

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 342 (Valencia)
Version: June 7, 2023
Hearing Date: June 20, 2023
Fiscal: Yes
Urgency: No
AM

SUBJECT

Architects and real estate appraisers: applicants and licensees: demographic information

DIGEST

This bill would authorize the California Architects Board and the Bureau of Real Estate Appraisers to request a licensee identify their race, ethnicity, gender, or gender identity at initial licensure or at the time of license renewal. The bill provides that a licensee is not required to provide the requested information as a condition of licensure or license renewal, and is not subject to discipline for not providing the information.

EXECUTIVE SUMMARY

This bill seeks to give California Architects Board and the Bureau of Real Estate Appraisers the authority to request, but not require, demographic data from their respective licensee's in order to assist in the diversity, equity, and inclusion (DEI) efforts within the professions. The bill ensures that the information provided remains confidential and is only released in the aggregate. The bill is sponsored by the American Institute of Architects and supported by the various associations representing appraisers and architects and the California Architects Board. There is no known opposition. The bill passed out of the Senate Business, Professions and Economic Development Committee on a vote of 13 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Architects Practice Act, which provides for the licensure and regulation of architects by the California Architects Board (CAB). (Bus. & Prof. Code §§ 5500-5610.7.)

- a) CAB is within the Department of Consumer Affairs. (Bus. & Prof. Code § 5510.)
- 2) Existing law establishes the Real Estate Appraisers' Licensing and Certification Law, which provides for the licensure and regulation of real estate appraisers by the Bureau of Real Estate Appraisers (BREA). (Bus. & Prof. Code §§ 11300-11424.)
 - a) BREA is within the Department of Consumer Affairs. (Bus. & Prof. Code §11301.)
- 3) Requires the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the Physician Assistant Board, and the Respiratory Care Board of California to collect specified workforce data from their respective licensees and registrants for future workforce planning at least biennially.
 - a) Requires all other healing arts boards to request specified data from their respective licensees and registrants for future workforce planning at least biennially.
 - b) This data includes, among other information, gender or gender identity, race or ethnicity, sexual orientation, and disability status.
 - c) Each board is required to maintain the confidentiality of the information it receives from licensees and registrants under this section and can only release information in an aggregate form that cannot be used to identify an individual, as specified.
 - d) Specifies that a licensee or registrant is not required to provide this information as a condition for license or registration renewal, and that licensees or registrants are not subject to discipline for not providing the information. (Bus. & Prof. Code § 502.)
- 4) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)
 - a) Requires a statute to be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)
 - b) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
- 5) Governs the disclosure of information collected and maintained by public agencies pursuant to the CPRA. (Gov. Code §§ 7920.000 et seq.)
 - a) States that the Legislature, mindful of the individual right to privacy, finds and declares that access to information concerning the conduct of the people's

- business is a fundamental and necessary right of every person in this state. (Gov. Code § 7921.000.)
- b) Defines “public records” as any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (Gov. Code § 7920.530.)
 - c) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (Gov. Code § 7922.530.)

This bill:

- 1) Authorizes CAB and BREA to request a licensee identify their race, ethnicity, sexual orientation, gender, or gender identity at initial licensure or at the time of license renewal.
- 2) Provides that a licensee is not required to provide the information in 1), above, as a condition of licensure or license renewal, and is not subject to discipline for not providing that information.
- 3) Requires CAB and BREA to maintain the confidentiality of the information it receives from licensees, and only release the information in an aggregate form that cannot be used to identify an individual.
- 4) Authorizes CAB and BREA to publish the aggregate demographic data it collects on their websites.
- 5) Requires, beginning January 1, 2025, CAB and BREA to submit the aggregate demographic data they collect to the Department of Consumer Affairs, and requires the Department to post that information on its website.
- 6) Makes legislative findings and declarations to demonstrate the need for the limitation on access to the data collected by CAB and BREA stating that in order to protect private and confidential information, it is necessary for that information to remain confidential and be released in the aggregate only.

COMMENTS

1. Stated need for the bill

The author writes:

It is important that professionals in the architectural and real estate appraisal professions, those who design and build and assess the value of our communities,

reflect the diversity of the communities being served. AB 342 will give the California Architects Board and the Bureau of Real Estate Appraisers the authority to request demographic information from licensees, which will help promote diversity, equity, and inclusion (DEI). The disclosure of this information will not be mandatory, but the new authority will allow for better assessment, support, and promotion of diversity, equity, and inclusion in the architectural industry. Collecting demographic information is critical to understanding recruitment and attrition patterns. This will enable these industries to develop strategies to address these barriers and create more diverse and inclusive professions. These values are shared among other industries in the State, and are essential for these industries long-term success.

2. This bill authorizes CAB and BREa to request, but not require, licensee's to provide certain demographic information upon initial licensure or license renewal

According to the author and sponsor, this bill is essential to the DEI efforts in the architectural and real estate appraiser professions. They claim that having access to this information will allow research to be done to understand attrition and recruitment patterns that create barriers to entry within the professions. They also point to Governor Newsom's Executive Order N-16-22 issued in September 2022 that ordered all agencies and departments to develop or update their strategic plans to reflect the use of data analysis and inclusive practices to more effectively advance equity and to respond to identified disparities as further evidence of the need for this bill.

In order to ensure that a licensee's personal information is protected, the bill does two things. It makes the provision of the requested information voluntary and ensures that a licensee cannot be denied a license or disciplined for not providing the information. It also provides that CAB and BREa maintain the confidentiality of the information and only release the information in an aggregate form that cannot be used to identify an individual.

3. Limiting disclosure of public records

California generally recognizes that public access to information concerning the conduct of the people's business is a fundamental and necessary right.¹ At the same time, the state recognizes that this right must be balanced against the right to privacy.² The general right of access to public records may, therefore, be limited where records include personal information. In recognition of this, the bill states that in order to protect the privacy of licensees, while also gathering useful workforce data, it is necessary that some information collected from licensees only be released in aggregate form." In light of the personal nature of the information being collected, the bill's

¹ Cal. Const., art. I, § 3; Gov. Code, § 6250.

² Cal. Const., art. I, § 1.

findings appear consistent with the state's right to privacy and limits on disclosure of public records.

4. Statements in support

The American Institute of Architects, sponsor of the bill, writes:

As the largest representative of the architectural profession in California, AIA California has made it a priority to champion a culture of equity, diversity, and inclusion [EDI] to create an equitable community for everyone within the architectural profession. [...]

The collection of this demographic information is essential to these EDI efforts, as it allows for research to be done to understand attrition and recruitment patterns impacting the profession.

SUPPORT

American Institute of Architects (sponsor)
Appraisal Institute of California Government Relations Committee
California Architects Board
International Interior Design Association Northern California Chapter
International Interior Design Association Southern California Chapter

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 133 (Assembly Budget Committee, Ch. 143, Stats. 2021), among other things, required certain healing arts boards to collect specified workforce data, including gender or gender identify and race or ethnicity, from their respective licensees and registrants for future workforce planning at least biennially.

PRIOR VOTES

Assembly Floor (Ayes 79, Noes 0)
Assembly Appropriations Committee (Ayes 14, Noes 0)
Assembly Business and Professions Committee (Ayes 18, Noes 0)
