

BILL ANALYSIS

Senate Research Center
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S.B. 648
By: Wentworth
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DIGEST AND PURPOSE

The Texas Board of Professional Engineers (TBPE) is the state agency which licenses professional engineers and enforces the Texas Engineering Practice Act (Act). As proposed, S.B. 648 clarifies certain provisions in the Act.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Board of Professional Engineers is modified in SECTION 6 (Section 1001.210, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1001.004(e), Occupations Code, to provide that this chapter does not 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.

SECTION 2. Amends Section 1001.053, Occupations Code, to delete current language from existing text related to certain work exemptions in this chapter.

SECTION 3. Amends Chapter 1001B, Occupations Code, by adding Section 1001.065, as follows:

Sec. 1001.065. CERTAIN AEROSPACE AND DEFENSE ACTIVITIES. Provides that this chapter does not apply to a sole proprietorship, firm, partnership, joint stock association, corporation, or other business entity or the entity's employees or contractors to the extent the entity's products or services meet certain standards and prohibits the use of the term "engineer" or "engineering" in a job title or personnel classification by an employee or contractor described by Subdivision (1) to the extent that the use of the title or classification is related to activities described by that subdivision.

SECTION 4. Amends Section 1001.101(a), Occupations Code, to provide that the Texas Board of Professional Engineers (TBPE) consists of nine members, six professional engineers, four of whom must represent the private or consulting practice of engineering, and three members who represent the public.

SECTION 5. Amends Section 1001.204(a), Occupations Code, to require TBPE to establish reasonable and necessary fees for the administration of this chapter in amounts not to exceed certain costs.

SECTION 6. Amends Section 1001.210, Occupations Code, as follows:

Sec. 1001.210. CONTINUING EDUCATION REQUIREMENTS. (a) Authorizes TBPE by rule to require continuing education for persons regulated by TBPE under this chapter.

(b) Provides that TBPE may not require a license holder to obtain more than 15

hours of continuing education annually. Requires TBPE to permit a license holder to certify at the time the license is renewed that the license holder has complied with the board's continuing education requirements.

(c) Requires TBPE to permit a license holder to receive continuing education credit for educational, technical, ethical, or professional management activities related to the practice of engineering, including certain courses.

SECTION 7. Amends Section 1001.402, Occupations Code, to authorize a public official of the state or of a political subdivision of the state who is responsible for enforcing laws that affect the practice of engineering to accept a plan that requires the application of engineering judgment only if the plan was prepared by an engineer, as evidenced by the engineer's seal.

SECTION 8. Amends Section 1001.405, Occupations Code, by amending Subsection (d) and by adding Subsection (g), as follows:

(d) Makes a conforming change.

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

SECTION 9. Amends Section 1001.407, Occupations Code, to provide that the state or a political subdivision of the state may not construct a public work involving engineering in which the public health, welfare, or safety is involved, unless the construction or installation of engineered works is monitored by an engineer to confirm general compliance with the plans and specifications rather than performed under the direct supervision of an engineer.

SECTION 10. Amends Chapter 1001, Occupations Code, by adding Subchapter M, as follows:

SUBCHAPTER M. ADVISORY OPINIONS

Sec. 1001.601. BOARD ADVISORY OPINIONS. (a) Requires TBPE to prepare a written advisory opinion answering the request of a person for an opinion about the application of this chapter to the person in regard to a specified existing or hypothetical factual situation.

(b) Requires a request for an opinion under Subsection (a) to be made to TBPE in writing in the manner prescribed by TBPE. Requires TBPE, except as provided by Subsection (c), to issue the advisory opinion not later than the 60th day after the date on which TBPE receives the request.

(c) Authorizes TBPE by majority vote to extend the period available to issue an opinion by 30 days. Provides that TBPE may not extend the period more than twice.

Sec. 1001.602. OPINION ISSUED ON INITIATIVE OF BOARD. Authorizes TBPE, on its own initiative, to issue a written advisory opinion about the application of this chapter if a majority of the board determines that an opinion would be in the public interest or in the interest of any person under the jurisdiction TBPE.

Sec. 1001.603. MAINTENANCE OF OPINIONS; SUMMARY. Requires TBPE to perform certain functions.

Sec. 1001.604. OPINION BY OTHER GOVERNMENTAL ENTITY CONTROLLING. (a) Provides that the authority of TBPE to issue an advisory opinion under this subchapter does not affect the authority of the attorney general to issue an opinion as authorized by law.

(b) Requires TBPE to rely on opinions issued by the attorney general and the courts of this state.

Sec. 1001.605. RELIANCE ON ADVISORY OPINION. Provides that it is a defense to

prosecution or to imposition of a civil penalty that a person reasonably relied on a written advisory opinion of TBPE relating to certain conditions.

Sec. 1001.606. OPINIONS REGARDING PROCUREMENT BY GOVERNMENTAL ENTITY. Authorizes TBPE, at the request of any person, to perform certain tasks.

SECTION 11. (a) Effective date: September 1, 2003.

(b) Makes application of this Act prospective.

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