

By: Solomons

H.B. No. 2410

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of the practice of professional
3 engineering.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 1001.004(e), Occupations Code, is
6 amended to read as follows:

7 (e) This chapter does not:

8 (1) prevent a person from identifying the person in
9 the name and trade of any engineers' labor organization with which
10 the person is affiliated;

11 (2) prohibit or otherwise restrict a person from
12 giving testimony or preparing an exhibit or document for the sole
13 purpose of being placed in evidence before an administrative or
14 judicial tribunal, subject to the board's disciplinary powers under
15 Subchapter J regarding negligence, incompetency, or misconduct in
16 the practice of engineering;

17 (3) repeal or amend a law affecting or regulating a
18 licensed state land surveyor; or

19 (4) affect or prevent the practice of any other
20 legally recognized profession by a member of the profession who is
21 licensed by the state or under the state's authority.

22 SECTION 2. Section 1001.053, Occupations Code, is amended
23 to read as follows:

24 Sec. 1001.053. PUBLIC WORKS. The following work is exempt

1 from this chapter:

2 (1) a public work that involves structural,
3 electrical, or mechanical engineering, if the contemplated expense
4 for the completed project is \$8,000 or less; or

5 (2) a public work that does not involve structural,
6 electrical, or mechanical engineering, if the contemplated expense
7 for the completed project is \$20,000 or less[~~, or~~

8 [~~(3) road maintenance or improvement undertaken by the~~
9 ~~commissioners court of a county]~~.

10 SECTION 3. Subchapter B, Chapter 1001, Occupations Code, is
11 amended by adding Section 1001.065 to read as follows:

12 Sec. 1001.065. CERTAIN AEROSPACE AND DEFENSE ACTIVITIES.

13 This chapter does not:

14 (1) apply to a sole proprietorship, firm, partnership,
15 joint stock association, corporation, or other business entity or
16 the entity's employees or contractors to the extent the entity's
17 products or services:

18 (A) are provided or sold to an agency or
19 department of the United States or the government of a foreign
20 country and involve the design, development, production, sale, or
21 provision of defense products or services;

22 (B) consist of or support commercial aircraft and
23 the entity holds a certificate issued by the Federal Aviation
24 Administration under Chapter 21, Title 14, Code of Federal
25 Regulations; or

26 (c) consist of space vehicles or space services
27 that are:

1 (i) subject to licensing or regulation by
2 an agency or department of the United States under Title 14, 47, or
3 48, Code of Federal Regulations; or

4 (ii) for sale or use outside the United
5 States; or

6 (2) prohibit the use of the term "engineer" or
7 "engineering" in a job title or personnel classification by an
8 employee or contractor described by Subdivision (1) to the extent
9 that the use of the title or classification is related to activities
10 described by that subdivision.

11 SECTION 4. Section 1001.210, Occupations Code, is amended
12 to read as follows:

13 Sec. 1001.210. CONTINUING EDUCATION REQUIREMENTS
14 [PROGRAMS]. (a) The board by rule may require ~~[recognize, prepare,~~
15 ~~or administer]~~ continuing education ~~[programs]~~ for persons
16 regulated by the board under this chapter.

17 (b) The board may not require a license holder to obtain
18 more than 15 hours of continuing education annually. The board
19 shall permit a license holder to certify at the time the license is
20 renewed that the license holder has complied with the board's
21 continuing education requirements.

22 (c) The board shall permit a license holder to receive
23 continuing education credit for educational, technical, ethical,
24 or professional management activities related to the practice of
25 engineering, including:

26 (1) successfully completing or auditing a course
27 sponsored by an institution of higher education;

1 (2) successfully completing a course certified by a
2 professional or trade organization;

3 (3) attending a seminar, tutorial, short course,
4 correspondence course, videotaped course, or televised course;

5 (4) participating in an in-house course sponsored by a
6 corporation or other business entity;

7 (5) teaching a course described by Subdivisions
8 (1)-(4);

9 (6) publishing an article, paper, or book on the
10 practice of engineering;

11 (7) making or attending a presentation at a meeting of
12 a technical or engineering management society or organization or
13 writing a paper presented at such a meeting;

14 (8) participating in the activities of a professional
15 society or association, including serving on a committee of the
16 organization; and

17 (9) engaging in self-directed study not to exceed five
18 hours annually [~~Participation in the programs is voluntary~~].

19 SECTION 5. Section 1001.402, Occupations Code, is amended
20 to read as follows:

21 Sec. 1001.402. ENFORCEMENT BY CERTAIN PUBLIC OFFICIALS. A
22 public official of the state or of a political subdivision of the
23 state who is responsible for enforcing laws that affect the
24 practice of engineering may accept a plan, specification, or other
25 related document that requires the application of engineering
26 judgment only if the plan, specification, or other document was
27 prepared by an engineer, as evidenced by the engineer's seal.

1 SECTION 6. Section 1001.407, Occupations Code, is amended
2 to read as follows:

3 Sec. 1001.407. CONSTRUCTION OF CERTAIN PUBLIC WORKS. The
4 state or a political subdivision of the state may not construct a
5 public work involving engineering in which the public health,
6 welfare, or safety is involved, unless:

7 (1) the engineering plans, specifications, and
8 estimates have been prepared by an engineer; and

9 (2) the ~~[engineering]~~ construction or installation of
10 engineered works is monitored by an engineer to confirm general
11 compliance with the plans and specifications ~~[is to be performed~~
12 ~~under the direct supervision of an engineer]~~.

13 SECTION 7. Chapter 1001, Occupations Code, is amended by
14 adding Subchapter M to read as follows:

15 SUBCHAPTER M. ADVISORY OPINIONS

16 Sec. 1001.601. BOARD ADVISORY OPINIONS. (a) The board
17 shall prepare a written advisory opinion answering the request of a
18 person for an opinion about the application of this chapter to the
19 person in regard to a specified existing or hypothetical factual
20 situation.

21 (b) request for an opinion under Subsection (a) must be made
22 to the board in writing in the manner prescribed by the board.
23 Except as provided by Subsection (c), the board shall issue the
24 advisory opinion not later than the 60th day after the date on which
25 the board receives the request.

26 (c) The board by majority vote may extend the period
27 available to issue an opinion by 30 days. The board may not extend

1 the period more than twice.

2 Sec. 1001.602. OPINION ISSUED ON INITIATIVE OF BOARD. On
3 its own initiative, the board may issue a written advisory opinion
4 about the application of this chapter if a majority of the board
5 determines that an opinion would be in the public interest or in the
6 interest of any person under the jurisdiction of the board.

7 Sec. 1001.603. MAINTENANCE OF OPINIONS; SUMMARY. The board
8 shall:

9 (1) number and classify each advisory opinion issued
10 under this subchapter; and

11 (2) annually compile a summary of the opinions in a
12 single reference document.

13 Sec. 1001.604. OPINION BY OTHER GOVERNMENTAL ENTITY
14 CONTROLLING. (a) The authority of the board to issue an advisory
15 opinion under this subchapter does not affect the authority of the
16 attorney general to issue an opinion as authorized by law.

17 (b) The board shall rely on opinions issued by the attorney
18 general and the courts of this state.

19 Sec. 1001.605. RELIANCE ON ADVISORY OPINION. It is a
20 defense to prosecution or to imposition of a civil penalty that a
21 person reasonably relied on a written advisory opinion of the board
22 relating to:

23 (1) the provision of the law the person is alleged to
24 have violated; or

25 (2) a fact situation that is substantially similar to
26 the fact situation in which the person is involved.

27 Sec. 1001.606. OPINIONS REGARDING PROCUREMENT BY

1 GOVERNMENTAL ENTITY. At the request of any person, the board may:

2 (1) review a proposal issued by a governmental entity
3 for the procurement of engineering services; and

4 (2) issue a determination as to whether the services
5 are within the scope of practice of professional engineering for
6 purposes of Subchapter A, Chapter 2254, Government Code.

7 SECTION 8. (a) Except as otherwise provided by this
8 section, this Act takes effect September 1, 2003.

9 (b) The Texas Board of Professional Engineers is not
10 required to issue an advisory opinion under Subchapter M, Chapter
11 1001, Occupations Code, as added by this Act, before January 1,
12 2004.