

SENATE BILL 411

IN THE SENATE

February 7, 1979	Introduced and referred to Committee on State Administration.
February 15, 1979	Fiscal note requested.
February 19, 1979	Committee recommend bill, do not pass.
February 20, 1979	Fiscal note returned.

1 *Senators* BILL NO. *411*
 2 INTRODUCED BY *Thomas Daniel Lockery, Mont*
 3 *E. W. G.* BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE *Ellard*
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
 6 REGULATION OF THE PRACTICE OF ARCHITECTURE BY A BOARD OF
 7 PROFESSIONAL SERVICE REGULATION IN THE DEPARTMENT OF
 8 BUSINESS REGULATION; TERMINATING OPERATION OF THE BOARD OF
 9 ARCHITECTS ON JULY 1, 1979; ELIMINATING REFERENCES TO THE
 10 BOARD OF ARCHITECTS; LIMITING EXPERIENCE REQUIREMENTS FOR
 11 LICENSURE; PROVIDING FOR RECERTIFICATION; GRANTING
 12 RULEMAKING AUTHORITY; IMPOSING CERTAIN DUTIES ON THE
 13 DEPARTMENT; PERMITTING ADVERTISING AND COMPETITIVE BIDDING;
 14 AMENDING SECTIONS 2-8-121, 18-2-113, 37-65-102, 37-65-303,
 15 37-65-304, 37-65-306, 37-65-307, AND 37-65-323, MCA; AND
 16 REPEALING SECTIONS 2-15-1651, 37-65-201, AND 37-65-202,
 17 MCA."
 18

19 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,
 20 will terminate the board of architects and require a
 21 performance evaluation of the board by the legislative audit
 22 committee; and

23 WHEREAS, as a result of the performance evaluation, the
 24 legislative audit committee recommends that the board of
 25 architects be abolished and that regulation of architectural

1 work be transferred to the board of professional service
 2 regulation in the department of business regulation and that
 3 certain statutory provisions be amended or repealed.
 4

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

6 Section 1. Section 2-8-121, MCA, is amended to read:
 7 "2-8-121. Effect of termination. Upon Unless otherwise
 8 provided, upon termination, each agency or unit shall
 9 continue in existence until July 1 of the next succeeding
 10 year for the purpose of winding up its affairs. During the
 11 windup period, termination does not reduce or otherwise
 12 limit the powers or authority of each respective agency
 13 except that no action may be taken which would continue in
 14 effect beyond the 1-year windup period. Upon the expiration
 15 of the 1 year after termination, each agency not modified or
 16 reestablished shall be abolished and all unexpended balances
 17 of appropriations, allocations, or other funds shall revert
 18 to the fund from which they were appropriated or, if that
 19 fund is abolished, to the general fund."

20 Section 2. Section 18-2-113, MCA, is amended to read:
 21 "18-2-113. Architects on public buildings to be
 22 certified. A contract for the employment of or the rendering
 23 of professional services by any person relating to the
 24 planning or construction of public buildings or other public
 25 works or improvements may not be entered into by this state

1 or its agencies or a county, city, or school district in
 2 this state unless the person is the holder in good standing
 3 of a certificate granted by the board of architects
 4 professional service regulation entitling him to practice
 5 architecture in this state."

6 Section 3. Section 37-65-102, MCA, is amended to read:
 7 "37-65-102. Definitions. Unless the context requires
 8 otherwise, in this chapter the following definitions apply:

9 (1) "Architect" means an individual technically and
 10 legally qualified to practice architecture and who is
 11 authorized under this chapter to practice architecture.

12 (2) "Board" means the board of ~~architects provided for~~
 13 ~~in 2-15-1651 professional service regulation provided for in~~
 14 [section 2 of Senate Bill 247].

15 (3) "Building" means a structure intended primarily
 16 for human occupancy or use.

17 (4) "Department" means the department of ~~professionals~~
 18 ~~and occupational licensing provided for in Title 2, chapter~~
 19 ~~15, part 16 business regulation provided for in Title 2,~~
 20 chapter 15, part 18.

21 (5) "Practice of architecture" means rendering or
 22 offering to render services by consultations, preliminary
 23 studies, drawings, specifications, or other services in
 24 connection with the design of a building or addition or
 25 alteration thereto, whether one or all of these services are

1 performed either in person or as the directing head of an
 2 organization.

3 (6) "Public building" means any building which the
 4 state or any political subdivision thereof maintains for the
 5 use of the public."

6 Section 4. Section 37-65-303, MCA, is amended to read:

7 "37-65-303. Application -- examination -- issuance of
 8 certificate. (1) A person wishing to practice architecture
 9 in this state shall apply to the department for a
 10 certificate to do so. A person applying shall have
 11 successfully completed the requirement of prerequisites in
 12 education, practical experience, and a written examination
 13 as prescribed by the board, ~~in conformance with the~~ The
 14 standard national council of architectural registration
 15 boards examination and grading procedure, procedures may be
 16 considered by the board in establishing prerequisites for
 17 licensure. Experience requirements for licensure may no
 18 exceed 6 years for persons without a degree in architecture
 19 and 2 years for persons with a degree in architecture.

20 (2) After examination the department shall, if the
 21 candidate has been found qualified, grant a certificate to
 22 the candidate to practice architecture in this state, which
 23 may only be granted on the consent of not less than two
 24 members of the board, attested by the secretary, and have
 25 the seal of the board attached."

1 Section 5. Section 37-65-304, MCA, is amended to read:

2 "37-65-304. Examination fee -- deposit of fee. (1)
3 Applicants for examination shall pay in advance to the
4 department a fee set by the board, commensurate with the
5 cost, which shall defray the entire examination expense of
6 the candidate. An applicant failing to pass the examination
7 is entitled to a second examination within 1 year on payment
8 of a reasonable fee prescribed by the board.

9 (2) The money received from the applicant shall be
10 deposited in the earmarked revenue fund for the use of the
11 board, ~~subject to 37-1-101(6).~~"

12 Section 6. Section 37-65-306, MCA, is amended to read:

13 "37-65-306. Annual renewal fee. (1) A licensed
14 architect in this state who desires to continue the practice
15 of his profession shall annually during the month of July,
16 during the time he continues in this practice, pay to the
17 department a fee of ~~\$20~~ as prescribed by the board.

18 (2) An architect licensed in Montana and desiring to
19 continue practice may be required to verify and demonstrate
20 his continued competence by complying with a recertification
21 program as the board may adopt and define by rule."

22 Section 7. Section 37-65-307, MCA, is amended to read:

23 "37-65-307. Deposit of license fees. All fees and
24 moneys received by the department for licenses from
25 practicing architects shall be deposited in the earmarked

1 revenue fund for the use of the board, ~~subject to~~
2 ~~37-1-101(6).~~"

3 Section 8. Section 37-65-323, MCA, is amended to read:

4 "37-65-323. Injunction. Whenever the board of
5 architects has reasonable cause to believe that a person is
6 violating any provision of this chapter or rule of the
7 board, it may, in addition to the remedies provided in
8 37-65-322 and without prejudice thereto, bring an action in
9 the district court for the county in which the violation is
10 occurring to enjoin such person from continuing to engage in
11 such violation or from doing any act in furtherance
12 thereof."

13 NEW SECTION. Section 9. Rulemaking power. The board
14 may adopt rules necessary to protect the public health,
15 safety, and welfare in regulating the practice of
16 architecture.

17 NEW SECTION. Section 10. Duties of the department.
18 The department shall:

19 (1) assist the board in the transaction of its
20 business and keep a record of the board's official actions;

21 (2) charge the board for the reasonable costs of the
22 department incurred in assisting the board.

23 NEW SECTION. Section 11. Advertising and competitive
24 bidding. Nothing in [Title 37, chapter 65] prohibits or
25 authorizes the prohibition of advertising or competitive

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1 bidding by licensed architects.

2 Section 12. Transfer of funds. All unexpended balances
3 of appropriations, allocations, or other funds of the board
4 of architects shall be transferred to the board of
5 professional service regulation on July 1, 1979, to be used
6 for the purpose of regulating the practice of architecture.

7 Section 13. Transition. All orders and rules relating
8 to the practice of architecture made by the board of
9 architects remain in full force and effect until revoked or
10 modified in accordance with law by the board of professional
11 service regulation. The records and documents of the board
12 of architects are transferred to the board of professional
13 service regulation. Licenses, permits, and certificates
14 issued prior to July 1, 1979, remain valid under the same
15 terms and conditions as when issued and are subject to the
16 provisions of Title 37, chapter 65.

17 Section 14. Effect of termination. The provisions of
18 2-8-121 do not apply to the board of architects.

19 Section 15. Codification. Sections 9 through 11 are
20 intended to be codified as an integral part of Title 37,
21 chapter 65, and the provisions of Title 37, chapter 65,
22 apply to sections 9 through 11.

23 Section 16. Repealer. Sections 2-15-1651, 37-65-201,
24 and 37-65-202, MCA, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 385-79

FISCAL NOTE

Form BD-15

In compliance with a written request received 2/20, 19 79, there is hereby submitted a Fiscal Note for SB 411 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION:

An act providing for the regulation of the Practice of Architecture by a Board of Professional Service Regulation in the Department of Business Regulation.

ASSUMPTIONS:

1. The duties of the Board of Architects will be assumed by a Board of Professional Service Regulation July 1, 1979.
2. .25 FTE will be required to administer this act.

FISCAL IMPACT:

	<u>FY80</u>	<u>FY81</u>
Anticipated Revenue	\$17,784	\$18,460
Anticipated Expenditures	<u>17,784</u>	<u>18,460</u>
Net Fiscal Impact	<u>-0-</u>	<u>-0-</u>

Revenue and expenditures will accrue to an earmarked revenue fund account.

COMMENT:

This board, currently under the Department of Professional and Occupational Licensing, contributes to the Centralized Services Program for services performed for the Department. The elimination of these funds could increase the amount contributed by the remaining boards not scheduled for sunset at this time.

Richard D. Younger
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/20/79