

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 1094

INTRODUCER: Senators Rodriguez and Jones

SUBJECT: Architect Education Minority Assistance Program

DATE: February 21, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Favorable</u>
2.	<u>Davis</u>	<u>Betta</u>	<u>AEG</u>	<u>Pre-meeting</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

I. Summary:

SB 1094 creates the Architect Education Minority Assistance Program (minority assistance program) within the Department of Business and Professional Regulation (DBPR) for the purpose of providing scholarships to minority persons as defined in s. 288.703, Florida Statutes. Under the bill, the minority assistance program is administered by the Board of Architecture and Interior Design (board) within the DBPR. The bill creates the five-member Architect Education Minority Assistance Advisory Council (advisory council) to assist the board in administering the program.

To be eligible for financial assistance, a minority person must be a resident of Florida and enrolled in their fifth year of an architectural education program accredited by the National Architectural Accreditation Board (NAAB) at an institution in this state.

The minority assistance program is funded from a portion of existing architectural license fees, not to exceed \$10 per license. Funds collected for the minority assistance program must be deposited into the Professional Regulation Trust Fund in a separate account maintained for that purpose. The bill authorizes the DBPR to spend up to \$200,000 per year for the program but may not allocate overhead charges to the account. The minority assistance program must disburse funds for scholarships twice each year as recommended by the advisory council and approved by the board.

The bill requires the board to adopt rules to administer the program, including rules relating to eligibility criteria, which must, at a minimum, include financial need, status as a minority person as defined in s. 288.703, Florida Statutes, and scholastic ability and performance.

The bill creates a criminal prohibition against a person, or his or her agent, knowingly filing with the board any notice, statement, or other document that is false or that contains any material

misstatement of fact. A person who violates this prohibition commits a misdemeanor of the second degree, punishable as provided in sections 775.082 or 775.083, Florida Statutes.¹

The membership of the advisory council must be diverse and representative of minority persons. The advisory council must consist of five Florida-licensed architects, who are appointed by the board. The advisory council must include one board member, who shall serve as chair of the council, two representatives of the American Institute of Architects, Florida Section, one representative of the National Organization of Minority Architects, and one member who is appointed as a member-at-large. At least one member of the advisory council must be a woman.

Council members must serve without compensation, except that the advisory council member who is also a member of the board may be compensated for necessary and actual expenses while engaged in the business of the council. Expenses incurred by other advisory council members while engaged in the business of the council must be borne by such member or by the organization or agency the member represents.

The bill will have a negative fiscal impact on the board's operating account within the Professional Regulation Trust Fund. See Section V, Fiscal Impact Statement.

The bill takes effect July 1, 2022.

II. Present Situation:

Chapter 481, Part I, F.S., governs the licensing and regulation of architects, and the registration of interior designers, and related business organizations. The board, under the DBPR's Division of Professions, processes license applications, reviews disciplinary cases, and conducts informal administrative hearings relating to licensure and discipline.²

The terms "architect" or "registered architect" mean a natural person who is licensed under part I of ch. 481, F.S., to engage in the practice of architecture.³ The term "architecture" means:⁴

...the rendering or offering to render services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. These services include planning, providing preliminary study designs, drawings and specifications, job-site inspection, and administration of construction contracts.

¹ Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S., provides that a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

² See s. 481.205, F.S., relating to the authority of the Board of Architecture and Interior Design. The board consists of 11 members. Five members must be registered architects; three members must be registered interior designers; and three members must be laypersons who are not, and have never been, architects, interior designers, or members of any closely related profession or occupation. At least one member of the board must be 60 years of age or older.

³ Section 481.203(1), F.S.

⁴ Section 481.203(2), F.S.

An applicant for an initial license as an architect must:

- Pass the licensure examination prescribed by rule of the board;⁵
- Be a graduate of a school or college of architecture accredited by the NAAB;⁶ and
- Complete an internship of diversified architectural experience that meets requirements set forth by rule of the board.⁷

The internship experience requirement is based on the Architectural Experience Program (AXP or experience program) administered through the National Council of Architectural Registration Boards (NCARB).⁸ The AXP requires 3,740 hours of supervised experience in certain experience areas.⁹

The fees for an initial architect license are:

- \$35 for an initial examination fee; and
- \$5 fee for combating unlicensed activity.

Persons who are licensed in another state or jurisdiction may also apply for a license by endorsement.¹⁰

There are also a number of fees payable to the NCARB by persons on the path to obtaining an architect license, including fees for a record of participation in the experience program and the \$1,410 examination fee.¹¹

There are six NAAB-accredited architecture programs in Florida at the following universities:

- Florida A&M University;
- Florida Atlantic University
- Florida International University;
- University of Florida;
- University of Miami; and
- University of South Florida.

The education standard for an architecture degree adopted by NCARB consists of a minimum of 150 semester credit hours (225 quarter credit hours) in a variety of specified subject areas.¹²

According to the American Institute of Architects (AIA), the average cost of a five-year Bachelor of Architecture ranges from \$150,000 to \$180,000.

⁵ Section 481.209(1), F.S.; and Fla. Admin. Code R. 61G1-14.001.

⁶ Section 481.209(1), F.S.

⁷ Section 481.211, F.S.; and Fla. Admin. Code R. 61G1-13.001.

⁸ Fla. Admin. Code R. 61G1-13.001; See NCARB, *Gain AXP Experience*, available at <https://www.ncarb.org/gain-axp-experience> (last visited Feb. 9, 2022).

⁹ See NCARB, *Experience Requirements*, available at <https://www.ncarb.org/gain-axp-experience/experience-requirements> (last visited Feb. 9, 2022).

¹⁰ See s. 481.213(3), F.S.

¹¹ See NCARB, *Fees*, available at <https://www.ncarb.org/fees#Exam%20fees> (last visited Feb. 9, 2022).

¹² See NCARB, *Education Guidelines*, p. 24, available at <https://www.ncarb.org/sites/default/files/Main%20Website/Data%20%20Resources/Guidelines/EducationGuidelines.pdf> (last visited Feb. 9, 2022).

According to the Florida Chapter of the AIA, it takes an average of 12.3 years to become a licensed architect, with African American license candidates taking an average of 15.2 years.¹³ Approximately 44 percent of candidates who take the licensure exam identify as a person of color; only 29 percent of the candidates who identify as a person of color complete the examination. As of 2020, the racial diversity of the persons participating in the path to licensure has increased, with the proportion of new persons who identify as people of color now equal to the proportion of white candidates. However, increases in racial and ethnic diversity have been limited to the Asian and the Hispanic or Latino population. The proportion of African American candidates in the profession has seen little change over the past decade and continues to be underrepresented when compared to United States Census data.¹⁴

Women are ready to take the licensure examination one year sooner than men. Two out of every five new architects is a woman. There is near equal representation of men and women early on the path to licensure, with women accounting for 47 percent of individuals reporting experience hours and 46 percent of individuals testing. Additionally, calendar year 2020 data also saw a three percentage point increase in the proportion of new women architects to 41 percent.¹⁵

There are approximately 10,800 Florida-licensed architects.¹⁶

Section 288.703(4), F.S., defines the term “minority person” to mean a lawful, permanent resident of Florida who is:

- An African American, a person having origins in any of the Black racial groups of the African Diaspora, regardless of cultural origin;
- A Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race;
- An Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands before 1778;
- A Native American, a person who has origins in any of the Indian Tribes of North America before 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services; or
- An American woman.

Clay Ford Scholarship Program

Section 473.3065, F.S., establishes the Clay Ford Scholarship Program administered by the Board of Accountancy within the DBPR. The Board of Accountancy is assisted by the Certified Public Accountant Education Minority Assistance Advisory Council to provide scholarships for minority persons, as defined in s. 288.703(4), F.S., during the fifth year study required to obtain a Certified Public Accountant (CPA) license. Under the Clay Ford Scholarship Program,

¹³ See also NCARB, *Demographics: Career and Licensure*, available at <https://www.ncarb.org/nbtn2021/demographics-licensure> (last visited Feb. 9, 2022).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Department of Business and Professional Regulation (DBPR), *Architecture and Interior Design – Board Information*, available at <http://www.myfloridalicense.com/DBPR/architecture-and-interior-design/board-information/> (last visited Feb. 9, 2022).

\$200,000 per year is set aside for scholarships. Funding for the program is based on a portion of the licensee fee for a CPA license, not to exceed \$10.

III. Effect of Proposed Changes:

The bill creates the Architect Education Minority Assistance Program within the DBPR for the purpose of providing scholarships to minority persons as defined in s. 288.703, F.S. The bill also creates the Architect Education Minority Assistance Advisory Council, an advisory council as defined in s. 20.03(7), F.S.,¹⁷ within the DBPR to assist the board in administering the program.

To be eligible for financial assistance, a minority person must be:

- A resident of Florida; and
- Enrolled in their fifth year of an architectural education program accredited by the NAAB at an institution in this state.

The minority assistance program is funded from a portion of existing architectural license fees established under s. 481.207, F.S., not to exceed \$10 per license. Funds collected for the minority assistance program must be deposited into the Professional Regulation Trust Fund in a separate account maintained for that purpose. The bill authorizes the DBPR to spend up to \$200,000 per year for the program but may not allocate overhead charges to the account.

The minority assistance program must disburse funds for scholarships twice each year as recommended by the advisory council and approved by the board.

The bill requires the board to adopt rules to administer the program, including rules relating to:

- Eligibility criteria for receipt of a scholarship, which, at a minimum, must include the following factors:
 - Financial need;
 - Status as a minority person as defined in s. 288.703, F.S.; and
 - Scholastic ability and performance.
- Scholarship application procedures;
- Scholarship amounts, the timeframe for payments or partial payments, and criteria governing how scholarship funds may be spent by the recipient;
- The total amount of scholarship funds which can be awarded each year; and
- The minimum balance that must be maintained in the program account.

The bill authorizes the Chief Financial Officer to invest funds in the program account, subject to the same limitations that apply to the investment of other state funds, and all interest earned on investments must be credited to the program account.

Under the bill, scholarship determinations by the board are exempt from ch. 120, F.S., the Florida Administrative Procedure Act, which provides notice, hearing, and appeal rights for final agency actions.

¹⁷ Section 20.03(7), F.S., defines the terms “council” or “advisory council” to mean “an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.”

The bill creates a criminal prohibition against a person, or his or her agent, for knowingly filing with the board any notice, statement, or other document that is false or that contains any material misstatement of fact. A person who violates this prohibition commits a misdemeanor of the second degree, punishable as provided in ss. 775.082 or 775.083, F.S.¹⁸

Except as provided in the bill, the advisory council must operate in a manner consistent with s. 20.052, F.S.¹⁹ The advisory council membership must be diverse and representative of minority persons as defined in s. 288.703, F.S.

The advisory council must consist of five architects licensed under ch. 481, F.S., who are appointed by the board. The advisory council must include:

- One board member, who shall serve as chair of the council;
- Two representatives of the American Institute of Architects, Florida Section;
- One representative of the National Organization of Minority Architects; and
- One member who is appointed as a member-at-large.

At least one member of the advisory council must be a woman.

The initial and subsequent appointments by the board to the advisory council must be for staggered terms. The board must fill a vacancy on the advisory council in the same manner as the initial appointment. Any member appointed to fill a vacancy of an unexpired term must be appointed for the remainder of that term.

The council membership of any member who has three consecutive absences or absences constituting 50 percent or more of the council's meetings within any 12-month period is void and the member's position is deemed vacant.

Under the bill, council members must serve without compensation. However, a board member who serves as a member of the council must be compensated in accordance with ss. 112.061 and 455.207(4), F.S.,²⁰ for any necessary and actual expenses incurred by a member while engaged in the business of the council. Expenses incurred by other advisory council members while engaged in the business of the council must be borne by such member or by the organization or agency the member represents.

The minority assistance program provided by the bill is similar to that provided in s. 473.3065, F.S., for students on the path to CPA licensure.

¹⁸ See *Supra* note 1 for applicable criminal penalties.

¹⁹ Section 20.052, F.S., provides for the administration of advisory boards, including requiring that the private citizen members of an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer; all members serve staggered four-year terms unless otherwise provided by law; members serve without compensation or honorarium other than per diem and reimbursement for travel expenses, and all meetings are public under s. 286.011, F.S.

²⁰ Section 112.061, F.S., authorizes reimbursement for travel expenses incurred by state employees. Section 455.207(4), F.S., authorizes compensation for members of a DBPR board in the amount of \$50 for each day in attendance at an official meeting of the board and for each day of participation in any other business involving the board, respectively.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Qualifying minority architectural degree students may receive financial assistance during their fifth year of study.

C. Government Sector Impact:

The minority assistance program is funded from a portion of existing architectural license fees established under s. 481.207, F.S., not to exceed \$10 per license. Funds collected for the minority assistance program must be deposited into the Professional Regulation Trust Fund in a separate account maintained for that purpose. The bill authorizes the DBPR to spend up to \$200,000 per year for the program but may not allocate overhead charges to the account.

According to the DBPR, the board's operating account within the Professional Regulation Trust Fund is projected to have a negative balance in Fiscal Year 2021-2022 and each subsequent year. However, the DBPR states that the Professional Regulation

Trust Fund, as a whole, remains healthy with sufficient cash.²¹ Transferring of funds from the operating account of the board will increase the operating account's projected negative balance each fiscal year in the amount of up to \$200,000 per year that could be transferred from the board's operating account to a newly created Architect Education Minority Assistance Program account beginning in Fiscal Year 2022-2023.

As a result of the transfer of the maximum amount allowed by the bill, the DBPR projects that the board's operating account will have a negative balance of \$937,326 by the end of Fiscal Year 2023-2024, a negative balance of \$889,013 by the end of Fiscal Year 2024-2025 and negative balance of \$1,948,932 by the end of Fiscal Year 2025-2026. The DBPR states that the anticipated deficit of the board's operating account within the Professional Regulation Trust Fund can be addressed through a review and modification of licensing fees and/or a one-time assessment of licensees every four years.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides for funding for the scholarship program to be “derived from a portion of existing license fees established under s. 481.207, F.S., not to exceed \$10 per license, and to be deposited...” (emphasis added.) As noted by the DBPR, funding for the scholarship program may be based on current license fees. If the funding is based on the current, i.e., existing, license fees, the DBPR questions whether the program ceases to exist should the board increase license fees.²³ Consideration should be given to deleting the term “existing.”

VIII. Statutes Affected:

This bill creates section 481.2095 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²¹ DBPR, *2022 Agency Legislative Bill Analysis for SB 1094*, at p. 5 (Dec. 15, 2021) (On file with the Committee on Regulated Industries).

²² *Id.* at p. 5.

²³ *Id.* at p. 5.