

- SUBJECT:** Revising regulation of the practice of professional engineering
- COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended
- VOTE:** 5 ayes — Wilson, Yarbrough, Goolsby, Haggerty, Moreno
0 nays
4 absent — Flores, D. Jones, A. Reyna, Wise
- SENATE VOTE:** On final passage, March 22 — 30-0, on Local and Uncontested Calendar
- WITNESSES:** For — Gerhardt Schulle, Jr., Texas Society of Professional Engineers;
Registered but did not testify: Jack Erskine, Boeing Corp.; Scott Norman, Consulting Engineers Council of Texas; Mark Vane, United Space Alliance
Against — None
- BACKGROUND:** The Texas Engineering Practice Act (Art. 3127a, V.T.C.S.) allows the Texas Board of Professional Engineers to recognize, prepare, or administer continuing education programs that engineers licensed by the board may attend voluntarily.
- DIGEST:** CSSB 697 would authorize the Board of Professional Engineers to require continuing education for people regulated by the board. The rules could not require a license holder to obtain more than eight hours of continuing education in one year and would have to allow license holders to certify at the time of their license renewal that they had complied with the board's continuing education requirements. The rules would have to allow a license holder to receive continuing education credit for educational, technical, ethical, or professional management activities related to the practice of engineering, including:
- ! successfully completing or auditing a college or university course;
 - ! successfully completing a course certified by a professional or trade organization;

- ! attending a seminar, tutorial, short course, correspondence course, videotaped course, or televised course;
- ! participating in a sponsored in-house course;
- ! teaching a course described above;
- ! writing a published article, paper, or book;
- ! making or attending a presentation or having a paper presented at a engineering management society meeting;
- ! participating in the activities of a professional society, including serving on a committee; and
- ! engaging in self-directed study.

Upon request, the board could review a proposal for procuring services issued by a governmental entity and could issue a finding as to whether the services were within the scope of the practice of professional engineering.

The board could adopt a registration fee for sole proprietorships and a system under which the registration of a sole proprietorship would expire on the same date the license expired. The fee for a sole proprietorship would be one-half of the registration fee for other engineering firms.

The Texas Engineering Practice Act would not apply to business entities or an entity's employees or contractors to the extent that the entity's services or products:

- ! were provided to the U.S. government or to a foreign government and involved the design, development, production, sale, or provision of defense products or services;
- ! consisted of or supported commercial aircraft, and the entity held a certificate issued by the Federal Aviation Administration; or
- ! consisted of space vehicles or services subject to federal licensing or regulation or were for sale or use outside the United States.

The Texas Engineering Practice Act would not prohibit the use of the term "engineer" or "engineering" in a job title or personnel classification by an employee or contractor described above to the extent that the use was related to activities described above.

The bill would take effect September 1, 2001.

SUPPORTERS
SAY:

CSSB 697 would require of licensed professional engineers what already is required of many other professional and occupational groups in Texas. The Board of Professional Engineers has the option of administering continuing education programs, and licensed engineers have the option of attending these programs or not. Under this bill, the board could require its licensees to obtain continuing education, which is a standard recommendation by the Sunset Advisory Commission. The board has not undergone sunset review yet and will not do so until 2003. CSSB 697 would implement that anticipated recommendation early.

Requiring continuing education of licensed engineers would not be burdensome. The requirement would be flexible in that it could be fulfilled in several ways, and it could not exceed eight hours per year. The engineering professions and the associated technologies are changing constantly, and licensees need to keep up with these changes to remain competent in their professions.

CSSB 697 would make it easier for sole proprietorships to comply with the registration requirements of the Texas Engineering Practice Act. The lower fee would make registration less burdensome for sole proprietorships, who typically do not have the resources that engineering firms have. The bill also would make registration convenient for sole proprietorships by allowing them to renew their licenses and registrations at the same time.

The bill would provide for the proper regulation of firms involved in national defense contracting and procurement, spacecraft, and commercial aircraft. Federal acquisition regulations ensure that the engineers working for the federal government are qualified, and the Federal Aviation Association regulates commercial aircraft engineers. These agencies are better suited than the state to regulate these engineers because of the design specifications unique to these industries.

CSSB 697 would bring Texas into compliance with the supremacy clause of the U.S. Constitution by exempting from state regulation engineers who work on national defense contracting and procurement and spacecraft. Across the nation, engineers employed by the federal government work under specific federal guidelines. These engineers should not have to be licensed by every state in which they work on federal government projects. It is common

practice in other states not to require state licensure as long as the engineer follows federal guidelines.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The bill's fiscal note estimates costs of about \$239,000 in fiscal 2002 and about \$174,000 in each subsequent year. The engineering board estimates that it would need four additional employees and would incur additional technology costs. Many professional engineers would allow their licenses to expire, and sole proprietorships would pay reduced fees. However, the fiscal note assumes that the board would adjust fees to offset any costs or revenue loss associated with implementing the bill.

The committee substitute added the provisions regarding the registration fee and registration expiration system for sole proprietorships, as well as the provisions that would exempt certain engineering entities from application of the Texas Engineering Practice Act.