

# HEALTH AND HUMAN SERVICES COMMITTEE OF THE NEBRASKA LEGISLATURE

Report as required by Neb. Rev. Stat. 84-948

## Committee Members

Senator Brian Hardin, Chairperson, District 48

Senator John Fredrickson, District 20

Senator Ben Hansen, District 16

Senator Beau Ballard, District 21

Senator Merv Riepe, District 12

Senator Dan Quick, District 35

Senator Glen Meyer, District 17

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## **Occupational Board Reform Act**

The Legislature passed the Occupational Board Reform Act in 2018 (Neb. Rev. Stat. §§ 84-901 to 84-920) with an operative date of July 1, 2019. The act requires that:

“Beginning in 2019, each standing committee of the Legislature shall annually review and analyze approximately twenty percent of the occupational regulations within the jurisdiction of the committee and prepare and submit an annual report electronically to the Clerk of the Legislature by December 15 of each year as provided in this section. Each committee shall complete this process for all occupational regulations within its jurisdiction within five years and every five years thereafter. Each report shall include the committee's recommendations regarding whether the occupational regulations should be terminated, continued, or modified.” (Neb. Rev. Stat. § 84-948)

## **Committee Findings**

Neb. Rev. Stat. 84-948 requires the report to include the following with answers in bold:

(3) A committee's report shall include, but not be limited to, the following:

(a) The title of the regulated occupation and the name of the occupational board responsible for enforcement of the occupational regulations.

### **Architects and Professional Engineers; Board of Engineers and Architects**

(b) The statutory citation or other authorization for the creation of the occupational regulations and occupational board;

**Neb. Rev. Stat. 81-3401 to 81-3455**

(c) The number of members of the occupational board and how the members are appointed;

**8 members appointed by the Governor**

(d) The qualifications for membership on the occupational board;

**The Board of Engineers and Architects is made up of eight members: three architect members, two of whom shall be appointed after consulting with the appropriate architectural professional organizations, and one education member who is a faculty member of the University of Nebraska appointed upon the recommendation of the Dean of Architecture of the University of Nebraska; four professional engineer members, three of whom shall be appointed after consulting with the appropriate engineering professional organizations, and one education member who is a faculty member of the University of Nebraska appointed upon the recommendation of the Dean of Engineering of the University of Nebraska; and one public member. Each member of the board shall be a citizen of the United States and a resident of the State of Nebraska for at least one year immediately preceding appointment. Each architect or professional engineer member shall have been engaged in the active practice of the design profession for at least ten years and**

**shall have been licensed in the relevant profession for at least five years at the time of his or her appointment.**

(e) The number of times the occupational board is required to meet during the year and the number of times it actually met;

**FY 2019-2020: Meetings Required-1; Meetings Held-11**

**FY 2020-2021: Meetings Required-1; Meetings Held-12**

**FY 2021-2022: Meetings Required-1; Meetings Held-11**

**FY 2022-2023: Meetings Required-1; Meetings Held-11**

**FY 2023-2-24: Meetings Required-1; Meetings Held-10**

(f) Annual budget information for the occupational board for the five most recently completed fiscal years;

**Funding for board operations come from the Nebraska Engineers and Architects Regulation Fund.**

**FY 2019-2020: \$853,849**

**FY 2020-2021: \$1,033,880**

**FY 2021-2022: \$827, 714**

**FY 2022-2023: \$990,560**

**FY 2023-2024: \$878,634**

(g) For the immediately preceding five calendar years, or for the period of time less than five years for which the information is practically available, the number of government certifications, occupational licenses, and registrations the occupational board has issued, revoke, denied, or assessed penalties against, listed anonymously and separately per type of credential, and the reasons for such revocations, denials, other penalties.

**There were 3637 Architect and Professional Engineer licenses issued, including 3030 Professional Engineer licenses and 607 Architect licenses from the beginning of FY2019/20 through the end of FY2023/24.**

**There was one Professional Engineer license denied in the past five years. The license was denied for not meeting licensure requirements.**

**There were two licenses revoked in the past five years. Both licenses were held by the same individual, who held both an architecture and engineering license.**

**Both licenses were revoked due to professional misconduct.**

**There were 16 licenses penalized in the past five years, including the two licenses which were revoked. Eight licenses were penalized for supplying false information regarding the completion of continuing education. Four practice restrictions were placed on licenses due to incompetence. Three licenses were penalized for the unlicensed practice of engineering on projects subject to state statutes and the Board assessed civil penalties against 13 licenses.**

**(h) A review of the basic assumptions underlying the creation of the occupational regulations; 81-3402.**

**Architecture and engineering; regulation.**

**In order to safeguard life, health, and property and to promote the public welfare, the professions of architecture and engineering are declared to be subject to regulation in the public interest. The practice of architecture and engineering and use of the titles architect or professional engineer is a privilege granted by the state through the board based on the qualifications of the individual as evidenced by a certificate of licensure which is not transferable.**

**(i) A statement from the occupational board on the effectiveness of the occupational regulations**

**The Chair of the Board of Architects and Engineers stated “The Board’s position is that the occupational regulations it oversees, Neb. Admin. Code, Title 110 is effective. The regulations include provisions on initial licensure for architects and professional engineers, comity licensure, temporary permits, code of ethical practice for licensees, use of the licensee seal, organizational practice requirements, enforcement procedures, continuing education, and clarifications to the Engineers and Architects Regulation Act.**

**“The Board is committed to keeping its regulations up to date and concise through regular reviews. Because of national trends in licensure standards and processes for engineers and architects, the Board continually keeps its rules modernized and up-to-date in several ways.**

**“The Nebraska Board is a member of both the National Council of Architectural Registration Boards (NCARB) and the National Council of Examiners for Engineering and Surveying (NCEES). Board members and staff attend meetings of these organizations to discuss common issues and policies that may affect licensure. These organizations also develop and publish national model laws that state governments can use as a high-level but sound and realistic benchmark that provides greater uniformity of qualifications for licensure. In addition, using their national examinations and model law also simplifies interstate licensure and mobility of architects and professional engineers. This is**

**demonstrated by the fact that, based on our response to the question regarding number of regulated professionals in Nebraska, nearly two-thirds of our active licensees have an address of record outside Nebraska.**

**“We have also simplified the licensing process described in the regulations for individuals who maintain a record of their qualifications through NCARB or NCEES. For those individuals who meet the requirements, Board staff can process their license application and issue the license in a matter of days once all application materials have been received.**

**“When it begins the rulemaking process, the Board communicates with over 20 primary stakeholder groups for feedback and suggestions as standard practice. The Board is committed to keeping these organizations—who have previously expressed an interest in the E&A Regulation Act—informed in order to ensure the Board’s regulations are effectively implemented and not burdensome.**

**“It is also the Board’s goal to publish notification of the public hearing on rules promulgation well in advance of the actual hearing(s). Finally, the Board is a leader in using the process outlined in the Negotiated Rulemaking Act (N.R.S. § 84-921 to 84-932) in the past for proposed rule changes.”**

(j) A comparison of whether and how other states regulate the occupation;

**All 50 states and 5 U.S. territories regulate the professions of engineering and architecture through professional licensing.**

(4) Subject to subsection )5) of this section, each committee shall also analyze, and include in its report, whether the occupational regulations meet the policies stated in section 84-946 considering the following recommended courses of action for meeting such policies:

**The rules and regulations in Nebraska Administrative Code Title 110 appear to be consistent with state statutes.**

- (a) If the need is to protect consumers against fraud, the likely recommendation will be to strengthen powers under the Uniform Deceptive Trade Practices Act or require disclosures that will reduce misleading attributes of the specific goods or services:

N/A



- (b) If the need is to protect consumers unclean facilities or to promote general health and safety, the likely recommendation will be to require periodic inspections of such facilities;

N/A

- (c) If the need is protect consumers against potential damages from failure by providers to complete a contract fully or up to standards, the likely recommendation will be to require that providers be bonded:

N/A

- (d) If the need is to protect a person who is not party to a contract between the provider and consumer, the likely recommendation will be to require that the provider have insurance;

N/A

- (e) If the need is to protect consumers against potential damages by transient providers, the likely recommendation will be to require that providers register their businesses with the Secretary of State;

N/A

- (f) If the need is to protect consumers against a shortfall or imbalance of knowledge about the goods or services relative to the providers' knowledge, the likely recommendation will be to enact government certification; and

N/A

- (g) If the need is to address a systematic information shortfall such that a reasonable consumer is unable to distinguish between the quality of providers, there is an absence of institutions that provide adequate guidance to the consumer, and the consumer's inability to distinguish between providers and the lack of adequate guidance allows for undue risk of present, significant, and substantiated harms, the likely recommendation will be to enact an occupational license.

N/A

(5) If a lawful occupation is subject to the Nebraska Regulation of Health Professions Act, the analysis under subsection (4) of this section shall be made using the least restrictive method of regulation as set out in section 71-6222.

N/A

(6) In developing recommendations under this section, the committee shall review any report issued to the Legislature pursuant to the Nebraska Regulation of Health Professions Act, if applicable, and consider any findings or recommendations of such report related to the occupational regulations under review.

N/A

(7) If the committee finds that it is necessary to change occupational regulations, the committee shall recommend the least restrictive regulation consistent with the public interest and the policies in this section and section 84-946.

NA

### **Conclusion**

The licenses, certifications, and registrations overseen by the Board of Engineers are intended to protect the health, safety, and welfare of Nebraskans. The current regulation of the Engineer and Architect occupation by licensure is appropriate and balanced and does not need modification at this time.