative action are generally adequate for a public agency of its size and scope. Although there have been two charges of discrimination filed against the agency, both charges were thoroughly investigated and dismissed by EEOC representatives.

### Criterion 9

The extent to which the agency issues and enforces rules relating to potential conflict of interests of its employees.

The review under this criterion centered on an identification of documented agency practices and procedures regarding the filing of individual financial statements and affidavits with the Office of the Secretary of State. The provisions of the statute (Article 6252-9b, V.A.C.S.) were reviewed and agency interpretations of the nature and intent of the provisions of the Act were sought. Records maintained by the agency and the Secretary of State under the authority of the legislation concerned with conflict of interest were reviewed to determine the extent of agency compliance with the letter and intent of the Act and to verify the accuracy of the data presented under this criterion. In addition, inquiries were directed to selected areas where conflicts of interest might exist that could not be discerned through review of official documents.

#### Administrative Procedures

Although the agency does not enforce a formal set of rules governing potential conflict of interests, administrative procedures do satisfy reasonable requirements given the small size of staff involved. The agency requires that each employee and each new member of the Board receives and signs a receipt for: 1) H.B. 753, 1951, providing for the accounting and responsibility for and use of state-owned property; 2) Section 4 of the current General Appropriations Act relating to political aid and legislative influence and 3) Article 6252-9b, Standards of Conduct of State Officers and Employees.

### Financial Statement

In compliance with Article 6252-9b, Section 3, the executive director of the agency has filed with the Secretary of State a financial statement. This financial statement is current and appears to satisfy legal requirements. Based on the information filed, there is no indication of any potential conflict of interest.

### Affidavits

In compliance with Article 6252-9b, Section 5, all members of the Board have filed with the Secretary of State an affidavit indicating the nature of their business interests and the manner in which their business is subject to regulation by the agency. All Board members acknowledge ownership or partial ownership in a practicing architectural firm in the State of Texas. This does not constitute a conflict of interest, given that the current Registration Law stipulates that each Board member must be a practicing architect. No improprieties are apparent from an inspection of the affidavits of Board members.

### Educational Interrelationships

The Registration Law stipulates that only one member of the Board may have financial interests or supervisory or faculty involvement in any school of architecture. In compliance with this requirement, Robert H. Norris, Director of Professional Development at the University of Texas at Arlington School of Architecture, is the only current Board member with this type of involvement. It should be noted in this regard that the two most recent executive directors of the agency have had strong links with the academic sector. Ralph Spencer, who served as Executive Director of the agency from June 1970 until January 1974, later became professor of architecture with the University of Texas at Austin. Phillip Creer, Executive Director from January 1974 until the present, was at one time

Dean of the School of Architecture at the University of Texas at Austin. There does not appear to be any conflict of interest inherent in these arrangements.

The agency conducts no regular periodic review of compliance, but the small size of the staff and the negligible turnover rate of full-time personnel, suggest that informal administrative arrangements are adequate under the existing organizational structure.

#### Summary

In summary, no information was obtained during the investigation which would indicate that individual members of the Board or employees of the agency have maintained financial or other interests which are in conflict with the purposes and operations of the agency.

## Criterion 10

The extent to which the agency complies with the Open Records Act and the Open Meetings Act.

Examination of elements under this criterion were separated into components dealing with responsibilities for making agency documents available to the public under open records requirements and responsibilities for public notification of proposed agency actions. Under the area of open records, statutes were reviewed in relation to written or unwritten policies used by the agency. Where written policies did not exist, interviews were conducted to determine actual compliance. Materials contained in the self-evaluation report were verified and open records decisions reviewed. Open meetings compliance was verified through review of agency written and unwritten policies to determine if they accurately reflected statutory requirements. Interviews with agency personnel were conducted in instances where written policies were lacking or information contained in minutes of meetings was incomplete or unclear. Records in the Office of the Secretary of State were reviewed on a selected basis to determine compliance with posting and informational requirements.

### Open Records

For the most part, the agency's records are secure and well-organized. The agency reports that it makes available to the public all information regarding operations as required by the Open Records Act. The agency reports that it has never denied a formal and legitimate request for information.

Agency records are available to anyone wishing to personally inspect his own file on record with the agency. The agency has received no known complaint for refusing to provide requested information. The agency has never requested an Attorney General opinion on the provision of confidential information.

The only records which the agency holds as confidential under the provisions of Article 6252-17a, are employers' evaluations of the moral character and potential of candidates for registration. These appraisals are routinely requested of employers and references in verifying statutory experience requirements.

The agency's authority to request such information is derived from its statutory mandate to assess the "good moral character" of applicants (Article 249A, Section 7a). In fact, the Board has never denied the application of any individual solely on the grounds of moral character. The agency correctly reports in its self-evaluation report that "if these records were to be made public there would be an immediate reluctance on the part of the employers to complete that portion of the Employment Verification Form." It is questionable whether the Board's primary objectives actually require the collection of this type of information on applicants.

There is very little evidence nor documented record of correspondence between the professional society (TSA) and the agency since about 1975. Since that time, most communication between the two organizations has been handled informally by telephone.

#### Open Meetings

The Texas Board of Architectural Examiners is required by statute to hold at least two meetings each year. The current rules and regulations of the Board extend this authorization to include, "as many special meetings as may be necessary for the proper performance of the duties of the Board".

Board meetings are held approximately five to six times each year. Regular meetings frequently involve formal hearings, grading of design problems for the qualification test, and participation in regional and national conferences. The

agency reports that all Board meetings are open meetings and that closed executive sessions of the Board are held only for the purpose of formal deliberations which are clearly indicated in the minutes. An inspection of the minutes of Board meetings revealed no information which indicates that activities of the Board are in conflict with the requirements of the Open Meetings Act.

No specific records are kept by the agency of public attendance at Board meetings. The agency reports that attendance at meetings usually consists only of Board members, staff, and those parties who are specifically involved in Board hearings and other activities. In such cases, the individuals are identified through regular minutes recorded for Board meetings.

In cases where Board meetings include formal hearings, an Assistant Attorney General attends as counsel to the Board, and a court reporter is hired. All hearings are conducted in accordance with the Texas Administrative Procedures Act.

#### Notification Procedures

The only formal procedure for advance public notification regarding scheduled Board meetings is through the Texas Register Division of the Secretary of State. All such notifications by the agency have been made well in advance of the required 10-day limit.

Anyone requesting an appearance before the Board is written a letter advising of the time and place. However, there is no media advertising by the agency nor advance mail notification of registrants nor is any required by statute. The budget for the agency does not include any specific appropriation for such activities.

Advance notification of registrants actually takes place through the channels of the Texas Society of Architects, the Texas chapter of the American

Institute of Architects. T.S.A. receives formal notification of Board meetings and agenda through the Texas Register, and informal notification through telephone communication with the agency. T.S.A. then transmits this notification on to its members through local chapters and the professional society's newsletter. Since the majority of the registered architects in the State are affiliated in some way with the Texas Society of Architects, the agency operates on the assumption that most registrants are indirectly provided advance notification of Board meetings.

The Board, in April of 1977 adopted a new policy which provides that advance notification of scheduled Board meetings be distributed to the Deans of all Texas schools of architecture.

#### Accessibility

The majority of Board meetings are held in Austin for administrative convenience. The agency attempts to hold periodic Board meetings at various geographic locations throughout the State in the interest of increasing accessibility. However, 25 percent of the agency's reported Board meetings have been held out of state, in connection with the regional and national conferences sponsored by the National Council of Architectural Registration Boards. These out-of-state conferences account for \$16,734 or approximately 4.5 percent of the agency's total expenditures and 32.3 percent of the expended amount for travel and per diem expenses during this period.

#### Rule Changes

All proposed rule changes are submitted to the Texas Register prior to formal consideration by the Board. After publication time has elapsed, the Board considers the rule change. Final action on the rule change is sent to the Texas Register. Revised rules are printed and sent to all registered architects. In addition, if the rule change involves the examination process, it is also mailed to all candidates and pending candidates.

There have been only three rule changes proposed since FY 1974. All three of these were proposed at the Oct. 18, 1977 meeting in El Paso. The first of these provided for the inclusion of the words "false, deceptive, misleading, or" to be added to rules regarding inappropriate solicitations. Another rule change allowed for postponement of the annual renewal date from January 1 to March 1. Both these rule changes were subsequently adopted at the January Board meeting in Lubbock. The third rule change involves the adoption of a design problem as part of the Professional Examination. This rule change is conditioned upon the Governor's approval of the expenditure of an additional \$20,000 out of the Architects' Registration Fund, in order to administer this section of the examination.

#### Summary

In summary, the Board of Architectural Examiners appears to maintain an adequate system of record-keeping which is open to legitimate inspection, yet which safeguards confidential information. Certain confidential information is collected which is statutorily authorized but which may have little relevance to the basic objectives of the agency and which may be contrary to the spirit of the requirements for rights and privacy of individuals.

Openness of public meetings implies both notification and accessibility. The procedures utilized by the Board for advance notification of public meetings fulfill statutory requirements. Many of the Board's public meetings, however, may be inaccessible to most members of the public and the regulated profession. Prior notification of rule change appears to be less than adequate, although adopted changes are appropriately communicated to licensees and candidates.

## CONCLUSIONS

### Criterion 11

The impact in terms of federal intervention of loss of federal funds if the agency is abolished.

The licensing of occupations is a function which the federal government has left to the states to initiate. No federal standards were identified which would affect the licensing of architects in the State of Texas if the agency is abolished.

Federal funds are not involved in the administration of the Act as administration costs related to the licensing and regulatory functions of the Board are financed through the collection of fees.

The need for regulation of architecture has been founded upon the historical concern regarding the magnitude of potential consequences resulting from incompetent practice. The case for public protection has compelled all fifty states to establish architectural licensing boards. The Texas Board of Architectural Examiners was created in 1937 shortly after the passage of similar legislation creating the Board of Registration for Professional Engineers.

The Board of Architectural Examiners is charged with the responsibility of protecting the public interest by insuring that the practice of architecture is conducted in a competent manner by qualified professionals. To accomplish this broad objective, the agency utilizes the basic regulatory tools of licensing and enforcement. Licensing of architects involves initial examination for certification, annual renewal of registration and the reciprocal registration of out-of-state architects. Enforcement procedures are restricted primarily to complaint processing, Board hearings of registered architects, and the use of injunctive powers for serious violations by unlicensed individuals.

The Board's operations are funded entirely out of the various fees collected from applicants and registrants which are deposited in the State Treasury to the credit of the Architects Registration Fund. All expenditures from this fund are by Legislative appropriation, and disbursements are prohibited from being in any way a charge upon the general revenue fund of the state.

From the beginning, the Architects' Registration Law has been a "title" statute as opposed to a "practice" statute. Basically, this means that anyone may legally practice architecture as long as they do not represent themselves by using the title "architect". Analysis of legislative changes since 1937 indicates that there has been a gradual lessening of statutory restrictions upon the operations of the Board and a gradual tightening of restrictions upon entry into the occupation of architecture.

The Board's examination and reciprocal licensing functions are closely tied to the operations of the National Council of Architectural Registration Boards (NCARB), a non-profit organization of all state architectural licensing boards. NCARB develops uniform national architectural examinations and recommends to state boards the standards for individual qualification to sit for these exams. In addition, NCARB maintains a nationwide system of interstate reciprocity based upon certification and records transmittal by the national organization. The licensing boards of all fifty states authorize and subscribe to the procedures and standards developed by NCARB.

The review indicates that the agency is generally efficient in operation. Administrative responsibilities are conducted within reasonable budgetary limitations in a logical manner according to established procedures which are periodically reviewed and updated. The agency is conscientious in its adherence to various statutory requirements and reporting procedures.

The agency is effective in terms of achieving its explicit statutory objectives. Examinations are conducted in an equitable manner to insure that registered architects meet an acceptable level of competence. Enforcement activities of the Board are effective to the extent that they tend to insure a minimum standard of conduct by registered architects and to prevent unlicensed individuals from improperly using the title "architect". By nature of its statutory authority, however, the Board cannot restrict the practice of architecture to qualified persons who have demonstrated their competence by qualifying for licenses.

If the legislature determines that the functions of the Board of Architectural Examiners should continue, the following organizational and operational changes could be considered to increase the efficiency and effectiveness with which these functions are performed:

LICENSING RESTRICTIONS UPON ENTRY INTO THE OCCUPATION  
OF ARCHITECTURE COULD BE GRADUALLY LESSENERD.

An implicit objective of occupational licensing is to insure a supply of practitioners which is in balance with the economic demand for their services. Available data suggests that the supply of registered architects in Texas may be below that of other states relative to population size and construction activity.

	No. Registered Architects	Total State Population (Thousands)	Architects Per 1000 Population	\$ Construction Non-Residential (millions)	Architects Per \$ Construction Non-Residential (millions)
Texas	5,039	12,487	.40	1,482.1	3.40
New York	7,180	18,084	.40	636.9	11.27
Louisiana	2,300	3,841	.60	294.1	7.82
Colorado	2,080	2,583	.81	300.8	6.91
Virginia	2,900	5,320	.55	473.5	6.12
Maryland	2,469	4,144	.60	365.5	6.76
Michigan	2,914	9,104	.32	599.3	4.86
Florida	4,645	8,421	.55	879.5	5.28

Furthermore, the growing numbers of unlicensed building designers and the magnitude of their economic activity suggests that the restrictiveness of licensing requirements in Texas may be encouraging the development of an alternative professional sector offering services outside the jurisdiction of existing regulation.

Less restrictive approaches to the licensing function can be accomplished within the existing statutory framework and organizational structure of the Board of Architectural Examiners. Selective modification of existing standards for required education, experience or examination can serve to ease restrictions upon entry into the occupation. In this regard, it is important to note that the Texas Board has recently initiated or proposed changes in all three areas of

licensing standards which will be significantly more restrictive rather than less restrictive. These increasingly restrictive measures are a reflection of policies and procedures recommended at the national level by NCARB, with full support of the Texas Board.

To the extent that all state architectural licensing agencies are individually subordinate to NCARB policies, the national organization has achieved a certain autonomy and independence from direct control by the various state governments. Recent changes of NCARB licensing procedures appear to exceed requirements for the certification of minimum standards of competence and suggest a trend toward regulatory activities which may benefit the profession more than the public.

#### INCREASED PUBLIC ACCOUNTABILITY SHOULD BE CONSIDERED BY ALTERING THE COMPOSITION OF THE BOARD TO INCLUDE REPRESENTATION BY THE GENERAL PUBLIC

Public representatives could be recruited from the ranks of consumers and from related professional disciplines, the foremost of which would probably be engineering. In order to maintain the Board's responsiveness to licensees and to meet the requirements for professional expertise in certain Board responsibilities, this type of general public representation probably should not exceed half of the Board membership.

#### TO ACHIEVE GREATER EFFICIENCIES, STATUTORY MODIFICATION SHOULD BE CONSIDERED TO ALLOW RENEWALS OF REGISTRATION ON A BIENNIAL RATHER THAN ANNUAL BASIS

Converting to a biennial registration period would significantly reduce the agency's workload in regard to processing renewals and distributing updated rosters. Since there are no requirements for recertification, other than fee payment, there would be no implied forfeiture of regulatory control.