

LEGISLATIVE BILL 599

Approved by the Governor April 14, 2004

Introduced by Tyson, 19; Jensen, 20

AN ACT relating to engineers and architects; to amend sections 81-3445 and 81-3451, Reissue Revised Statutes of Nebraska, sections 2-3256 and 81-3449, Revised Statutes Supplement, 2002, and section 81-3453, Revised Statutes Supplement, 2003; to change and eliminate requirements for use of engineering and architectural services; to change eligibility requirements for the engineering examination; to repeal the original sections; to outright repeal section 81-3447, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 2-3256, Revised Statutes Supplement, 2002, is amended to read:

2-3256. All design or construction by a district of structural works costing more than ~~eighty~~ eighty-six thousand dollars shall be under the supervision of a licensed engineer except as otherwise provided in the Engineers and Architects Regulation Act. The Board of Engineers and Architects shall adjust the dollar amount in this section every fifth year commencing July 1, 2009. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount.

Sec. 2. Section 81-3445, Reissue Revised Statutes of Nebraska, is amended to read:

81-3445. Except as otherwise provided in this section and sections 81-3449 to 81-3453, the state and its political subdivisions shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer. This ~~except that~~ this section shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed ~~eighty~~ eighty-six thousand dollars. The board shall adjust the dollar amount in this section every fifth year commencing July 1, 2009. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount.

Sec. 3. Section 81-3449, Revised Statutes Supplement, 2002, is amended to read:

81-3449. The provisions of the Engineers and Architects Regulation Act regulating the practice of architecture do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of ~~(a)~~ a detached single-family through four-family dwelling of less than five thousand square feet of above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(2) The construction, remodeling, alteration, or renovation of ~~(b)~~ a one-story commercial or industrial building or structure of less than five thousand square feet of above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the ~~dwelling~~ building or structure are not included in the tabulation of finished space. Such exemptions may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted

in section 71-6403;

~~(2)~~ (3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage, if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

~~(3)~~ (4) Any public works project with contemplated expenditures for a completed project that do not exceed ~~eighty~~ eighty-six thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year commencing July 1, 2009. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;

~~(4)~~ (5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

~~(5)~~ (6) The teaching, including research and service, of architectural subjects in a college or university offering a degree in architecture accredited by the National Architectural Accreditation Board;

~~(6)~~ (7) The preparation of submissions to architects, building officials, or other regulating authorities by the manufacturer, supplier, or installer of any materials, assemblies, components, or equipment that describe or illustrate the use of such items, the preparation of any details or shop drawings required of the contractor by the terms of the construction documents, or the management of construction contracts by persons customarily engaged in contracting work;

~~(7)~~ (8) The preparation of technical submissions or the administration of construction contracts by employees of a person or organization lawfully engaged in the practice of architecture if such employees are acting under the direct supervision of an architect;

~~(8)~~ (9) The offering by an organization of a combination of services involved in the practice of architecture and construction services if:

(a) An architect or person otherwise permitted under subdivision ~~(10)~~ (11) of this section to offer architectural services participates substantially in all material aspects of the offering;

(b) There is written disclosure at the time of the offering that an architect is engaged by and contractually responsible to such organization;

(c) Such organization agrees that the architect will have direct supervision of the work and that such architect's services will not be terminated without the consent of the person engaging the organization; and

(d) The rendering of architectural services by such architect will conform to the ~~act~~ Engineers and Architects Regulation Act and the rules and regulations;

~~(9)~~ (10) A public service provider or an organization who employs a design professional from performing professional services for itself;

~~(10)~~ (11) A nonresident who holds the certification issued by the National Council of Architectural Registration Boards from offering to render the professional services involved in the practice of architecture. The nonresident shall not perform any of the professional services involved in the practice of architecture until licensed as provided in the act. The nonresident shall notify the board in writing that (a) he or she holds a National Council of Architectural Registration Boards certificate and is not currently licensed in Nebraska but will be present in Nebraska for the purpose of offering to render architectural services, (b) he or she will deliver a copy of the notice to every potential client to whom the applicant offers to render architectural services, and (c) he or she promises to apply immediately to the board for licensure if selected as the architect for the project;

~~(11)~~ (12) The practice of any other certified trade or legally recognized profession;

~~(12)~~ (13) Financial institutions making disbursements of funds in connection with construction projects;

~~(13)~~ (14) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality; and

~~(14)~~ (15) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing

electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

Sec. 4. Section 81-3451, Reissue Revised Statutes of Nebraska, is amended to read:

81-3451. (1) To be eligible for admission to examination to be a professional engineer or engineer-intern, an applicant must be of good moral character and reputation and shall submit five references with his or her application for licensure as a professional engineer or enrollment as an engineer-intern. Three of the references shall be professional engineers having personal knowledge of the applicant's engineering experience or, in the case of an application for enrollment as an engineer-intern, character references.

(2) (a) A person holding a certificate of licensure to engage in the practice of engineering, issued by the proper authority of a state or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the Engineers and Architects Regulation Act and were of a standard not lower than that specified in the applicable licensure law in effect in this state at the time such certificate was issued may, upon application, be licensed as a professional engineer without further examination.

(b) A person holding an active Council Record with the National Council of Examiners for Engineering and Surveying whose qualifications as evidenced by the Council Record meet the requirements of the act may, upon application, be licensed as a professional engineer without further examination.

(c) A graduate of an Accrediting Board for Engineering and Technology accredited engineering curriculum, enrolled as an engineer-intern, and having a specific record of an additional four years or more of progressive post-baccalaureate-degree experience on engineering projects of a grade and a character which indicates to the Board of Engineers and Architects that the applicant may be competent to practice engineering shall be admitted to an eight-hour examination, administered by the board, on the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice engineering in this state if the applicant is otherwise qualified. Engineering teaching of advanced subjects and the design of engineering research and projects in a college or university offering an Accrediting Board for Engineering and Technology accredited engineering curriculum of four years or more may be considered as engineering experience. An applicant who does not hold an Accrediting Board for Engineering and Technology accredited engineering degree but who is enrolled as an engineer-intern in this state and has a specific record of an additional six years or more of progressive experience on engineering projects of a grade and a character which indicates to the Board of Engineers and Architects that the applicant may be competent to practice engineering shall be admitted to an eight-hour examination, administered by the board, in the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice engineering in this state if otherwise qualified.

(3) (a) A graduate of or senior in an Accrediting Board for Engineering and Technology accredited engineering curriculum, or the substantial equivalent as determined by the board, shall be admitted to an eight-hour examination on the fundamentals of engineering. Upon passing the examination and verification of graduation, the applicant shall be enrolled as an engineer-intern.

(b) An applicant who does not hold an Accrediting Board for Engineering and Technology accredited engineering degree may be admitted to the fundamentals of engineering examination if he or she has six years of engineering work experience or engineering-related education. Upon passing the examination, the applicant shall be enrolled as an engineer-intern. This subdivision terminates on January 1, 2005.

Sec. 5. Section 81-3453, Revised Statutes Supplement, 2003, is amended to read:

81-3453. The provisions of the Engineers and Architects Regulation Act regulating the practice of engineering do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of ~~(a)~~ a detached single-family through four-family dwelling of less than five thousand square feet above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and

regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(2) The construction, remodeling, alteration, or renovation of ~~or~~ ~~(b)~~ a one-story commercial or industrial building or structure of less than five thousand square feet above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the ~~dwelling~~ building or structure are not included in the tabulation of finished space. Such exemptions may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

~~(2)~~ (3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage and if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

~~(3)~~ (4) Any public works project with contemplated expenditures for the completed project that do not exceed ~~eighty~~ eighty-six thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year commencing July 1, 2009. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;

~~(4)~~ (5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

~~(5)~~ (6) The teaching, including research and service, of engineering subjects in a college or university offering an Accrediting Board for Engineering and Technology accredited engineering curriculum of four years or more;

~~(6)~~ (7) The ~~act~~ Engineers and Architects Regulation Act does not prevent a public service provider or an organization who employs a design professional from performing professional services for itself;

~~(7)~~ (8) The practice of any other certified trade or legally recognized profession;

~~(8)~~ (9) The offer to practice engineering by a person not a resident of and having no established place of business in this state if the person is legally qualified by licensure to practice engineering in his or her own state or country. The person shall make application to the board in writing and after payment of a fee established by the board may be granted a temporary permit for a definite period of time not to exceed one year to do a specific job. No right to practice engineering accrues to such applicant with respect to any other work not set forth in the permit;

~~(9)~~ (10) The work of an employee or a subordinate of a person holding a certificate of licensure under the act or an employee of a person practicing lawfully under subdivision ~~(9)~~ (9) of this section if the work is done under the direct supervision of a person holding a certificate of licensure or a person practicing lawfully under such subdivision;

~~(10)~~ (11) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;

~~(11)~~ (12) Financial institutions making disbursements of funds in connection with construction projects;

~~(12)~~ (13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality;

~~(13)~~ (14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law,

their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;

~~(14)~~ (15) Work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including sand, gravel, and aggregate, which does not have a substantial impact upon public health, safety, and welfare, as determined by the board, or require the submission of reports or documents to public agencies;

~~(15)~~ (16) The construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the owner thereof to be designed or supervised by an engineer or unless legal requirements are imposed upon the owner of a water well as a part of a public water supply;

~~(16)~~ (17) Work performed in the exploration, development, and production of oil and gas or before the Nebraska Oil and Gas Conservation Commission; and

~~(17)~~ (18) Siting, layout, construction, and reconstruction of a private onsite wastewater treatment system with a maximum flow from the facility of one thousand gallons of domestic wastewater per day if such system meets all of the conditions required pursuant to the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act unless the siting, layout, construction, or reconstruction by an engineer is required by the Department of Environmental Quality, mandated by law or rules and regulations imposed upon the owner of the system, or required by the owner.

Sec. 6. Original sections 81-3445 and 81-3451, Reissue Revised Statutes of Nebraska, sections 2-3256 and 81-3449, Revised Statutes Supplement, 2002, and section 81-3453, Revised Statutes Supplement, 2003, are repealed.

Sec. 7. The following section is outright repealed: Section 81-3447, Reissue Revised Statutes of Nebraska.

Sec. 8. Since an emergency exists, this act takes effect when passed and approved according to law.