

1-1 By: Wentworth S.B. No. 648
1-2 (In the Senate - Filed February 21, 2003; February 27, 2003,
1-3 read first time and referred to Committee on Government
1-4 Organization; April 8, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 April 8, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 648 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the regulation of the practice of professional
1-11 engineering.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (e), Section 1001.004, Occupations
1-14 Code, is amended to read as follows:

1-15 (e) This chapter does not:

1-16 (1) prevent a person from identifying the person in
1-17 the name and trade of any engineers' labor organization with which
1-18 the person is affiliated;

1-19 (2) prohibit or otherwise restrict a person from
1-20 giving testimony or preparing an exhibit or document for the sole
1-21 purpose of being placed in evidence before an administrative or
1-22 judicial tribunal, subject to the board's disciplinary powers under
1-23 Subchapter J regarding negligence, incompetency, or misconduct in
1-24 the practice of engineering;

1-25 (3) repeal or amend a law affecting or regulating a
1-26 licensed state land surveyor; or

1-27 (4) affect or prevent the practice of any other
1-28 legally recognized profession by a member of the profession who is
1-29 licensed by the state or under the state's authority.

1-30 SECTION 2. Section 1001.053, Occupations Code, is amended
1-31 to read as follows:

1-32 Sec. 1001.053. PUBLIC WORKS. The following work is exempt
1-33 from this chapter:

1-34 (1) a public work that involves structural,
1-35 electrical, or mechanical engineering, if the contemplated expense
1-36 for the completed project is \$8,000 or less; or

1-37 (2) a public work that does not involve structural,
1-38 electrical, or mechanical engineering, if the contemplated expense
1-39 for the completed project is \$20,000 or less ~~[, or~~

1-40 ~~[(3) road maintenance or improvement undertaken by the~~
1-41 ~~commissioners court of a county].~~

1-42 SECTION 3. Subchapter B, Chapter 1001, Occupations Code, is
1-43 amended by adding Section 1001.065 to read as follows:

1-44 Sec. 1001.065. CERTAIN AEROSPACE AND DEFENSE ACTIVITIES.
1-45 This chapter does not:

1-46 (1) apply to a sole proprietorship, firm, partnership,
1-47 joint stock association, corporation, or other business entity or
1-48 the entity's employees or contractors to the extent the entity's
1-49 products or services:

1-50 (A) are provided or sold to an agency or
1-51 department of the United States or the government of a foreign
1-52 country and involve the design, development, production, sale, or
1-53 provision of defense products or services;

1-54 (B) consist of or support commercial aircraft and
1-55 the entity holds a certificate issued by the Federal Aviation
1-56 Administration under Title 14, Code of Federal Regulations, Part
1-57 21; or

1-58 (C) consist of space vehicles or space services
1-59 that are:

1-60 (i) subject to licensing or regulation by
1-61 an agency or department of the United States under Title 14, 47, or
1-62 48, Code of Federal Regulations; or

1-63 (ii) for sale or use outside the United

2-1 States; or

2-2 (2) prohibit the use of the term "engineer" or
 2-3 "engineering" in a job title or personnel classification by an
 2-4 employee or contractor described by Subdivision (1) to the extent
 2-5 that the use of the title or classification is related to activities
 2-6 described by that subdivision.

2-7 SECTION 4. Subsection (a), Section 1001.101, Occupations
 2-8 Code, is amended to read as follows:

2-9 (a) The Texas Board of Professional Engineers consists of
 2-10 nine members appointed by the governor with the advice and consent
 2-11 of the senate as follows:

2-12 (1) six professional engineers, four of whom must
 2-13 represent the private or consulting practice of engineering; and

2-14 (2) three members who represent the public.

2-15 SECTION 5. Section 1001.210, Occupations Code, is amended
 2-16 to read as follows:

2-17 Sec. 1001.210. CONTINUING EDUCATION REQUIREMENTS
 2-18 [~~PROGRAMS~~]. (a) The board by rule may require [~~recognize,~~
 2-19 ~~prepare, or administer~~] continuing education [~~programs~~] for
 2-20 persons regulated by the board under this chapter.

2-21 (b) The board may not require a license holder to obtain
 2-22 more than 15 hours of continuing education annually. The board
 2-23 shall permit a license holder to certify at the time the license is
 2-24 renewed that the license holder has complied with the board's
 2-25 continuing education requirements.

2-26 (c) The board shall permit a license holder to receive
 2-27 continuing education credit for educational, technical, ethical,
 2-28 or professional management activities related to the practice of
 2-29 engineering, including:

2-30 (1) successfully completing or auditing a course
 2-31 sponsored by an institution of higher education;

2-32 (2) successfully completing a course certified by a
 2-33 professional or trade organization;

2-34 (3) attending a seminar, tutorial, short course,
 2-35 correspondence course, videotaped course, or televised course;

2-36 (4) participating in an in-house course sponsored by a
 2-37 corporation or other business entity;

2-38 (5) teaching a course described by Subdivisions
 2-39 (1)-(4);

2-40 (6) publishing an article, paper, or book on the
 2-41 practice of engineering;

2-42 (7) making or attending a presentation at a meeting of
 2-43 a technical or engineering management society or organization or
 2-44 writing a paper presented at such a meeting;

2-45 (8) participating in the activities of a professional
 2-46 society or association, including serving on a committee of the
 2-47 organization; and

2-48 (9) engaging in self-directed study [~~Participation in~~
 2-49 ~~the programs is voluntary~~].

2-50 SECTION 6. Section 1001.402, Occupations Code, is amended
 2-51 to read as follows:

2-52 Sec. 1001.402. ENFORCEMENT BY CERTAIN PUBLIC OFFICIALS. A
 2-53 public official of the state or of a political subdivision of the
 2-54 state who is responsible for enforcing laws that affect the
 2-55 practice of engineering may accept a plan, specification, or other
 2-56 related document that requires the application of engineering
 2-57 judgment only if the plan, specification, or other document was
 2-58 prepared by an engineer, as evidenced by the engineer's seal.

2-59 SECTION 7. Section 1001.405, Occupations Code, is amended
 2-60 by amending Subsection (d) and by adding Subsection (g) to read as
 2-61 follows:

2-62 (d) Except as provided by Subsection (g), the [~~The~~]
 2-63 registration of a business entity issued under this section expires
 2-64 on the first anniversary of the date the registration is issued.
 2-65 The registration may be renewed by the filing of an updated
 2-66 application under Subsection (c).

2-67 (g) The registration of a sole proprietorship expires on the
 2-68 date that the sole proprietor's license expires.

2-69 SECTION 8. Section 1001.407, Occupations Code, is amended

3-1 to read as follows:

3-2 Sec. 1001.407. CONSTRUCTION OF CERTAIN PUBLIC WORKS. The
3-3 state or a political subdivision of the state may not construct a
3-4 public work involving engineering in which the public health,
3-5 welfare, or safety is involved, unless:

3-6 (1) the engineering plans, specifications, and
3-7 estimates have been prepared by an engineer; and

3-8 (2) the ~~[engineering]~~ construction or installation of
3-9 engineered works is monitored by an engineer to confirm general
3-10 compliance with the plans and specifications ~~[is to be performed~~
3-11 ~~under the direct supervision of an engineer]~~.

3-12 SECTION 9. Chapter 1001, Occupations Code, is amended by
3-13 adding Subchapter M to read as follows:

3-14 SUBCHAPTER M. ADVISORY OPINIONS

3-15 Sec. 1001.601. BOARD ADVISORY OPINIONS. (a) The board
3-16 shall prepare a written advisory opinion answering the request of a
3-17 person for an opinion about the application of this chapter to the
3-18 person in regard to a specified existing or hypothetical factual
3-19 situation.

3-20 (b) A request for an opinion under Subsection (a) must be
3-21 made to the board in writing in the manner prescribed by the board.
3-22 Except as provided by Subsection (c), the board shall issue the
3-23 advisory opinion not later than the 60th day after the date on which
3-24 the board receives the request.

3-25 (c) The board by majority vote may extend the period
3-26 available to issue an opinion by 30 days. The board may not extend
3-27 the period more than twice.

3-28 Sec. 1001.602. OPINION ISSUED ON INITIATIVE OF BOARD. On
3-29 its own initiative, the board may issue a written advisory opinion
3-30 about the application of this chapter if a majority of the board
3-31 determines that an opinion would be in the public interest or in the
3-32 interest of any person under the jurisdiction of the board.

3-33 Sec. 1001.603. MAINTENANCE OF OPINIONS; SUMMARY. The board
3-34 shall:

3-35 (1) number and classify each advisory opinion issued
3-36 under this subchapter; and

3-37 (2) annually compile a summary of the opinions in a
3-38 single reference document.

3-39 Sec. 1001.604. OPINION BY OTHER GOVERNMENTAL ENTITY
3-40 CONTROLLING. The authority of the board to issue an advisory
3-41 opinion under this subchapter does not affect the authority of the
3-42 attorney general to issue an opinion as authorized by law.

3-43 Sec. 1001.605. RELIANCE ON ADVISORY OPINION. It is a
3-44 defense to prosecution or to imposition of a civil penalty that a
3-45 person reasonably relied on a written advisory opinion of the board
3-46 relating to:

3-47 (1) the provision of the law the person is alleged to
3-48 have violated; or

3-49 (2) a fact situation that is substantially similar to
3-50 the fact situation in which the person is involved.

3-51 SECTION 10. (a) Except as otherwise provided by this
3-52 section, this Act takes effect September 1, 2003.

3-53 (b) Subsection (g), Section 1001.405, Occupations Code, as
3-54 added by this Act, applies only to an initial or renewal
3-55 registration of a sole proprietorship with the Texas Board of
3-56 Professional Engineers on or after the effective date of this Act.

3-57 (c) The Texas Board of Professional Engineers is not
3-58 required to issue an advisory opinion under Subchapter M, Chapter
3-59 1001, Occupations Code, as added by this Act, before January 1,
3-60 2004.

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