

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

SB 1452 (Ashby)
Version: April 16, 2024
Hearing Date: April 23, 2024
Fiscal: Yes
Urgency: No
AM

SUBJECT

Architecture and landscape architecture

DIGEST

This bill makes various changes to the Architects Practice Act, including requiring and applicant for examination and licensure as an architect or a landscape architect and a person applying for renewal of licensure who has a valid email address to report to the California Architects Board (Board) that email address, as specified, and states that those email addresses are not public records and are not subject to disclosure to the public. The bill also extends the operation of the Board until January 1, 2029, and makes various conforming changes.

EXECUTIVE SUMMARY

Current law authorizes the Board to license and regulate persons engaged in the practice of architecture and landscape architecture practicing in California. The California Public Records Act (CPRA) makes all records of a public agency open to public inspection upon request unless the records are otherwise exempt or prohibited from public disclosure, and grants the public the right to obtain a copy of any public record. This bill, among other things, requires an applicant for an architect's license or landscape architecture's license and a licensee renewing their license to provide the Board with a valid email address, if available, but makes that email address nondisclosable to the public. The bill is author sponsored. No timely support or opposition was received by the Committee. This bill passed the Senate Business, Professions and Economic Development Committee on a vote of 12 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Board within the Department of Consumer Affairs and specifies various duties and powers of the Board in regards to the licensure and regulation of architects and landscape architects, and provides that these provisions are repealed on January 1, 2025. (Bus. & Prof. Code §§ 5510, 5517, 5620, 5621, & 5622.)
- 2) Provides that the license of a landscape architect that is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated; however, the holder may apply for a new license if:
 - a) no fact, circumstance, or condition exists which, if the license were issued, would justify its revocation or suspension;
 - b) the holder of the expired license pays the fees required of new applicants; and
 - c) the holder of the expired license takes and passes the current California Supplemental Examination. (Bus. & Prof. Code § 5680.2.)
- 3) Requires licensees to file their mailing address with the Board, as specified. (Bus. & Prof. Code § 5558 & 5657.)
- 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) Extends the repeal date on various provisions related to the Board and its duties and powers until January 1, 2029.
- 2) Requires an applicant for examination and licensure and a person applying for renewal of a license who has a valid email address to report to the Board that email address at the time of application or renewal.
 - a) Specifies that email addresses provided are not public records and are not subject to disclosure to the public under the CPRA.
 - b) Requires an applicant or licensee to notify the Board of any changes to the email address within 30 days.
 - c) Specifies that information sent from an email account of the Board to a valid email address provided by an applicant or licensee is presumed to have been delivered to the email address provided.
- 3) Provides that the holder of a landscape architecture license that has not been renewed within five years to apply for and obtain a new license if they pay all of the fees and meet all of the requirements for obtaining an original license.
- 4) Makes various corresponding and nonsubstantive changes.

COMMENTS

1. Stated need for the bill

The author writes:

This bill is one of five sunset bills sponsored by the Author. This bill is necessary to make changes to the California Architects Board and Landscape Architects Technical Committee to improve oversight of the regulated professions under the jurisdiction of the Board and LATC.

2. This bill makes various changes to the Architects Practice Act and statutes regulating the practice of landscape architecture

The Senate Business, Professions and Economic Development Committee has considered this bill's changes relating to the licensure and regulation of architects and landscape architects, including the following: extending the operation of the Board until January 1, 2029; requiring an applicant for licensure or renewal of licensure to provide a

valid email to the Board and specifies that correspondence sent to the reported email from the Board is presumed to have been delivered; and authorizes the holder of a landscape architecture license that has not been renewed within five years to apply for and obtain a new license if they pay all of the fees and meet all of the requirements for obtaining an original license. The analysis of that Committee is incorporated here by reference.¹ This analysis will focus on the provisions of the bill within the jurisdiction of this Committee, principally the limitation on access to public records.

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.² At the same time, the state recognizes that this right must be balanced against the right to privacy.³ 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 applicants and licensees their email addresses are not public records. In light of the personal nature of the information being collected, the bill's findings appear consistent with the state's right to privacy and limits on disclosure of public records.

SUPPORT

None received

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 1120 (Jones, Ch. 302, Stats. 2022), among other things, required applicants for licensure and certification to provide to the Board for Professional Engineers, Land Surveyors, and Geologists their email address, and specifies those emails provided are not a public record and are exempt from disclosure under the CPRA.

¹ Senate Bus., Prof. and Econ. Development Committee analysis of SB 1452 (2023-24 reg. sess.) as introduced Feb.16, 2024.

² Cal. Const., art. I, § 3; Gov. Code, § 7921.000.

³ Cal. Const., art. I, § 1.

AB 298 (Irwin, Ch. 300, Stats. 2021), among other things, required applicants for licensure and certification to provide to the California Board of Accountancy their email address, and specifies those emails provided are not a public record and are exempt from disclosure under the CPRA.

PRIOR VOTES

Senate Business, Professions and Economic Development Committee (12 Ayes, 0 Noes)
