

By: Wentworth

S.B. No. 648

A BILL TO BE ENTITLED

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AN ACT

relating to the regulation of the practice of professional engineering.

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

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

(e) This chapter does not:

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

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

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

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

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

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 Title 14, Code of Federal Regulations, Part  
25 21; 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. Subsection (a), Section 1001.101, Occupations  
12 Code, is amended to read as follows:

13           (a) The Texas Board of Professional Engineers consists of  
14 nine members appointed by the governor with the advice and consent  
15 of the senate as follows:

16                   (1) six professional engineers, four of whom must  
17 represent the private or consulting practice of engineering; and

18                   (2) three members who represent the public.

19           SECTION 5. Section 1001.210, Occupations Code, is amended  
20 to read as follows:

21           Sec. 1001.210. CONTINUING EDUCATION REQUIREMENTS  
22 [PROGRAMS]. (a) The board by rule may require [recognize,  
23 prepare, or administer] continuing education [programs] for  
24 persons regulated by the board under this chapter.

25                   (b) The board may not require a license holder to obtain  
26 more than 15 hours of continuing education annually. The board  
27 shall permit a license holder to certify at the time the license is

1 renewed that the license holder has complied with the board's  
2 continuing education requirements.

3 (c) The board shall permit a license holder to receive  
4 continuing education credit for educational, technical, ethical,  
5 or professional management activities related to the practice of  
6 engineering, including:

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

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

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

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

15 (5) teaching a course described by Subdivisions  
16 (1)-(4);

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

19 (7) making or attending a presentation at a meeting of  
20 a technical or engineering management society or organization or  
21 writing a paper presented at such a meeting;

22 (8) participating in the activities of a professional  
23 society or association, including serving on a committee of the  
24 organization; and

25 (9) engaging in self-directed study [~~Participation in~~  
26 ~~the programs is voluntary~~].

27 SECTION 6. Section 1001.402, Occupations Code, is amended

1 to read as follows:

2           Sec. 1001.402. ENFORCEMENT BY CERTAIN PUBLIC OFFICIALS. A  
3 public official of the state or of a political subdivision of the  
4 state who is responsible for enforcing laws that affect the  
5 practice of engineering may accept a plan, specification, or other  
6 related document that requires the application of engineering  
7 judgment only if the plan, specification, or other document was  
8 prepared by an engineer, as evidenced by the engineer's seal.

9           SECTION 7. Section 1001.405, Occupations Code, is amended  
10 by amending Subsection (d) and by adding Subsection (g) to read as  
11 follows:

12           (d) Except as provided by Subsection (g), the [~~The~~]  
13 registration of a business entity issued under this section expires  
14 on the first anniversary of the date the registration is issued.  
15 The registration may be renewed by the filing of an updated  
16 application under Subsection (c).

17           (g) The registration of a sole proprietorship expires on the  
18 date that the sole proprietor's license expires.

19           SECTION 8. Section 1001.407, Occupations Code, is amended  
20 to read as follows:

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

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

27           (2) the [~~engineering~~] construction or installation of

1 engineered works is monitored by an engineer to confirm general  
2 compliance with the plans and specifications [~~is to be performed~~  
3 ~~under the direct supervision of an engineer~~].

4 SECTION 9. Chapter 1001, Occupations Code, is amended by  
5 adding Subchapter M to read as follows:

6 SUBCHAPTER M. ADVISORY OPINIONS

7 Sec. 1001.601. BOARD ADVISORY OPINIONS. (a) The board  
8 shall prepare a written advisory opinion answering the request of a  
9 person for an opinion about the application of this chapter to the  
10 person in regard to a specified existing or hypothetical factual  
11 situation.

12 (b) A request for an opinion under Subsection (a) must be  
13 made to the board in writing in the manner prescribed by the board.  
14 Except as provided by Subsection (c), the board shall issue the  
15 advisory opinion not later than the 60th day after the date on which  
16 the board receives the request.

17 (c) The board by majority vote may extend the period  
18 available to issue an opinion by 30 days. The board may not extend  
19 the period more than twice.

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

25 Sec. 1001.603. MAINTENANCE OF OPINIONS; SUMMARY. The board  
26 shall:

27 (1) number and classify each advisory opinion issued

1 under this subchapter; and

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

4 Sec. 1001.604. OPINION BY OTHER GOVERNMENTAL ENTITY  
5 CONTROLLING. The authority of the board to issue an advisory  
6 opinion under this subchapter does not affect the authority of the  
7 attorney general to issue an opinion as authorized by law.

8 Sec. 1001.605. RELIANCE ON ADVISORY OPINION. It is a  
9 defense to prosecution or to imposition of a civil penalty that a  
10 person reasonably relied on a written advisory opinion of the board  
11 relating to:

12 (1) the provision of the law the person is alleged to  
13 have violated; or

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

16 SECTION 10. (a) Except as otherwise provided by this  
17 section, this Act takes effect September 1, 2003.

18 (b) Subsection (g), Section 1001.405, Occupations Code, as  
19 added by this Act, applies only to an initial or renewal  
20 registration of a sole proprietorship with the Texas Board of  
21 Professional Engineers on or after the effective date of this Act.

22 (c) The Texas Board of Professional Engineers is not  
23 required to issue an advisory opinion under Subchapter M, Chapter  
24 1001, Occupations Code, as added by this Act, before January 1,  
25 2004.