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# Board of Law Examiners

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Staff Contact: Michelle Luera

S.B. 266 Lucio (Gallego/Hartnett)

## Summary

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The Board of Law Examiners (the Board), created in 1919, is a judicial agency under the dual oversight of the Texas Supreme Court and the Legislature. The Board determines eligibility for admission to practice law. To accomplish its mission, the Board considers the character and fitness of all candidates seeking a Texas law license; determines whether applicants have adequate law study; conducts the bar exam; and determines whether out-of-state attorneys meet the requirements for a license to practice law in Texas. The Board is not subject to legislative appropriations. Instead, the Supreme Court sets fees and approves the Board's annual budget of approximately \$2.4 million. The Board has 19 employees.

Senate Bill 266 continues the Board for 12 years, and contains the Sunset Commission's recommendations to provide a fair admissions process for candidates to the State Bar while balancing the need to protect and inform the public with the need to safeguard the prospective attorney. The legislation stops the disclosure of personal information by closing hearings and records related to the character and fitness of applicants and to testing accommodations, and it requires the Board to provide information about the probationary license status of a new attorney. The Legislature added a provision to allow a person lacking 12 or fewer semester hours for graduation to take the bar examination, and repealed an exemption that allows certain legislators to take the bar examination without a law degree. The list below summarizes the major provisions of S.B. 266, and a more detailed discussion follows.

## Sunset Provisions

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1. Change the Board's Character and Fitness Process to Balance the Need to Protect the Public With the Need to Safeguard Prospective Attorneys.
2. Lengthen the Board Members' Terms to Six Years and Place Them on a Staggered Schedule.
3. Clarify the Supreme Court's Authority to Establish Later Deadlines for Filing Applications to the Bar Exam.
4. Continue the Board of Law Examiners for 12 Years.

## Provisions Added by the Legislature

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5. Eliminate an Exemption that Currently Allows Certain Legislators to Take the Bar Exam Without a Law Degree.
6. Allow a Person Within 12 Hours of Graduation to Be Eligible to Take the Bar Exam.

7. Allow the Board to Release Bar Examination Results to Law Schools Conducting Research on Individuals' Performance.
8. Require the Board to Report on Applicants Who Fail the Bar Examination.

## Sunset Provisions

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### **1. Change the Board's Character and Fitness Process to Balance the Need to Protect the Public With the Need to Safeguard Prospective Attorneys.**

Senate Bill 266 requires Board deliberations, hearings, and determinations relating to the moral character and fitness of applicants and requests for testing accommodations for the bar exam to be closed to the public, and clarifies that related records are confidential. Individuals may have their character and fitness hearings open to designated persons if they submit a written request to the agency before the hearing.

Senate Bill 266 requires the Board, in coordination with the State Bar, to inform a member of the public, upon request, about the probationary status of a newly-licensed attorney. Any information that forms the basis for the issuance of the probationary license remains confidential.

The bill repeals language related to the role of district committees in character and fitness investigations. The Legislation also eliminates the current statutory definition of chemical dependency, requiring the Board to develop a new definition subject to adoption in rule by the Texas Supreme Court.

### **2. Lengthen the Board Members' Terms to Six Years and Place Them on a Staggered Schedule.**

Senate Bill 266 lengthens the Board members' terms from two to six years and places the Board members' terms on a staggered schedule, with one-third of the Board's membership to be appointed every two years.

### **3. Clarify the Supreme Court's Authority to Establish Later Deadlines for Filing Applications to the Bar Exam.**

The bill allows a person to apply to take the bar exam 60 days later than the standard filing deadline upon showing of good cause or to prevent hardship, and upon paying late fees. Senate Bill 266 also provides for an applicant who failed the immediately preceding bar exam to take the next bar exam without regard to filing deadlines and late fees.

### **4. Continue the Board of Law Examiners for 12 Years.**

This provision continues the Board as a separate, stand-alone agency for the standard 12-year period.

## Provisions Added by the Legislature

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### **5. Eliminate an Exemption that Currently Allows Certain Legislators to Take the Bar Exam Without a Law Degree.**

The Legislature repealed language that allows certain members of the Legislature who served before 1975 to take the bar examination, substituting their legislative service and education for the standard study and training requirements for applicants.

## **6. Allow a Person Within 12 Hours of Graduation to Be Eligible to Take the Bar Exam.**

The Legislature added a provision allowing a person within 12 semester hours of graduation from an approved law school to take the bar examination and be licensed to practice under certain conditions. This provision expires on September 1, 2004.

## **7. Allow the Board to Release Bar Examination Results to Law Schools Conducting Research on Individuals' Performance.**

The Legislature adopted a provision allowing the Board to release bar examination results and statistics to law schools conducting research on the performance of their students or graduates in passing the bar examination. The bill provides that information released to a law school is confidential and allows applicants to request that the Board not release their identity to a law school that requests information.

## **8. Require the Board to Report on Applicants Who Fail the Bar Examination.**

The Legislature added a provision requiring the Board to compile a report on the number of applicants who fail the July 2004 bar examination based on gender, ethnicity, and race. The provision also requires the Board to recommend ways to reduce the number of applicants who fail the bar examination. The Board must submit a report to the Legislature by December 31, 2004.

## **Removed Provision**

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### **1. Deposit the Boards' Funds in the State Treasury Subject to the Legislative Appropriations Process.**

The Legislature did not adopt the Sunset recommendation requiring the Board to deposit its funds in the State Treasury subject to the legislative appropriations process with oversight of expenditures by the Comptroller of Public Accounts.

## **Fiscal Implication Summary**

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This legislation will not have a fiscal impact to the State.