

OCCUPATIONS CODE CHAPTER 1001. ENGINEERS

OCCUPATIONS CODE

TITLE 6. REGULATION OF ENGINEERING, ARCHITECTURE, LAND SURVEYING,
AND RELATED PRACTICES

SUBTITLE A. REGULATION OF ENGINEERING AND RELATED PRACTICES

CHAPTER 1001. ENGINEERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1001.001. SHORT TITLE. This chapter may be cited as The Texas Engineering Practice Act.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.002. DEFINITIONS. In this chapter:

(1) "Board" means the Texas Board of Professional Engineers.

(2) "Engineer" means a person licensed to engage in the practice of engineering in this state.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.003. PRACTICE OF ENGINEERING. (a) In this section:

(1) "Design coordination" includes the review and coordination of technical submissions prepared by others, including the work of other professionals working with or under the direction of an engineer with professional regard for the ability of each professional involved in a multidisciplinary effort.

(2) "Engineering survey" includes any survey activity required to support the sound conception, planning, design, construction, maintenance, or operation of an engineered project. The term does not include the surveying of real property or other activity regulated under Chapter 1071.

(b) In this chapter, "practice of engineering" means the performance of or an offer or attempt to perform any public or private service or creative work, the adequate performance of which requires engineering education, training, and experience in applying special knowledge or judgment of the mathematical, physical, or engineering sciences to that service or creative work.

(c) The practice of engineering includes:

(1) consultation, investigation, evaluation, analysis, planning, engineering for program management, providing an expert engineering opinion or testimony, engineering for testing or evaluating materials for construction or other engineering use, and mapping;

(2) design, conceptual design, or conceptual design coordination of engineering works or systems;

(3) development or optimization of plans and specifications for engineering works or systems;

(4) planning the use or alteration of land or water or the design or analysis of works or systems for the use or alteration of land or water;

(5) responsible charge of engineering teaching or the teaching of engineering;

(6) performing an engineering survey or study;

(7) engineering for construction, alteration, or repair of real property;

(8) engineering for preparation of an operating or maintenance manual;

(9) engineering for review of the construction or installation of engineered works to monitor compliance with drawings or specifications;

(10) a service, design, analysis, or other work performed for a public or private entity in connection with a utility, structure, building, machine, equipment, process, system, work, project, or industrial or consumer product or equipment of a mechanical, electrical, electronic, chemical, hydraulic, pneumatic, geotechnical, or thermal nature;

(11) providing an engineering opinion or analysis related to a certificate of merit under Chapter 150, Civil Practice and Remedies Code; or

(12) any other professional service necessary for the planning, progress, or completion of an engineering service.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.001(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 259, Sec. 1, eff. September 1, 2005.

Sec. 1001.004. LEGISLATIVE PURPOSE AND INTENT; LIBERAL CONSTRUCTION OF CHAPTER. (a) The legislature recognizes the vital impact that the rapid advance of knowledge of the mathematical, physical, and engineering sciences as applied in the practice of engineering has on the lives, property, economy, and security of state residents and the national defense.

(b) The purpose of this chapter is to:

- (1) protect the public health, safety, and welfare;
- (2) enable the state and the public to identify persons authorized to practice engineering in this state; and
- (3) fix responsibility for work done or services or acts performed in the practice of engineering.

(c) The legislature intends that:

- (1) the privilege of practicing engineering be entrusted only to a person licensed and practicing under this chapter;
- (2) only a person licensed under this chapter may:
 - (A) engage in the practice of engineering;
 - (B) be represented in any way as any kind of "engineer"; or
 - (C) make any professional use of the term "engineer"; and
- (3) this chapter be strictly complied with and enforced.

(d) This chapter shall be liberally construed to carry out the intent of the legislature.

(e) This chapter does not:

- (1) prevent a person from identifying the person in the name and trade of any engineers' labor organization with which the person is affiliated;
- (2) 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;

(3) repeal or amend a law affecting or regulating a licensed state land surveyor; or

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 1, eff. Sept. 1, 2003.

Sec. 1001.005. APPLICATION OF SUNSET ACT. The Texas Board of Professional Engineers is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2015.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 2003.

SUBCHAPTER B. EXEMPTIONS

Sec. 1001.051. LIMITATION ON EXEMPTION. An exemption under this subchapter applies only to a person who does not offer to the public to perform engineering services.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 2, eff. Sept. 1, 2003.

Sec. 1001.052. EMPLOYEE OF LICENSE HOLDER. A person who is an employee or subordinate of an engineer is exempt from the licensing requirements of this chapter if the person's practice does not include responsible charge of design or supervision.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.053. PUBLIC WORKS. The following work is exempt from this chapter:

(1) a public work that involves electrical or

mechanical engineering, if the contemplated expense for the completed project is \$8,000 or less;

(2) a public work that does not involve electrical or mechanical engineering, if the contemplated expense for the completed project is \$20,000 or less; or

(3) road maintenance or improvement undertaken by the commissioners court of a county.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 273, Sec. 1, eff. June 18, 2003.

Sec. 1001.054. FEDERAL OFFICER OR EMPLOYEE. An officer or employee of the United States is exempt from the licensing requirements of this chapter during the time the officer or employee is engaged in the practice of engineering for the United States in this state.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.055. MECHANICAL, ELECTRICAL, OR OTHER EQUIPMENT. (a) A person is exempt from the licensing requirements of this chapter if the person is installing, operating, repairing, or servicing a locomotive or stationary engine, steam boiler, diesel engine, internal combustion engine, refrigeration compressor or system, hoisting engine, electrical engine, air conditioning equipment or system, or mechanical, electrical, electronic, or communications equipment or apparatus.

(b) This exemption does not permit a person to:

(1) sign an engineering plan or specification if the person is not an engineer; or

(2) use the term "engineer" or "engineering" in any manner prohibited by this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.056. CONSTRUCTION OR REPAIR OF AND PLANS FOR CERTAIN BUILDINGS. (a) A person, sole proprietorship, firm, partnership, joint stock association, or private corporation is exempt from the licensing requirements of this chapter if:

(1) a representation that engineering services have been or will be offered to the public is not made or implied; and

(2) the person or entity is erecting, constructing, enlarging, altering, or repairing or is drawing plans or specifications for:

(A) a private dwelling;

(B) apartments not exceeding eight units for each building in the case of one-story buildings;

(C) apartments not exceeding four units for each building and having a maximum height of two stories;

(D) a garage or other structure pertinent to a building described by Paragraph (A), (B), or (C);

(E) a private building to be used exclusively for:

(i) farm, ranch, or agricultural purposes;

or

(ii) storage of raw agricultural commodities; or

(F) a building having no more than one story that:

(i) is not a building exempt from the licensing requirements of this chapter under Section 1001.053 or subject to Section 1001.407;

(ii) has a total floor area of not more than 5,000 square feet; and

(iii) does not contain a clear span between supporting structures greater than 24 feet on the narrow side.

(b) If a structure described by Subsections (a)(2)(F)(i) and (ii) contains unsupported spans greater than 24 feet, only the trusses, beams, or other roof supporting members must be engineered or pre-engineered.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.057. EMPLOYEE OF PRIVATE CORPORATION OR BUSINESS ENTITY. (a) This chapter shall not be construed to apply to the activities of a private corporation or other business entity, or the activities of the full-time employees or other personnel under

the direct supervision and control of the business entity, on or in connection with:

(1) reasonable modifications to existing buildings, facilities, or other fixtures to real property not accessible to the general public and which are owned, leased, or otherwise occupied by the entity; or

(2) activities related only to the research, development, design, fabrication, production, assembly, integration, or service of products manufactured by the entity.

(b) A person who claims an exemption under this section and who is determined to have directly or indirectly represented the person as legally qualified to engage in the practice of engineering or who is determined to have violated Section 1001.301 may not claim an exemption until the 10th anniversary of the date the person made that representation.

(c) This exemption does not prohibit:

(1) a licensed professional engineer who intends to incorporate manufactured products into a fixed work, system, or facility that is being designed by the licensee on public property or the property of others from requiring the manufacturer to have plans or specifications signed and sealed by a licensed professional engineer; or

(2) the board from requiring, by rule, that certain manufactured products delivered to or used by the public must be designed and sealed by a licensed professional engineer, if necessary to protect the public health, safety, and welfare.

(d) For purposes of this section, "products manufactured by the entity" also includes computer software, firmware, hardware, semiconductor devices, and the production, exploration, and transportation of oil and gas and related products.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 3, eff. Sept. 1, 2003.

Sec. 1001.058. EMPLOYEE OF CERTAIN UTILITIES OR AFFILIATES. (a) A regular full-time employee of a privately owned public utility or cooperative utility or of the utility's affiliate

is exempt from the licensing requirements of this chapter if the employee:

(1) performs services exclusively for the utility or affiliate; and

(2) does not have the final authority to approve, or the ultimate responsibility for, engineering designs, plans, or specifications that are to be:

(A) incorporated into fixed works, systems, or facilities on the property of others; or

(B) made available to the public.

(b) A person who claims an exemption under this section and who is determined to have directly or indirectly represented the person as legally qualified to engage in the practice of engineering or who is determined to have violated Section 1001.301 may not claim an exemption until the 10th anniversary of the date the person made that representation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 4, eff. Sept. 1, 2003.

Sec. 1001.059. QUALIFIED SCIENTISTS. A qualified scientist engaged in scientific research and investigation of the physical or natural sciences is exempt from the licensing requirements of this chapter. This exemption includes the usual work and activities of a meteorologist, seismologist, geologist, chemist, geochemist, physicist, or geophysicist.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.060. SOIL AND WATER CONSERVATION. Agricultural work performed in carrying out soil and water conservation practices is exempt from this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.061. TELEPHONE COMPANIES. (a) An operating telephone company, an affiliate of the company, or an employee of the company or affiliate is exempt from this chapter with respect to any plan, design, specification, or service that relates strictly

to the science and art of telephony.

(b) This exemption includes the use of a job title or personnel classification by a person included under Subsection (a) if the person does not use:

(1) the title or classification in connection with an offer to the public to perform engineering services; and

(2) a name, title, or word that tends to convey the impression that a person not licensed under this chapter is offering to the public to perform engineering services.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.062. CERTAIN EMPLOYEES WORKING FROM ENGINEER'S PLANS. (a) A regular full-time employee of a private business entity who is engaged in erecting, constructing, enlarging, altering, repairing, rehabilitating, or maintaining an improvement to real property in accordance with plans or specifications that have an engineer's seal is exempt from this chapter.

(b) This exemption includes the use of a job title or personnel classification by the employee if the employee does not use the title or classification in connection with an offer to the public to perform engineering services.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.063. ARCHITECTS, LANDSCAPE ARCHITECTS, AND INTERIOR DESIGNERS. This chapter or a rule adopted under this chapter does not prevent or otherwise restrict a person licensed as an architect under Chapter 1051, a landscape architect under Chapter 1052, or an interior designer under Chapter 1053 from performing an act, service, or work that is within the definition of the person's practice under those chapters.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.064. STATE LAND SURVEYORS. A licensed state land surveyor is exempt from this chapter in performing a state land surveyor's duties.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.065. EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION. (a) In this section, "institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

(b) An employee of an institution of higher education or a private or independent institution of higher education who is performing research or instructional work within the scope of the person's employment by the institution is exempt from the licensing requirements of this chapter.

Acts 2003, 78th Leg., ch. 1276, Sec. 14A.002(a), eff. Sept. 1, 2003.

Sec. 1001.066. CERTAIN NASA-RELATED ACTIVITIES. This chapter does not:

(1) apply to a business entity or the business entity's employees to the extent that the entity's products or services consist of space vehicles or space services provided to, or space technology transfer programs required by, the National Aeronautics and Space Administration; or

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

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 5, eff. Sept. 1, 2003.

SUBCHAPTER C. TEXAS BOARD OF PROFESSIONAL ENGINEERS

Sec. 1001.101. BOARD MEMBERSHIP. (a) The Texas Board of Professional Engineers consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) six engineers; and

(2) three members who represent the public.

(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 6, eff. Sept. 1,

2003.

Sec. 1001.102. MEMBER ELIGIBILITY. (a) A person may not be a public member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of engineering;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the board other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) An engineer member of the board must:

(1) be a citizen of the United States and a resident of this state for at least 10 years before the date of appointment; and

(2) have been engaged in the practice of engineering for at least 10 years before the date of appointment.

(c) For purposes of Subsection (b)(2), a person who has graduated from an approved engineering school may be considered to have engaged in the practice of engineering for two years.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 7, eff. Sept. 1, 2003.

Sec. 1001.103. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(a-1) A person may not be a member of the board and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of engineering; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of engineering.

(b) A person may not be a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 8, eff. Sept. 1, 2003.

Sec. 1001.104. TERMS; VACANCY. (a) Board members serve staggered six-year terms, with the terms of one-third of the members expiring each odd-numbered year.

(b) If a vacancy occurs during a member's term, the governor shall appoint a replacement to fill the unexpired term.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.105. PARTICIPATION OF PUBLIC MEMBERS. (a) The board by majority vote may limit the participation of public members in evaluating license applications.

(b) This section does not apply to the evaluation of license applications at an official meeting of the board.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.106. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualifications required by Sections 1001.101 and 1001.102;

(2) does not maintain during service on the board the qualifications required by Sections 1001.101 and 1001.102;

(3) is ineligible for membership under Section 1001.102 or 1001.103;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 9, eff. Sept. 1, 2003.

Sec. 1001.107. PER DIEM. A board member is entitled to receive a per diem as set by the General Appropriations Act for each day that the member engages in the business of the board.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 1, eff. September 1, 2007.

Sec. 1001.108. OFFICERS. The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor. The board shall elect annually from its members an assistant presiding officer, a treasurer, and a secretary.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 10, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 2, eff. September 1, 2007.

Sec. 1001.110. MEETINGS. The board shall hold at least two regular meetings each year. Special meetings shall be held at the time provided by the board's bylaws.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.111. FILING OF OATH. Before assuming the duties of office, each board member shall file with the secretary of state a copy of the constitutional oath of office taken by the member.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.112. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) this chapter;
- (2) the programs operated by the board;
- (3) the role and functions of the board;
- (4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the board;
- (6) the results of the most recent formal audit of the board;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 11, eff. Sept. 1, 2003.

SUBCHAPTER D. BOARD PERSONNEL

Sec. 1001.151. PERSONNEL. (a) The board shall employ clerical or other assistants as necessary to perform the board's work.

(b) A salary paid under this section may not exceed the salary paid for similar work in other departments.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.152. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program must require intra-agency posting of each nonentry level position with the board at least 10 days before the date of any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations of the board's employees based on measurable job tasks. All merit pay authorized by the executive director must be based on the system

established under this subsection.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.153. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 12, eff. Sept. 1, 2003.

Sec. 1001.154. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The executive director or the executive director's designee shall provide to members of the board and to board employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 12, eff. Sept. 1, 2003.

Sec. 1001.155. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the board to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the board's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

- (c) The policy statement must:
- (1) be updated annually;
 - (2) be reviewed by the Commission on Human Rights for compliance with Subsection (b)(1); and
 - (3) be filed with the governor's office.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 12, eff. Sept. 1, 2003.

Sec. 1001.156. INFORMATION ON STATE EMPLOYEE INCENTIVE PROGRAM. The executive director or the executive director's designee shall provide to board employees information and training on the benefits and methods of participation in the state employee incentive program under Subchapter B, Chapter 2108, Government Code.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 12, eff. Sept. 1, 2003.

SUBCHAPTER E. BOARD POWERS AND DUTIES

Sec. 1001.201. GENERAL POWERS AND DUTIES. (a) The board shall administer and enforce this chapter.

(b) The board may spend money for any purpose the board considers reasonably necessary for the proper performance of its duties under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.202. RULES. The board may adopt and enforce any rule or bylaw necessary to perform its duties, govern its proceedings, and regulate the practice of engineering.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.203. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The board by rule shall prescribe standards for compliance with Subchapter A, Chapter 2254, Government Code.

(b) Except as provided by Subsection (a), the board may not adopt rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive

practices.

(c) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the use of a license holder's personal appearance or voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the license holder; or
- (4) restricts the license holder's advertisement under a trade name.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 13, eff. Sept. 1, 2003.

Sec. 1001.2035. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. The board shall adopt rules and guidelines as necessary to comply with Chapter 53.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 14, eff. Sept. 1, 2003.

Sec. 1001.204. FEES. (a) The board shall establish the following fees in amounts reasonable and necessary to cover the costs of administering this chapter:

- (1) license fee;
- (2) annual and late renewal fees;
- (3) reciprocal license fee;
- (4) duplicate license fee;
- (5) engineer-in-training certificate fee;
- (6) roster of engineers fee;
- (7) examination fee;
- (8) registration fee for engineering firm; and
- (9) inactive status fee.

(b) Fee revenue may not exceed the amount reasonable and necessary to administer this chapter.

(c) General revenue of the state may not be used to pay the costs of administering this chapter in an amount that exceeds the amount of fees received under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 15, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 259, Sec. 2, eff. September 1, 2005.

Sec. 1001.205. REDUCED FEES: ELDERLY, DISABLED, INACTIVE STATUS. (a) For purposes of this section, a person is disabled if the person has a mental or physical impairment that substantially limits the ability of the person to earn a living as an engineer, other than an impairment caused by a current addiction to the use of alcohol or an illegal drug or controlled substance.

(b) The board by rule may adopt reduced license fees and annual renewal fees for engineers who are:

(1) at least 65 years of age; or

(2) disabled and not actively engaged in the practice of engineering.

(c) A person entitled to reduced fees under Subsection (b)(2) shall notify the board that the person has resumed the active practice of engineering not later than the 15th day after the date the person resumes active practice.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.206. FEE INCREASE. (a) The fee for a license under this chapter, for the annual renewal of that license, and for a reciprocal license under this chapter is increased by \$200.

(b) Of each fee increase collected, \$50 shall be deposited in the foundation school fund and \$150 shall be deposited in the general revenue fund.

(c) The fee increase imposed by Subsection (a) does not apply to an engineer who:

(1) meets the qualifications for an exemption under Section 1001.057 or 1001.058 but does not claim that exemption;

(2) is disabled as described by Section 1001.205;

(3) is on inactive status as provided by Section 1001.355; or

(4) is 65 years of age or older.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 16, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 3, eff. September 1, 2007.

Sec. 1001.207. STANDARDS OF CONDUCT AND ETHICS. The board may establish standards of conduct and ethics for engineers in keeping with the purposes and intent of this chapter and to ensure strict compliance with and enforcement of this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.208. ROSTER OF ENGINEERS. (a) The board shall prepare and publish a roster of persons, including business entities, licensed, registered, certified, or enrolled by the board. The roster shall include the name, business address, and other identifying information required by board rule.

(b) The board shall make the roster available to the public without cost in an online computer database format.

(c) The board shall provide a physical copy of the roster on request and may charge a reproduction and shipping fee for providing a physical copy of the roster.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.209. REGISTER OF APPLICANTS. The board shall maintain a register of license applications that shows:

- (1) the name, age, and residence of each applicant;
- (2) the date of the application;
- (3) the applicant's place of business;
- (4) the applicant's educational and other qualifications;
- (5) whether an examination was required;
- (6) whether the applicant was issued or denied a license;
- (7) the date of board action; and
- (8) any other information the board considers

necessary.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.210. CONTINUING EDUCATION PROGRAMS. (a) The board shall recognize, prepare, or administer continuing education programs for its license holders. A license holder must participate in the programs to the extent required by the board to keep the person's license.

(b) The board may not require a license holder to obtain more than 15 hours of continuing education annually. The board shall 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) The board shall permit a license holder to receive continuing education credit for educational, technical, ethical, or professional management activities related to the practice of engineering, including:

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

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

(3) attending a seminar, tutorial, short course, correspondence course, videotaped course, or televised course;

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

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

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

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

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

(9) engaging in self-directed study.

(d) A license holder may not receive more than five

continuing education credit hours annually for engaging in self-directed study.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 17, eff. Sept. 1, 2003.

Sec. 1001.211. RECORDS. (a) The board shall maintain a record of its proceedings.

(b) The board's records shall be available to the public at all times.

(c) The board's records are prima facie evidence of the proceedings of the board set forth in the records. A transcript of the records certified by the secretary of the board under seal is admissible in evidence with the same effect as if it were the original.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.212. CONFIDENTIALITY OF CERTAIN INFORMATION RELATED TO LICENSE APPLICATION. (a) A statement made by a person providing a reference for an applicant and other pertinent information compiled by or submitted to the board relating to an applicant for a license under this chapter is privileged and confidential.

(b) Information described by Subsection (a) may be used only by the board or its employees or agents who are directly involved in the application or licensing process. The information is not subject to discovery, subpoena, or other disclosure.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.213. SUBPOENA. (a) The board may request and, if necessary, compel by subpoena:

(1) the attendance of a witness for examination under oath; and

(2) the production for inspection or copying of records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter.

(b) The board, acting through the attorney general, may

bring an action to enforce a subpoena issued under Subsection (a) against a person who fails to comply with the subpoena.

(c) Venue for an action brought under Subsection (b) is in a district court in:

- (1) Travis County; or
- (2) the county in which the board may hold a hearing.

(d) The court shall order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.214. TECHNOLOGY POLICY. The board shall develop and implement a policy requiring the executive director and board employees to research and propose appropriate technological solutions to improve the board's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to find information about the board on the Internet;

(2) ensure that persons who want to use the board's services are able to:

(A) interact with the board through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the board's planning processes.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 18, eff. Sept. 1, 2003.

Sec. 1001.215. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the board.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 18, eff. Sept. 1, 2003.

Sec. 1001.216. JOINT ADVISORY COMMITTEE ON THE PRACTICE OF ENGINEERING AND ARCHITECTURE. (a) The Joint Advisory Committee on the Practice of Engineering and Architecture is an advisory committee to the board and to the Texas Board of Architectural Examiners. The advisory committee consists of:

(1) three members of the board and one practicing architectural engineer appointed by the board; and

(2) three members of the Texas Board of Architectural Examiners and one practicing architect appointed by that board.

(b) Members of the advisory committee serve staggered six-year terms with the terms of one or two members appointed by the board and one or two members appointed by the Texas Board of Architectural Examiners expiring each odd-numbered year.

(c) The advisory committee shall meet at least twice a year.

(d) The advisory committee shall work to resolve issues that result from the overlap between activities that constitute the practice of engineering and those that constitute the practice of architecture. The advisory committee shall assist each agency in protecting the public rather than advancing the interests of either agency or the profession it regulates.

(e) The advisory committee shall issue advisory opinions to the board and to the Texas Board of Architectural Examiners on

matters relating to the practice of engineering and the practice of architecture, including:

(1) opinions on whether certain activities constitute the practice of engineering or the practice of architecture;

(2) specific disciplinary proceedings initiated by either agency; and

(3) the need for persons working on particular projects to be licensed by the board or registered by the Texas Board of Architectural Examiners.

(f) If the advisory committee issues an advisory opinion to the board or the Texas Board of Architectural Examiners on a matter, that agency shall notify the committee of the final action taken with regard to the matter. The advisory committee shall consider the action taken by the agency on the matter in any advisory opinion subsequently issued by the committee on a related matter.

(g) The board and the Texas Board of Architectural Examiners shall enter into a memorandum of understanding regarding the advisory committee that includes the composition and purpose of the committee.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 18, eff. Sept. 1, 2003.

SUBCHAPTER F. CONSUMER INTEREST INFORMATION AND COMPLAINT

PROCEDURES

Sec. 1001.251. CONSUMER INTEREST INFORMATION. (a) The board shall prepare information of consumer interest describing the regulatory functions of the board and the procedures by which consumer complaints are filed with and resolved by the board.

(b) The board shall make the information available to the public and appropriate state agencies.

(c) The board shall maintain on the board's Internet website:

(1) information regarding the procedure for filing a complaint with the board; and

(2) a form that a person may use to file a complaint with the board.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 19, eff. Sept. 1, 2003.

Sec. 1001.252. GENERAL RULES REGARDING COMPLAINT INVESTIGATION AND DISPOSITION. (a) The board shall adopt rules that permit the board to receive and investigate a confidential complaint against a license holder or other person who may have violated this chapter. The board shall maintain the confidentiality of the complaint during the investigation.

(b) The board by rule shall specify:

(1) the manner by which a person may contact the board for assistance in filing a complaint;

(2) the place at which a complaint must be filed;

(3) the proper form of a complaint; and

(4) the information that must be included in a complaint.

(c) The board's procedures must permit a member of the public who desires to file a complaint to:

(1) speak to an investigator on the staff of the board if the person desires to do so; or

(2) easily and conveniently access the board's complaint process without being required to speak to an investigator on the staff of the board if the person does not desire to speak to an investigator.

(d) The board shall consider any written grievance against a license holder or other person filed with the board as a complaint.

(e) A complaint must include information sufficient for the board to determine whether it has the authority to resolve the complaint. A complaint that contains sufficient information for the board to commence an investigation is not required to include all of the information necessary for the board to determine the validity of the complaint.

(f) On receipt of a complaint, the board shall determine whether the board has the authority to resolve the complaint. If the board does not have the authority to resolve the complaint, the board shall dismiss the complaint. If the board has the authority to resolve the complaint, the board shall initiate a disciplinary

proceeding against the person who is the subject of the complaint.

(g) The board by rule shall prescribe a method for prioritizing complaints for purposes of complaint investigation. In establishing priorities:

(1) a complaint that alleges an action that could potentially harm the public takes precedence over a complaint that does not allege an action that could potentially harm the public; and

(2) with regard to complaints that do not allege an action that could potentially harm the public, a complaint filed by a member of the public takes precedence over a complaint filed by the staff of the board.

(h) The board's staff is responsible for conducting all phases of complaint investigation, including gathering evidence necessary to determine the validity of the complaint.

(i) The board may employ or contract with advisors, consultants, engineers, or other persons to provide technical assistance in investigations and disciplinary proceedings. Except for an action involving fraud, conspiracy, or malice, a person whose services are obtained by the board under this subsection is immune from civil liability and may not be subjected to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding made, or other action taken in the course of performing the person's official duties.

(j) The board's staff shall regularly report to the board on each complaint dismissed by board staff, including:

- (1) the name of the complainant;
- (2) the name of the person who is the subject of the complaint;
- (3) the basis of the complaint; and
- (4) the reason for the dismissal of the complaint.

(k) Except as provided by Subsection (l), a complaint filed with the board is public information.

(l) For any complaint determined to be frivolous or without merit, the complaint and other enforcement case information related to that complaint are confidential. The information may be used only by the board or by its employees or agents directly involved in

the enforcement process for that complaint. The information is not subject to discovery, subpoena, or other disclosure.

(m) In this section, "frivolous complaint" means a complaint that the executive director and investigator, with board approval, determined:

- (1) was made for the purpose of harassment; and
- (2) does not demonstrate harm to any person.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 20, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 259, Sec. 3, eff. September 1, 2005.

Sec. 1001.253. COMPLAINT INFORMATION. (a) The board shall:

- (1) assign a number to each complaint filed with the board; and
- (2) ensure that each phase of the processing of a complaint is appropriately documented.

(b) The board shall maintain a file on each written complaint filed with the board. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the board;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the board closed the file without taking action other than to investigate the complaint.

(c) The board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution.

(d) The board, at least quarterly and until final disposition of the complaint, shall notify the parties to the

complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 20, eff. Sept. 1, 2003.

Sec. 1001.254. STATISTICAL ANALYSIS OF COMPLAINTS.

(a) The board shall develop and maintain a complaint tracking system to monitor the processing of complaints filed with the board.

(b) The board shall include with the board's annual financial report under Section 2101.011, Government Code, a statistical analysis of the complaints filed with the board during the preceding year, including:

(1) the number of complaints filed;

(2) a categorization of complaints filed according to the basis of the complaint and the number of complaints in each category;

(3) the number of complaints filed by board staff;

(4) the number of complaints filed by persons other than board staff;

(5) the average length of time required to resolve a complaint;

(6) the number of complaints resolved and the manner in which they were resolved, including:

(A) the number of complaints dismissed and the reasons for dismissal; and

(B) the number of complaints resulting in disciplinary action, the disciplinary action taken, and whether the disciplinary action taken was imposed by stipulation, agreed settlement, consent order, default, or order following a contested case hearing; and

(7) the number of complaints filed that are unresolved, the number of those complaints filed by board staff, the number of those complaints filed by persons other than board staff, and the average length of time that the unresolved complaints have been on file.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 21, eff. Sept. 1, 2003.

Sec. 1001.255. PUBLIC PARTICIPATION. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 21, eff. Sept. 1, 2003.

SUBCHAPTER G. LICENSE REQUIREMENTS

Sec. 1001.301. LICENSE REQUIRED. (a) A person may not engage in the practice of engineering unless the person holds a license issued under this chapter.

(b) Except as provided by Subsection (f), a person may not, unless the person holds a license issued under this chapter, directly or indirectly use or cause to be used as a professional, business, or commercial identification, title, name, representation, claim, asset, or means of advantage or benefit any of, or a variation or abbreviation of, the following terms:

- (1) "engineer";
- (2) "professional engineer";
- (3) "licensed engineer";
- (4) "registered engineer";
- (5) "registered professional engineer";
- (6) "licensed professional engineer"; or
- (7) "engineered."

(c) Except as provided by Subsection (f), a person may not directly or indirectly use or cause to be used an abbreviation, word, symbol, slogan, or sign that tends or is likely to create an impression with the public that the person is qualified or authorized to engage in the practice of engineering unless the person holds a license and is practicing under this chapter.

(d) A person may not receive any fee or compensation or the promise of any fee or compensation for engaging in the practice of engineering unless the person holds a license issued under this chapter.

(e) A person, sole proprietorship, firm, partnership, association, or corporation that engages in or offers or attempts to engage in conduct described by this section is conclusively presumed to be engaged in the practice of engineering.

(f) Notwithstanding the other provisions of this chapter, a regular employee of a business entity who is engaged in engineering activities but is exempt from the licensing requirements of this chapter under Sections 1001.057 or 1001.058 is not prohibited from using the term "engineer" on a business card, cover letter, or other form of correspondence that is made available to the public if the person does not:

(1) offer to the public to perform engineering services; or

(2) use the title in any context outside the scope of the exemption in a manner that represents an ability or willingness to perform engineering services or make an engineering judgment requiring a licensed professional engineer.

(g) Subsection (f) does not authorize a person to use a term listed in Subsections (b)(2)-(6) or a variation or abbreviation of one of those terms.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 22, eff. Sept. 1, 2003.

Sec. 1001.302. LICENSE ELIGIBILITY REQUIREMENTS. (a) An applicant for a license under this chapter must submit evidence satisfactory to the board showing at least that the applicant has:

(1) graduated from:

(A) an engineering curriculum approved by the board as having satisfactory standing; or

(B) an engineering or related science curriculum at a recognized institution of higher education, other than a curriculum approved by the board under Paragraph (A);

(2) passed the examination requirements prescribed by the board; and

(3) engaged in the active practice of engineering for at least:

(A) four years, if the applicant graduated from a curriculum described by Subdivision (1)(A); or

(B) eight years, if the applicant graduated from a curriculum described by Subdivision (1)(B).

(b) To satisfy the requirement of Subsection (a)(3), an applicant must submit a specific record showing engineering work of a character satisfactory to the board indicating that the applicant is competent to be placed in responsible charge of that work.

(c) For purposes of determining an applicant's qualifications under Subsection (a)(3), the board may not consider as active practice in engineering work:

(1) engineering teaching;

(2) the mere execution, as a contractor, of work designed by an engineer; or

(3) the supervision, as a foreman or superintendent, of the construction of work designed by an engineer.

(d) A person is not eligible to be licensed as an engineer unless the person is of good character and reputation.

(e) A person who has the necessary license qualifications described by this chapter is eligible for the license regardless of whether the person is practicing at the time the person applies for the license.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.003(a), eff. Sept. 1, 2003.

Sec. 1001.303. APPLICATION FOR LICENSE. (a) An applicant for a license under this chapter must submit an application on a form prescribed and provided by the board.

(b) The application must contain:

(1) personal information about the applicant, as required by board rule;

(2) a description of the applicant's education;

(3) a detailed summary of the applicant's actual engineering work;

(4) a description of any engineering license or registration previously issued to the applicant and any denial,

revocation, or suspension of an engineering license or registration held by the applicant;

(5) a description of any criminal offense of which the applicant has been convicted; and

(6) at least three references from engineers having personal knowledge of the applicant's character, reputation, general suitability for a license, and engineering experience.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 23, eff. Sept. 1, 2003.

Sec. 1001.304. EXAMINATION. (a) The board shall administer examinations to determine the qualifications of applicants for a license.

(b) The board shall prescribe the scope of the examination and the methods of procedure with special reference to an applicant's ability to design and supervise engineering works to ensure the safety of life, health, and property.

(c) On payment of the examination fee, the board shall administer an oral or written examination to a qualified applicant at a time and place determined by the board.

(d) The board by rule shall ensure that the examination is administered to applicants with disabilities in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), and its subsequent amendments.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 24, eff. Sept. 1, 2003.

Sec. 1001.305. WAIVER OF EXAMINATION REQUIREMENT. The board by rule may waive all or part of the examination requirement for an applicant for the issuance or reissuance of a license. The board may not waive the requirement unless the board first determines that:

(1) the applicant possesses sufficient qualifications to justify the waiver; and

(2) issuing or reissuing the license to the applicant

does not pose a threat to the public health, safety, or welfare.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.306. EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes a licensing examination under this chapter, the board shall notify the person of the results of the examination.

(a-1) If the examination is graded or reviewed by a testing service:

(1) the board shall notify the person of the results of the examination not later than the 14th day after the date the board receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the board shall notify the person of the reason for the delay before the 90th day.

(b) The board may require a testing service to notify a person of the results of the person's examination.

(c) If requested in writing by a person who fails a licensing examination administered under this chapter, the board shall furnish the person with an analysis of the person's performance on the examination.

(d) Examination results reported under this section must include a numerical score and an indication of whether the person passed or failed the examination.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 25, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 4, eff. September 1, 2007.

Sec. 1001.307. REEXAMINATION. The board may permit reexamination of an applicant on payment of an appropriate reexamination fee in an amount set by the board.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.308. ISSUANCE OF LICENSE. (a) On payment of the license fee, the board shall issue a license authorizing the practice of engineering to an applicant who, in the board's opinion, has met all the requirements of this subchapter.

(b) A license shall:

- (1) show the full name of the license holder;
- (2) have a serial number; and
- (3) be signed by the presiding officer and the secretary of the board under the board's seal.

(c) A license is evidence that the person named on the license is entitled to all rights and privileges of an engineer.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.309. CERTIFICATION OR ENROLLMENT OF ENGINEERS-IN-TRAINING. (a) The board shall certify or enroll as an engineer-in-training an applicant who meets the requirements of Subsection (b) if the applicant is otherwise qualified.

(b) The board shall consider as minimum evidence that an applicant is qualified for certification or enrollment as an engineer-in-training if the applicant:

- (1) complies with the education and character requirements of Section 1001.302; and
- (2) has passed the board's eight-hour written examination in the fundamentals of engineering.

(c) The fee for an engineer-in-training certificate or enrollment must accompany the application.

(d) The certification or enrollment of an engineer-in-training is valid for eight years.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.310. TEMPORARY OR PROVISIONAL LICENSE. (a) The board by rule may adopt standards and procedures for issuing a temporary or provisional license under this chapter.

(b) The board may issue a provisional license to an applicant currently licensed in another jurisdiction who seeks a license in this state and who:

- (1) has been licensed in good standing as an engineer

for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the board relating to the practice of engineering; and

(3) is sponsored by a person licensed by the board under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.

(c) The board may waive the requirement of Subsection (b)(3) for an applicant if the board determines that compliance with that subsection would be a hardship to the applicant.

(d) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. The board shall issue a license under this chapter to the provisional license holder if:

(1) the provisional license holder is eligible to be licensed under Section 1001.311(b); or

(2) the provisional license holder meets the following requirements:

(A) the provisional license holder passes an examination that tests the provisional license holder's knowledge and understanding of the laws and rules relating to the practice of engineering in this state;

(B) the board verifies that the provisional license holder meets the academic and experience requirements for a license under this chapter; and

(C) the provisional license holder satisfies any other licensing requirements under this chapter.

(e) The board must approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The board may extend the 180-day period if the results of an examination have not been received by the board before the end of that period.

(f) The board may establish a fee for provisional licenses in an amount reasonable and necessary to cover the cost of issuing the license.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 25, eff. Sept. 1, 2003.

Sec. 1001.311. APPLICATION BY NONRESIDENT. (a) A person who holds a license or certificate of registration issued by another state or a foreign country may apply for a license in this state.

(b) The board may waive any prerequisite to obtaining a license for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 25, eff. Sept. 1, 2003.

Sec. 1001.312. REPLACEMENT LICENSE. The board, subject to board rules, may issue a new license to replace a license that is lost, destroyed, or mutilated.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

SUBCHAPTER H. LICENSE RENEWAL

Sec. 1001.351. ANNUAL RENEWAL REQUIRED. (a) The board shall provide for the annual renewal of a license or registration issued under this chapter.

(b) The board by rule may adopt a system under which licenses and registrations expire on various dates during the year. For the year in which the license or registration expiration date is changed, the board shall prorate license or registration fees on a monthly basis so that each license or registration holder pays only that portion of the license or registration fee that is allocable to the number of months during which the license or registration is valid. On renewal of the license or registration on the new expiration date, the total license or registration renewal fee is payable.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 26, eff. Sept. 1, 2003.

Sec. 1001.352. NOTICE OF LICENSE EXPIRATION. Not later than the 30th day before the date a person's license is scheduled to expire, the board shall send written notice of the impending expiration to the person at the person's last known address according to the records of the board.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 27, eff. Sept. 1, 2003.

Sec. 1001.353. PROCEDURE FOR RENEWAL. (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required annual renewal fee to the board before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the board the required annual renewal fee, a late renewal fee, and any applicable increase in fees as required by Section 1001.206.

(c) A person whose license has been expired for more than 90 days but less than two years may renew the license by paying to the board the required annual renewal fee, a late renewal fee, and any applicable increase in fees as required by Section 1001.206 for each delinquent year or part of a year.

(d) A person whose license has been expired for two years or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 27, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 259, Sec. 4, eff. September 1, 2005.

Sec. 1001.354. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination.

(b) The person must pay to the board a fee that is equal to two times the normally required renewal fee for the license.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 28, eff. Sept. 1, 2003.

Sec. 1001.355. INACTIVE STATUS. (a) An engineer may request inactive status at any time. A license holder on inactive status may not practice engineering.

(b) A license holder on inactive status must pay an annual fee set by the board.

(c) A license holder on inactive status is not required to:

(1) comply with the continuing education requirements adopted by the board; or

(2) take an examination for reinstatement to active status.

(d) To return to active status, a license holder on inactive status must:

(1) file with the board a written notice requesting reinstatement to active status;

(2) pay the fee for the annual renewal of the license and the fee increase required by Section 1001.206; and

(3) provide evidence satisfactory to the board that the person has complied with the continuing education requirements adopted by the board.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 28, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 5, eff. September 1, 2007.

SUBCHAPTER I. PRACTICE OF ENGINEERING

Sec. 1001.401. USE OF SEAL. (a) On receiving a license, a

license holder shall obtain a seal in a design authorized by the board, showing the license holder's name and the legend "Licensed Professional Engineer" or "Registered Professional Engineer."

(b) A plan, specification, plat, or report issued by a license holder for a project to be constructed or used in this state must include the license holder's seal placed on the document. A license holder is not required to use a seal required by this section if the project is to be constructed or used in another state or country.

(c) A person may not place a seal on a document if the license of the license holder named on the seal has expired or has been suspended or revoked.

(d) A license holder is not required to use a seal under this section for a project for which the license holder is not required to hold a license under an exemption provided by Subchapter B.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 259, Sec. 5, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 6, eff. September 1, 2007.

Sec. 1001.402. ENFORCEMENT BY CERTAIN PUBLIC OFFICIALS. 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 may accept a plan, specification, or other related document only if the plan, specification, or other document was prepared by an engineer, as evidenced by the engineer's seal.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.403. PROFESSIONAL IDENTIFICATION. A person licensed under this chapter shall use the term "Engineer," "Professional Engineer," or "P.E." in the professional use of the person's name on a sign, directory, listing, document, contract, pamphlet, stationery, advertisement, signature, or another similar written or printed form of identification.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.404. ELIGIBILITY FOR APPOINTED STATE POSITION.

An engineer is eligible to hold any appointive engineering position with the state.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.405. PRACTICE BY BUSINESS ENTITY; REGISTRATION.

(a) In this section, "business entity" includes a sole proprietorship, firm, partnership, corporation, or joint stock association.

(b) A business entity may not engage in the practice of engineering in this state unless:

(1) the business entity is registered with the board; and

(2) the practice is carried on only by engineers.

(c) A business entity may register under this section by filing an application with the board on a form provided by the board. In addition to any other information required by board rule, the application must list the name and address of each officer or director of the business entity and each engineer who engages in the practice of engineering on behalf of the business entity.

(d) The registration of a business entity issued under this section expires on the first anniversary of the date the registration is issued. The registration may be renewed by the filing of an updated application under Subsection (c).

(e) A business entity may not represent to the public that it is engaged in the practice of engineering under any business name or use or cause to be used the term "engineer," "engineering," "engineering services," "engineering company," "engineering, inc.," "professional engineers," "licensed engineer," "registered engineer," "licensed professional engineer," "registered professional engineer," or "engineered," or any abbreviation or variation of those terms, or directly or indirectly use or cause to be used any of those terms in combination with other words, letters, signs, or symbols as a part of any sign, directory, listing, contract, document, pamphlet, stationery, advertisement, signature, or business name unless:

(1) the business entity is registered under this

section;

(2) the business entity is actively engaged in the practice of engineering; and

(3) each service, work, or act performed by the business entity that is part of the practice of engineering is either personally performed by an engineer or directly supervised by an engineer who is a regular full-time employee of the business entity.

(f) This section does not prohibit an engineer from performing engineering services on a part-time basis.

(g) Notwithstanding the other provisions of this section, the board by rule may provide that a business entity that has not previously registered with the board and that is engaged in the practice of engineering in violation of Subsection (b) is not subject to disciplinary action for the violation if the business entity registers with the board not later than the 30th day after the date the board gives written notice to the business entity of the registration requirement. This subsection does not apply to a business entity whose registration has expired.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 29, eff. Sept. 1, 2003.

Sec. 1001.406. GRADUATE ENGINEERS. (a) A graduate of a university recognized by the American Association of Colleges and Universities who has a degree from an engineering program accredited by the Accreditation Board for Engineering and Technology (ABET) has the right to:

(1) disclose any college degree received by the person; and

(2) use the term "graduate engineer" on the person's stationery or business cards or in personal communications of any character.

(b) A graduate engineer who is employed in a firm registered under this chapter and who is working under the direct supervision of a licensed professional engineer may use the term "engineer" on the person's stationery or business cards or in personal

communications of any character.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 1168, Sec. 30, eff. Sept. 1, 2003.

Sec. 1001.407. CONSTRUCTION OF CERTAIN PUBLIC WORKS. 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:

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

(2) the engineering construction is to be performed under the direct supervision of an engineer.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

SUBCHAPTER J. PROHIBITED PRACTICES AND DISCIPLINARY PROCEDURES

Sec. 1001.451. DISCIPLINARY POWERS OF BOARD. On a determination that a ground for disciplinary action exists under Section 1001.452, the board may:

(1) deny an application for a license;

(2) revoke, suspend, or refuse to renew a license;

(3) probate the suspension of a license; or

(4) formally or informally reprimand a license holder.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.452. GROUNDS FOR DISCIPLINARY ACTION. A person is subject to disciplinary action under Section 1001.451 for:

(1) a violation of this chapter or a board rule;

(2) fraud or deceit in obtaining a license;

(3) a documented instance of retaliation by an applicant against an individual who has served as a reference for that applicant;

(4) gross negligence, incompetency, or misconduct in the practice of engineering; or

(5) a failure to timely provide plans or specifications to the Texas Department of Licensing and Regulation as required by Article 9102, Revised Statutes.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.4525. PROBATION. (a) If a person's license suspension is probated, the board may require the person to:

(1) report regularly to the board on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the board; or

(3) continue or review professional education until the person attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

(b) The board by rule shall adopt written guidelines to ensure that probation is administered consistently.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 31, eff. Sept. 1, 2003.

Sec. 1001.4526. RESTITUTION. (a) Subject to Subsection (b), the board may order a person licensed or registered under this chapter to pay restitution to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) The amount of restitution ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the person for a service regulated by this chapter. The board may not require payment of other damages or estimate harm in a restitution order.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 31, eff. Sept. 1, 2003.

Sec. 1001.4527. RECUSAL OF BOARD MEMBER. (a) A board member who participated in the investigation of a complaint or in informal settlement negotiations regarding the complaint:

(1) may not vote on the matter at a board meeting related to the complaint; and

(2) shall state at the meeting why the member is prohibited from voting on the matter.

(b) A statement under Subsection (a)(2) shall be entered

into the minutes of the meeting.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 31, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 837, Sec. 7, eff. September 1, 2007.

Sec. 1001.453. REVIEW OF LICENSE HOLDER'S STATUS. (a) The board by rule may review the status of a license holder the board believes:

(1) may have been issued a license through fraud or error; or

(2) may constitute a threat to the public health, safety, or welfare.

(b) The board may suspend or revoke a license held by a person whose status is reviewed under this section.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.454. RIGHT TO HEARING. (a) If the board proposes to suspend or revoke a person's license, the person is entitled to a hearing.

(b) Proceedings for the suspension or revocation of a license are governed by Chapter 2001, Government Code.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.455. APPEAL OF LICENSE REVOCATION. A person whose license has been revoked may file suit to annul or vacate the board's order revoking the license. The person may file the suit in the district court of the county in which:

(1) the person resides; or

(2) the alleged conduct that is the ground for revocation occurred.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.456. REISSUANCE OF REVOKED LICENSE. The board may reissue a license to a person whose license has been revoked if the board has sufficient reason to reissue the license. At least

six board members must vote for reissuance of the license. A new license may be issued in accordance with board rules.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

SUBCHAPTER K. ADMINISTRATIVE PENALTY

Sec. 1001.501. IMPOSITION OF ADMINISTRATIVE PENALTY. The board may impose an administrative penalty on a person who violates this chapter or a rule adopted or order issued under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.502. AMOUNT OF ADMINISTRATIVE PENALTY. (a) The amount of an administrative penalty may not exceed \$3,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including:

(A) the nature, circumstances, extent, and gravity of the prohibited act; and

(B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts or resistance to efforts to correct the violation; and

(6) any other matter that justice may require.

(c) The board may include in the amount of the penalty the actual costs of investigating and prosecuting the violation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.503. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

(a) Not later than the 30th day after the date the board's order becomes final, the person shall:

(1) pay the administrative penalty;

(2) pay the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of

the penalty, or both; or

(3) without paying the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court and that is:

(i) for the amount of the penalty; and

(ii) effective until judicial review of the board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court an affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the executive director by certified mail.

(c) If the executive director receives a copy of an affidavit under Subsection (b)(2), the executive director may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.

(d) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or give a supersedeas bond.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.504. COLLECTION OF PENALTY. If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the executive director may refer the matter to the attorney general for collection.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.505. DETERMINATION BY COURT. (a) If a court sustains the determination that a violation occurred, the court may uphold or reduce the amount of the administrative penalty and order the person to pay the full or reduced penalty.

(b) If a court does not sustain the determination that a violation occurred, the court shall order that an administrative penalty is not owed.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.506. REMITTANCE OF PENALTY AND INTEREST.

(a) If, after judicial review, the administrative penalty is reduced or not imposed by the court, the court shall:

(1) order the appropriate amount, plus accrued interest, be remitted to the person if the person paid the penalty; or

(2) order the release of the bond:

(A) if the person gave a supersedeas bond and the penalty is not upheld by the court; or

(B) after the person pays the penalty if the person gave a supersedeas bond and the penalty is reduced.

(b) The interest paid under Subsection (a)(1) is at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.507. DISPOSITION OF PENALTY. The part of an administrative penalty that represents the costs incurred by the board in investigating and prosecuting the violation may be appropriated only to the board to reimburse the board for performance of its regulatory functions.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.508. ADMINISTRATIVE PROCEDURE. (a) A proceeding under this subchapter is subject to Chapter 2001,

Government Code.

(b) The board shall adopt rules of procedure for imposing an administrative penalty. The rules must conform to the requirements of Chapter 2001, Government Code.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

SUBCHAPTER L. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 1001.551. INJUNCTION. (a) In addition to any other action authorized by law, the board may bring an action in the board's name to enjoin a person from violating this chapter or a board rule.

(b) An action under this section must be brought in a district court of Travis County.

(c) To sustain an action under this section, the board is not required to allege or prove that:

- (1) an adequate remedy at law does not exist; or
- (2) substantial or irreparable damage would result from the continued violation.

(d) In an action for an injunction under this section, the defendant may assert and prove as a complete defense to the action that the board deprived the defendant of a license by a board action or proceeding that was:

- (1) arbitrary or capricious;
- (2) contrary to law; or
- (3) conducted without due process of law.

(e) Either party to an action under this section may appeal to the appellate court with jurisdiction of the action.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.552. CRIMINAL PENALTY. (a) A person commits an offense if the person:

- (1) engages in the practice of engineering without being licensed or exempted from the licensing requirement under this chapter;
- (2) violates this chapter;
- (3) presents or attempts to use as the person's own the license or seal of another; or

(4) gives false evidence of any kind to the board or a board member in obtaining a license.

(b) An offense under this section is a Class A misdemeanor.
Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.553. REPORT OF VIOLATION. A public official shall report a violation of this chapter to the proper authorities.
Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.554. PRESENTATION OF COMPLAINTS BY BOARD; ASSISTANCE AT TRIAL. (a) A member of the board may present to a prosecuting officer a complaint relating to a violation of this chapter.

(b) The board through its members, officers, counsel, and agents and subject to the control of the prosecuting officer may assist in the trial of a case involving an alleged violation of this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.555. ATTORNEY GENERAL AS LEGAL ADVISOR; REPRESENTATION BY ATTORNEY GENERAL. (a) The attorney general shall:

- (1) act as legal advisor of the board;
- (2) provide legal assistance to the board as necessary to enforce this chapter and make it effective; and
- (3) represent the board in an action brought to enforce this chapter.

(b) This section does not affect the duties of local prosecuting officers.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

Sec. 1001.556. APPEAL BOND. The board is not required to give an appeal bond in a cause arising under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003.

SUBCHAPTER M. ADVISORY OPINIONS

Sec. 1001.601. BOARD ADVISORY OPINIONS. (a) On its own

initiative or at the request of any interested person, the board shall prepare a written advisory opinion about:

(1) an interpretation of this chapter; or

(2) the application of this chapter to a person in regard to a specified existing or hypothetical factual situation.

(b) The board shall respond to requests for opinions within 180 days unless the board affirmatively states the board's reason:

(1) for not responding to the request within 180 days;

or

(2) for not responding to the request at all.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 32, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 259, Sec. 6, eff. September 1, 2005.

Sec. 1001.602. MAINTENANCE OF OPINIONS; SUMMARY. The board shall:

(1) number and classify each advisory opinion issued under this subchapter; and

(2) annually compile a summary of the opinions in a single reference document that is available on the Internet.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 32, eff. Sept. 1, 2003.

Sec. 1001.603. ATTORNEY GENERAL'S OPINIONS. The authority of the board 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.

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 32, eff. Sept. 1, 2003.

Sec. 1001.604. RELIANCE ON ADVISORY OPINION. It is a defense to prosecution or to imposition of a civil penalty that a person reasonably relied on a written advisory opinion of the board relating to:

(1) the provision of the law the person is alleged to have violated; or

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

Added by Acts 2003, 78th Leg., ch. 1168, Sec. 32, eff. Sept. 1, 2003.