

SECOND REGULAR SESSION

HOUSE BILL NO. 1639

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WASSON.

4317L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 327.031, 327.041, 327.351, and 327.411, RSMo, and to enact in lieu thereof four new sections relating to the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 327.031, 327.041, 327.351, and 327.411, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 327.031, 327.041, 327.351,
3 and 327.411, to read as follows:

327.031. 1. The "Missouri Board for Architects, Professional Engineers, Professional
2 Land Surveyors and Landscape Architects" is hereby established and shall consist of [fourteen]
3 **fifteen** members: a chairperson, who may be either an architect, a professional engineer [or] ,
4 a professional land surveyor, **or a landscape architect**; three architects, who shall constitute the
5 architectural division of the board; [three] **four** professional engineers, who shall constitute its
6 professional engineering division; three professional land surveyors, who shall constitute its
7 professional land surveying division; three landscape architects, who shall constitute its
8 landscape [architecture] **architectural** division; and a voting public member.

9 2. After receiving his or her commission and before entering upon the discharge of his
10 or her official duties, each member of the board shall take, subscribe to and file in the office of
11 the secretary of state the official oath required by the constitution.

12 3. The chairperson shall be the administrative and executive officer of the board, and it
13 shall be his or her duty to supervise and expedite the work of the board and its divisions, and,
14 at his or her election, when a tie exists between the divisions of the board, to break the tie by
15 recording his or her vote for or against the action upon which the divisions are in disagreement.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 Each member of the architectural division shall have one vote when voting on an action pending
17 before the board; each member of the professional engineering division shall have one vote when
18 voting on an action pending before the board; [the chairperson of the landscape architecture
19 division or the chairperson's designee] **each member of the professional land surveying**
20 **division shall have one vote when voting on an action pending before the board; and each**
21 **member of the landscape architectural division** shall have one vote when voting on an action
22 pending before the board[; and each member of the professional land surveying division shall
23 have one vote when voting on an action pending before the board]. Every motion or proposed
24 action upon which the divisions of the board are tied shall be deemed lost, and the chairperson
25 shall so declare, unless the chairperson shall elect to break the tie as provided in this section.
26 [Seven] **Eight** voting members of the board [and two members] **including at least one member**
27 of each division shall constitute a quorum, respectively, for the transaction of **board** business.

28 4. Each division of the board shall, at its first meeting in each even-numbered year, elect
29 one of its members as division chairperson for a term of two years. **Two voting members of**
30 **each division of the board shall constitute a quorum for the transaction of division**
31 **business.** The chairpersons of the architectural division, professional engineering division [and
32 the] , professional land surveying division, **and landscape architectural division** so elected
33 shall be vice chairpersons of the board, and when the chairperson of the board is an architect, the
34 chairperson of the architectural division shall be the ranking vice chairperson, and when the
35 chairperson of the board is a professional engineer, the chairperson of the professional
36 engineering division shall be the ranking vice chairperson, [and] when the chairperson of the
37 board is a professional land surveyor, the chairperson of the professional land surveying division
38 shall be the ranking vice chairperson, **and when the chairperson of the board is a landscape**
39 **architect, the chairperson of the landscape architectural division shall be the ranking vice**
40 **chairperson.** The chairperson of each division shall be the administrative and executive officer
41 of his or her division, and it shall be his or her duty to supervise and expedite the work of the
42 division, and, in case of a tie vote on any matter, the chairperson shall, at his or her election,
43 break the tie by his or her vote. Every motion or question pending before the division upon
44 which a tie exists shall be deemed lost, and so declared by the chairperson of the division, unless
45 the chairperson shall elect to break such tie by his or her vote.

46 5. Any person appointed to the board, except a public member, shall be a currently
47 licensed architect, licensed professional engineer, licensed professional land surveyor or
48 registered or licensed landscape architect in Missouri, as the vacancy on the board may require,
49 who has been a resident of Missouri for at least five years, who has been engaged in active
50 practice as an architect, professional engineer, professional land surveyor or landscape architect,
51 as the case may be, for at least ten consecutive years immediately preceding such person's

52 appointment and who is and has been a citizen of the United States for at least five years
53 immediately preceding such person's appointment. Active service as a faculty member while
54 holding the rank of assistant professor or higher in an accredited school of engineering shall be
55 regarded as active practice of engineering, for the purposes of this chapter. Active service as a
56 faculty member, after meeting the qualifications required by section 327.314, while holding the
57 rank of assistant professor or higher in an accredited school of engineering and teaching land
58 surveying courses shall be regarded [an] as active practice of land surveying for the purposes of
59 this chapter. **Active service as a faculty member while holding the rank of assistant**
60 **professor or higher in an accredited school of landscape architecture shall be regarded as**
61 **active practice of landscape architecture, for the purposes of this chapter.** Active service
62 as a faculty member while holding the rank of assistant professor or higher in an accredited
63 school of architecture shall be regarded as active practice of architecture for the purposes of this
64 chapter; provided, however, that no faculty member of an accredited school of architecture shall
65 be eligible for appointment to the board unless such person has had at least three years'
66 experience in the active practice of architecture other than in teaching. The public member shall
67 be, at the time of appointment, a citizen of the United States; a resident of this state for a period
68 of one year and a registered voter; a person who is not and never was a member of any profession
69 licensed or regulated pursuant to this chapter or the spouse of such person; and a person who
70 does not have and never has had a material, financial interest in either the providing of the
71 professional services regulated by this chapter, or an activity or organization directly related to
72 any profession licensed or regulated pursuant to this chapter. All members, including public
73 members, shall be chosen from lists submitted by the director of the division of professional
74 registration. The duties of the public member shall not include the determination of the technical
75 requirements to be met for licensure or whether any person meets such technical requirements
76 or of the technical competence or technical judgment of a licensee or a candidate for licensure.

77 6. The governor shall appoint the chairperson and the other members of the board when
78 a vacancy occurs either by the expiration of a term or otherwise, and each board member shall
79 serve until such member's successor is appointed and has qualified. **Beginning August 28,**
80 **2010,** the position of chairperson shall [alternate among an architect, a professional engineer and
81 a professional land surveyor] **rotate sequentially with an architect, then professional**
82 **engineer, then professional land surveyor, then landscape architect, and shall be a licensee**
83 **who has previously served as a member of the board. The appointment of the chairperson**
84 **shall be for a term of four years which shall be deemed to have begun on the date of his or**
85 **her appointment and shall end upon the appointment of the chairperson's successor. The**
86 **chairperson shall not serve more than one term.** All other appointments, except to fill an
87 unexpired term, shall be for terms of four years; but no person shall serve on the board for more

88 than two consecutive four-year terms, and each four-year term shall be deemed to have begun
89 on the date of the expiration of the term of the board member who is being replaced or
90 reappointed, as the case may be. Any appointment to the board which is made when the senate
91 is not in session shall be submitted to the senate for its advice and consent at its next session
92 following the date of the appointment.

93 7. In the event that a vacancy is to occur on the board because of the expiration of a term,
94 then ninety days prior to the expiration, or as soon as feasible after a vacancy otherwise occurs,
95 [the president of the American Institute of Architects/Missouri if the vacancy to be filled requires
96 the appointment of an architect,] the president of the Missouri Association of Landscape
97 Architects if the vacancy to be filled requires the appointment of a landscape architect, the
98 president of the Missouri Society of Professional Engineers if the vacancy to be filled requires
99 the appointment of an engineer, [and] the president of the Missouri Society of Professional
100 Surveyors if the vacancy to be filled requires the appointment of a land surveyor, **and the**
101 **president of the Missouri Association of Landscape Architects if the vacancy to be filled**
102 **requires the appointment of a landscape architect**, shall submit to the director of the division
103 of professional registration a list of five architects or five professional engineers, [five landscape
104 architects] or five professional land surveyors, **or five landscape architects** as the case may
105 require, qualified and willing to fill the vacancy in question, with the recommendation that the
106 governor appoint one of the five persons so listed; and with the list of names so submitted, the
107 president of the appropriate organization shall include in a letter of transmittal a description of
108 the method by which the names were chosen. This subsection shall not apply to public member
109 vacancies.

110 8. The board may sue and be sued as the Missouri board for architects, professional
111 engineers, professional land surveyors and landscape architects, and its members need not be
112 named as parties. Members of the board shall not be personally liable either jointly or severally
113 for any act or acts committed in the performance of their official duties as board members, nor
114 shall any board member be personally liable for any court costs which accrue in any action by
115 or against the board.

116 9. Upon appointment by the governor and confirmation by the senate of the landscape
117 [architecture] **architectural** division, the landscape architectural council is hereby abolished and
118 all of its powers, duties and responsibilities are transferred to and imposed upon the Missouri
119 board for architects, professional engineers, professional land surveyors and landscape architects
120 established pursuant to this section. Every act performed by or under the authority of the
121 Missouri board for architects, professional engineers, professional land surveyors and landscape
122 architects shall be deemed to have the same force and effect as if performed by the landscape
123 architectural council pursuant to sections 327.600 to 327.635. All rules and regulations of the

124 landscape architectural council shall continue in effect and shall be deemed to be duly adopted
125 rules and regulations of the Missouri board [of] **for** architects, professional engineers,
126 professional [landscape architects and land surveyors] **land surveyors and landscape architects**
127 until such rules and regulations are revised, amended or repealed by the board as provided by
128 law, such action to be taken by the board on or before January 1, 2002.

129 10. Upon appointment by the governor and confirmation by the senate of the landscape
130 [architecture] **architectural** division, all moneys deposited in the landscape architectural council
131 fund created in section 327.625 shall be transferred to the state board for architects, professional
132 engineers, professional land surveyors and landscape architects fund created in section 327.081.
133 The landscape architectural council fund shall be abolished upon the transfer of all moneys in
134 it to the state board [of] **for** architects, professional engineers, **professional** land surveyors and
135 landscape architects.

327.041. 1. The board shall have the duty and the power to carry out the purposes and
2 to enforce and administer the provisions of this chapter, to require, by summons or subpoena,
3 with [the advice of the attorney general and upon] the vote of two-thirds of the voting board
4 members, the attendance and testimony of witnesses, and the production of drawings, plans,
5 plats, specifications, books, papers or any document representing any matter under hearing or
6 investigation, pertaining to the issuance, probation, suspension or revocation of certificates of
7 registration or certificates of authority provided for in this chapter, or pertaining to the unlawful
8 practice of architecture, professional engineering, professional land surveying or landscape
9 architecture.

10 2. The board shall, within the scope and purview of the provisions of this chapter,
11 prescribe the duties of its officers and employees and adopt, publish and enforce the rules and
12 regulations of professional conduct which shall establish and maintain appropriate standards of
13 competence and integrity in the professions of architecture, professional engineering,
14 professional land surveying and landscape architecture, and adopt, publish and enforce
15 procedural rules and regulations as may be considered by the board to be necessary or proper for
16 the conduct of the board's business and the management of its affairs, and for the effective
17 administration and interpretation of the provisions of this chapter. Any rule or portion of a rule,
18 as that term is defined in section 536.010, RSMo, that is created under the authority delegated
19 in this chapter shall become effective only if it complies with and is subject to all of the
20 provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
21 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
22 pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul
23 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
24 proposed or adopted after August 28, 2001, shall be invalid and void.

25 3. Rules promulgated by the board pursuant to sections 327.272 to 327.635 shall be
26 consistent with and shall not supersede the rules promulgated by the department of natural
27 resources pursuant to chapter 60, RSMo.

 327.351. 1. The professional license issued to every professional land surveyor in
2 Missouri, including certificates of authority issued to corporations as provided in section
3 327.401, shall be renewed on or before the license or certificate renewal date provided that the
4 required fee is paid. The license of any professional land surveyor or the certificate of authority
5 of any such corporation which is not renewed within three months of the renewal date shall be
6 suspended automatically, subject to the right of the holder of such suspended license or
7 certificate to have it reinstated within nine months of the date of suspension, if the reinstatement
8 fee is paid. Any license or certificate of authority suspended and not reinstated within nine
9 months of the suspension date shall expire and be void and the holder of such expired license or
10 certificate shall have no rights or privileges thereunder, but any person or corporation whose
11 license or certificate has expired may, within the discretion of the board and upon payment of
12 the required fee, be reregistered or relicensed under such person's or corporation's original license
13 number.

14 2. Each application for the renewal of a license or of a certificate of authority shall be
15 on a form furnished to the applicant and shall be accompanied by the required fee; but no
16 renewal fee need be paid by any professional land surveyor over the age of seventy-five.

17 3. Beginning January 1, 1996, as a condition for renewal of a license issued pursuant to
18 section 327.314, a license holder shall be required to successfully complete twenty units of
19 professional development that meet the standards established by the board regulations within the
20 preceding two calendar years. Any license holder who completes more than twenty units of
21 professional development within the preceding two calendar years may have the excess, not to
22 exceed ten units, applied to the requirement for the next two-year period.

23 4. The board shall not renew the license of any license holder who has failed to complete
24 the professional development requirements pursuant to subsection 3 of this section, unless such
25 license holder can show good cause why he or she was unable to comply with such requirements.
26 If the board determines that good cause was shown, the board shall permit the license holder to
27 make up all outstanding required units of professional development.

28 5. A license holder may at any time prior to the termination of his or her license request
29 to be classified as inactive. Inactive licenses may be maintained by payment of an annual fee
30 determined by the board. Holders of inactive licenses shall not be required to complete
31 professional development as required in subsection 3 of this section. Holders of inactive licenses
32 shall not practice as professional land surveyors **within this state, but may continue to use the**
33 **title "professional land surveyor" or the initials "PLS" after such person's name.** If the

34 board determines that good cause was shown, the board shall permit the professional land
35 surveyor to make up all outstanding required units of professional development.

36 6. A holder of an inactive license may return such license to an active license to practice
37 professional land surveying by paying the required fee, and either:

38 (1) Completing one-half of the two-year requirement for professional development
39 multiplied by the number of years of lapsed or inactive status. The maximum requirement for
40 professional development units shall be two and one-half times the two-year requirement. The
41 minimum requirement for professional development units shall be no less than the two-year
42 requirement. Such requirement shall be satisfied within the two years prior to the date of
43 reinstatement; or

44 (2) Taking such examination as the board deems necessary to determine such person's
45 qualifications. Such examination shall cover areas designed to demonstrate the applicant's
46 proficiency in current methods of land surveying practice.

47 7. Exemption to the required professional development units shall be granted to
48 registrants during periods of serving honorably on full-time active duty in the military service.

49 8. At the time of application for license renewal, each licensee shall report, on a form
50 provided by the board, the professional development activities undertaken during the preceding
51 renewal period to satisfy the requirements pursuant to subsection 3 of this section. The licensee
52 shall maintain a file in which records of activities are kept, including dates, subjects, duration
53 of program, and any other appropriate documentation, for a period of four years after the program
54 date.

327.411. 1. Each architect and each professional engineer and each professional land
2 surveyor and each landscape architect shall have a personal seal in a form prescribed by the
3 board, and he or she shall affix the seal to all final documents including, but not limited to, plans,
4 specifications, estimates, plats, reports, surveys, proposals and other documents or instruments
5 prepared by the licensee, or under such licensee's immediate personal supervision. **Such licensee**
6 **shall either prepare or personally supervise the preparation of all documents sealed by the**
7 **licensee**, and such licensee shall be held personally responsible for the contents of all such
8 documents sealed by such licensee, **whether prepared or drafted by another licensee or not.**

9 2. The personal seal of an architect or professional engineer or professional land surveyor
10 or landscape architect shall be the legal equivalent of the licensee's signature whenever and
11 wherever used, and the owner of the seal shall be responsible for the architectural, engineering,
12 surveying, or landscape architectural documents, as the case may be, when the licensee places
13 his or her personal seal on such plans, specifications, estimates, plats, reports, surveys or other
14 documents or instruments for, or to be used in connection with, any architectural or engineering
15 project, survey, or landscape architectural project. **Licensees shall undertake to perform**

16 **architectural, professional engineering, professional land surveying and landscape**
17 **architectural services only when they are qualified by education, training, and experience**
18 **in the specific technical areas involved.**

19 **3. Notwithstanding any provision of this section,** any architect, professional engineer,
20 professional land surveyor, or landscape architect may, but is not required to, attach a statement
21 over his or her signature, authenticated by his or her personal seal, specifying the particular plans,
22 specifications, plats, reports, surveys or other documents or instruments, or portions thereof,
23 intended to be authenticated by the seal, and disclaiming any responsibility for all other plans,
24 specifications, estimates, reports, or other documents or instruments relating to or intended to
25 be used for any part or parts of the architectural or engineering project or survey or landscape
26 architectural project.

27 **4.** Nothing in this section, or any rule or regulation of the board shall require any
28 professional to seal preliminary or incomplete documents.

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