

Mid-Year Report



Exclusively for IDPC Clients

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EXECUTIVE SUMMARY

Successes

To date, 64 bills, drafts, and other efforts related to interior design crossed my desk. That's approximately *three times* the number of bills that I've been reviewing for each of the past seven years!

While not all of these bills required my action, it is my job to remain diligent in thoroughly analyzing each bill to ensure that your members will not be negatively impacted.

Together, we must remain vigilant. This year the bills that needed my immediate attention and would have had an immediate and detrimental effect on your members were in SC, CA, TX, MA – all have gone favorably for us so far.

There's still half a year to go, and my future plans include tentative lobbying in PA, NY, MI and MN – states that have introduced practice acts but have not yet scheduled hearings. There will likely be others.

The American Society of Interior Designers (ASID), the money and muscle behind the push to license the entire industry, is on record with their 2013/2014 agenda, and they will continue to promote their anti-competitive regulation as well as vigorously oppose any further efforts to deregulate existing regulations.

We must stand strong and be armed and ready to defend the right to practice and oppose unfair trade restraints that would negatively impact your members.

Defeats

Last year, a "minor" amendment passed in Connecticut and while it had little impact, I didn't like it because it was a "camel's nose under the tent." We'd been notified by an AIA-CT colleague that the Department of Consumer Affairs told her that "the proposed Bill is expected to die this session." Subsequently, we were all caught off guard when swift momentum ensued and we were collectively unable to stop it from being enacted. Sure enough, another amendment passed this year under the radar, making another incremental advance towards a practice act.

Opportunities

Continue to support repeal and/or sunset existing interior design laws. While it is very difficult to remove a law from the books once it's been enacted, if we succeed in removing even one law in this manner, it would

- (1) demoralize the pro-regulation cartel, and
- (2) create a model and motivation for other states to initiate similar actions.

LEGISLATIVE DETAILS

Alabama

A bill to sunset (or fund) the existing title act was introduced. Historically, there has been little grassroots interest from the non-registered designers or architects to get rid of the law so I did not allocate much time there.

Arizona

I expected a bill to be introduced this year, but fortunately that has not happened, yet. This is likely due to our working to “re-educate” their previous sponsor, a freshman Republican senator who had been fed false information by the pro-regulation cartel. From what I can gather, the pro-regulation coalition is having trouble finding a sponsor. I have good contacts in Arizona and will continue to monitor.

California

A lot of time and effort was once again spent in California this year. Because it is the state which has the largest number of designers and one of the three main states in ASID’s crosshairs, it’s important to make our views known and keep design free for all.

This year the bill was SB 308, a Sunset bill which would either extend or sunset the current private, voluntary certification program. While we generally favor repealing any existing laws, California is different; we support extending the CID program because:

1. It’s voluntary, no one is harmed or put out of business if they choose not to become CID’s;
2. It does not exclude non-CID’s from submitting plans for permitting;
3. It uses their own, California-specific, IDEX exam that anyone can take, instead of ASID’s exclusionary, arbitrary and anti-competitive NCIDQ;
4. The program was put into place over 20 years ago as an alternative to ASID’s licensing scheme and keeping it in place is the best way to fight the ongoing barrage of licensing bills in California;
5. California is arguably the most liberal, pro-regulation state in the country and since the CID model has been adopted for other private certification programs, there is virtually no chance that the program would be sunset.

I traveled to CA a few times to lobby and to testify in support of the bill. The ASID-funded state coalition submitted a proposed amendment that would have allowed the program to use the NCIDQ as a substitute qualifying exam. While there were also other issues suggested and discussed by various groups, I chose to focus exclusively on preventing the NCIDQ from getting a foothold because that’s my area of expertise and an area that would be detrimental to your members.

Subsequent to the hearing, the Committee allowed the bill to move forward with some changes, however adding the NCIDQ was not one of them. Victory for us!

The bill is still undergoing two major issues which have become very controversial and adversarial.

1. Clarifying language was submitted by CCIDC (who oversee the CID program) to define what CID's are allowed to do, in submitting plans for permitting, under the exemptions in the architects' law. The building officials have requested that these definitions be clearly spelled out so that any confusion could be eliminated, especially for those building departments where all interior design plans are typically rejected (Los Angeles, San Francisco, San Jose). We support the clarifying language because it describes what all designers are allowed to do already.

However, AIA-CA has opposed the changes, even though they do not have anything to do with structure or seismic impact. This was surprising not only to CCIDC, but to IDPC, NKBA, and several other allied groups in that AIA-CA had in the past always been one of our allies, working with us to fight licensing. One of the main points of the clarifying language is to circumvent future licensing efforts, because the ASID folks are the main group whining about their plans being rejected. The lack of clarifying language won't necessarily negatively impact your members, so I'm not allocating any more time on it; however without the clarifying language, we can be assured of the continuation of practice act bills in California.

2. The ASID-funded pro-regulation group – IDCC – submitted this change to Section 5805(b):

"...building departments shall accept interior design plans which are submitted by certified interior designers..."

I have voiced my strong objection to this amendment because:

1. Proposed amendment 5805(b) would make the CID program exclusionary – something that the legislature was strongly opposed to when the program was enacted. The CID program was meant to be voluntary, and adding (b) would render it both non-voluntary and anti-competitive.
2. The use of the word "shall" virtually forces building officials to "review" the plans of CID's only. This would place an unmerited distinction between CID's and other members of the design community who have been doing this work for decades without harm to the public.
3. Absent any valid health, safety or welfare concerns – of which there is not a single piece of evidence in California or any other state – such a distinction is inappropriate and could very well result in the chilling effect of building officials not even considering the plans of other interior design plans absent the CID stamp.

I've reached out to CALBO (California Building Officials) to consider and support our position, and have also been in close communication with the Manager of the Senate Business, Professions & Economic Development Committee on all of these issues.

The bill is currently before the Assembly Government Organizational Committee, which will be heard on the August 7th.

Colorado

Continuing to monitor activity in anticipation of another run at expanding the current permitting statute in the architects' law into a hybrid title/practice law.

Connecticut

The existing title law was amended to allow registered interior designers to use a seal. While there is no language excluding anyone else from submitting plans, (1) this is part of the pro-regulation incremental agenda, (2) there is always the possibility of the chilling effect on building officials not accepting plans without a seal.

Illinois

The Illinois Interior Design Coalition (IIDC) is still seeking a "compromise" to introduce another practice act, but the opposition is standing strong against it. No legislation expected this year.

Indiana

SB5201, a bill to create an "ERASER" committee to eliminate unnecessary regulations was introduced but failed to pass.

Louisiana

There is a small grassroots contingency interested in repealing the practice act. They are in touch with me from time to time, and I've pledged my support if they can get some momentum for their effort. I may be in the area in the fall and if so will meet with them to encourage them. Repealing a practice act would be a major coup for us, but without boots on the ground doing the work there it won't happen, I don't have the time to coordinate such a major effort as first priority it to prevent new regulations from being enacted.

Massachusetts

Three new 2013 MA bidding bills were introduced. These bills would allow only designers with a "national certification" to bid on state contracts.

One problem with the bill is the definition of a "nationally recognized certification." More importantly though, no certification is currently needed to bid on state contracts, and to impose one would tie the hands of the bidding authority in selecting the most qualified designer for a project.

Secondly, it would not be a stretch to claim that the interior design cartel would then try to assert that the only "nationally" recognized state law for interior designers is the NCIDQ, which of course is not true. The NCIDQ has been adopted for practice regulation in only three states.

Also, not to be forgotten is the bait-and-switch scenario which happened in Massachusetts last year, where the bill sponsor waited until right before midnight on the last day of session and added the NCIDQ requirement by voice on the Senate floor.

The bills were scheduled for a public hearing in July. I was not able to get to the hearing because I'd just had a minor surgery and was not yet cleared for air travel, but I did send a strong letter to the Chair and Committee Members on behalf of our group outlining our opposition.

Fortunately, the hearing was not well-attended by either side. A panel of three pro-regulation designers testified with the usual misrepresentations, rhetoric, and blatantly false information. My favorite is that "400 designers would be put out of work if the bill did not pass," which begs the question: how are they working now if they can't (as they claim) bid on state projects?

A question was raised by the proponents that this would save the public money because as the law stands now, the state bidding authorities must retain the services of an architect who then marks-up the services of the interior designer. By hiring the designer directly, the state could save money. Even if we agreed (which we don't), wouldn't the state save even more if it didn't limit bidding solicitation to only a small number of certified designers, which would naturally drive up the price since there would be less competition?

The Chairs of this joint committee did not call for a vote and right now the bill is stalled in Committee. I have an in-state lobbyist colleague with excellent connections and we are monitoring closely for any movement, and I will meet with the legislature and building authority if necessary.

Note: The Boston Society of Architects (BSA) chose not to oppose this bill with IDPC, NKBA and NFIB which was not helpful, and certainly would appear to contradict AIA National Headquarters' legislation guidelines. AIA HQ has been an important ally in fighting new interior design regulations.

Michigan

The three practice act bills that stalled in 2012 have not as of yet been introduced this year. Michigan is on a two-year legislative cycle, and any bills for the 2011-2012 session that were not signed by the governor by December 31, 2012 are dead. When the two-year cycle started again on January 1 for the 2013-2014 session, any bills that were introduced in the previous cycle got first draft priority. This would give the maximum time (2 full years) to get the bill passed; however, the practice act bills have not been re-introduced.

HB 4378, a bill to repeal the current registration (just a list, not a title act) passed the House but has stalled in the Senate. IDPC did weigh in, in support of the repeal. The governor, who is a businessman, is pushing the deregulation. Michigan has a 2-year session for bills, so we still have another 1.5 years to help

the deregulation effort. It is expected that the Senate may take the matter up at the end of the year. I am working closely with the AIA lobbyist in Michigan.

Minnesota

A practice act was introduced in February with a hearing in March. I contacted the Committee on behalf of IDPC's clients; I opted not to travel to testify because of the very short notice, and also because I knew there would a lot of opposition testimony, including students from a local, large community college which would be excluded from becoming licensed. The bill never really got any momentum and died in committee when the deadline passed (adjourned Sine Die).

Mississippi

A sales tax bill was introduced to exempt all interior design services only provided by Mississippi Certified Interior Designers. The same bill died in Committee in 2012 after we objected to the exemption for only CID's. This new bill has not had any momentum, but I'm monitoring it.

New York

A bill which would allow only certified interior designers to bid on state contracts (similar to Massachusetts), and exclude all others, was introduced in January. I sent a letter to the Chair expressing our opposition. As of yet there has been no movement on this bill. Continuing to monitor.

Oregon

A draft bill for a practice act was pre-filed, but official legislation never materialized due to lack of legislator interest. The draft bill was virtually identical to the one we defeated last year.

Pennsylvania

A practice act, disguised as a "registration" was introduced in the Senate by Sen. Ward (R). While it was still in draft form, IDPC and some of our allies contacted the Senator to express our opposition and correct the false statements on her bill summary. She virtually ignored all groups and formally introduced it. Historically, we have been able to organize a huge grassroots opposition in this state, and those associations and individuals are on board to stop this bill this year too. Meetings with legislators are being set up for August and September.

South Carolina

A practice act was introduced in January, which if adopted would be one of the most restrictive interior design laws in the country and join only three other states in regulating who can offer design services.

In March, April and May, I made several trips to the state capitol to:

- Lobby legislators and/or staff
- Meet with lobbyists from NKBA and AIA to strategize
- Testify at hearings

I spent a good deal of time meeting with House members, including the Chair of the House Labor, Commerce and Industry Committee. Chairman Sandifer was quite interested in the statistics I gave him which detailed the large number who would be negatively impacted by this legislation, the small number of industry insiders that would benefit, and the statistical and financial burdens of using the NCIDQ as the criteria for offering design services.

I subsequently testified at the House hearing. My strong, fact-based arguments and were well-received by the House Labor, Commerce & Industry Subcommittee. On the other hand, some of the proponents were really hammered by the Committee for some of their unsupported statements which could not be defended.

The Committee voted to “adjourn debate.” While technically the Committee does have the ability to discuss the legislation later in private, this is generally the “politically correct” way they kill a bill, by letting it languish in Committee. The bill can be revived next year, but only after being admonished by one Committee member that “the sides get together,” which is definitely not going to happen.

In May, a practice act and companion bill to HB 3417 was granted a hearing in the Senate. Many states will not allow a bill move on to the other chamber until it passes out of the first; however, this is not the case in SC, and the sponsor requested a hearing despite the lack of momentum from the companion House bill.

The Senate hearing went very well, much like the previous hearing in the House. I testified at that hearing as well, and when questioned by the bill’s sponsor, was able to rebut the false information he had received, much to his chagrin. The Subcommittee’s decision was that the bill was going to be “held in Subcommittee,” meaning it would not receive a favorable vote to move on to the full committee.

I did have an opportunity to speak with the Chair of the Subcommittee for a while after the hearing. We chatted about the role of the state legislature and he agreed that their role is NOT to tell consumers who they can hire to design the interiors of their businesses or homes. I also had an opportunity to give him even more facts that I could not fit into my testimony because of time constraints.

The Chair contacted me, unsolicited, a couple of weeks after the hearing to tell me he would do everything in his power to stop this bill, so we have a very strong champion on our side.

Texas

In 2012, the Texas Sunset Advisory Commission recommended the repeal of the existing interior designer registration law and deregulation of the profession. In spite of the recommendation, the Commission decided to allow the title act to

continue, but recommended amending the law so that those who were grandfathered instead of passing the NCIDQ will now have to take the exam.

This year, hearings were held on the amended bill, and IDPC weighed in strongly in favor of the amendment that the grandfathered designers take the NCIDQ within three years. In spite of the whining and complaining from the pro-regulation folks, the bill passed.

It will be interesting to see how this impacts the state registration which brings in \$1 million in fees, since 70% of the current designers were grandfathered. Many will not have the qualifications necessary to sit for the NCIDQ exam, and others may not want to spend the \$2,000 to take the exam. This will create the perfect storm for us to mount another repeal effort in a few years with less opposition, less income for the state to consider. That's why we supported the amendment in favor of the NCIDQ exam when we usually oppose the same exam for new legislation.

Note: I am closely monitoring the situation in Texas because TBAE (the licensing board) appears poised to try a "bait-and-switch," i.e. they want to substitute another easier, less costly exam for the grandfathered designers to take to retain their state registration status and keep their dues funding the board. Such a tactic is unfair, deceptive, and contrary to the law.

LEGISLATIVE SUMMARY

See attached spreadsheet