

By: Wentworth

S.B. No. 648

A BILL TO BE ENTITLED

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. Section 1001.004(e), 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 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 1001.101(a), Occupations Code, is
12 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 1001.204(a), Occupations Code, is
20 amended to read as follows:

21 (a) The board shall establish reasonable and necessary fees
22 for the administration of this chapter in amounts not to exceed:

23 (1) license fee . . . \$50

24 (2) annual renewal fee . . . \$75

25 (3) reciprocal license fee . . . \$50

26 (4) duplicate license . . . \$5

27 (5) engineer-in-training certificate . . . \$15

- 1 (6) roster of engineers . . . \$10
- 2 (7) examination fee . . . \$200
- 3 (8) registration fee for engineering firm other than
- 4 sole proprietorship . . . \$100
- 5 (9) registration for sole proprietorship . . . \$50.

6 SECTION 6. Section 1001.210, Occupations Code, is amended
7 to read as follows:

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

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

17 (c) The board shall permit a license holder to receive
18 continuing education credit for educational, technical, ethical,
19 or professional management activities related to the practice of
20 engineering, including:

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

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

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

27 (4) participating in an in-house course sponsored by a

1 corporation or other business entity;

2 (5) teaching a course described by Subdivisions
3 (1)-(4);

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

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

9 (8) participating in the activities of a professional
10 society or association, including serving on a committee of the
11 organization; and

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

14 SECTION 7. Section 1001.402, Occupations Code, is amended
15 to read as follows:

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

23 SECTION 8. Section 1001.405, Occupations Code, is amended
24 by amending Subsection (d) and by adding Subsection (g) to read as
25 follows:

26 (d) Except as provided by Subsection (g), the [~~The~~]
27 registration of a business entity issued under this section expires

1 on the first anniversary of the date the registration is issued.
2 The registration may be renewed by the filing of an updated
3 application under Subsection (c).

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

6 SECTION 9. Section 1001.407, Occupations Code, is amended
7 to read as follows:

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

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

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

18 SECTION 10. Chapter 1001, Occupations Code, is amended by
19 adding Subchapter M to read as follows:

20 SUBCHAPTER M. ADVISORY OPINIONS

21 Sec. 1001.601. BOARD ADVISORY OPINIONS. (a) The board
22 shall prepare a written advisory opinion answering the request of a
23 person for an opinion about the application of this chapter to the
24 person in regard to a specified existing or hypothetical factual
25 situation.

26 (b) A request for an opinion under Subsection (a) must be
27 made to the board in writing in the manner prescribed by the board.

1 Except as provided by Subsection (c), the board shall issue the
2 advisory opinion not later than the 60th day after the date on which
3 the board receives the request.

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

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

12 Sec. 1001.603. MAINTENANCE OF OPINIONS; SUMMARY. The board
13 shall:

14 (1) number and classify each advisory opinion issued
15 under this subchapter; and

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

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

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

24 Sec. 1001.605. RELIANCE ON ADVISORY OPINION. It is a
25 defense to prosecution or to imposition of a civil penalty that a
26 person reasonably relied on a written advisory opinion of the board
27 relating to:

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

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

5 Sec. 1001.606. OPINIONS REGARDING PROCUREMENT BY
6 GOVERNMENTAL ENTITY. At the request of any person, the board may:

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

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

12 SECTION 11. (a) Except as otherwise provided by this
13 section, this Act takes effect September 1, 2003.

14 (b) Section 1001.204(a), Occupations Code, as amended by
15 this Act, and Section 1001.405(g), Occupations Code, as added by
16 this Act, apply only to an initial or renewal registration of a sole
17 proprietorship with the Texas Board of Professional Engineers on or
18 after the effective date of this Act.

19 (c) The Texas Board of Professional Engineers is not
20 required to issue an advisory opinion under Subchapter M, Chapter
21 1001, Occupations Code, as added by this Act, before January 1,
22 2004.