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FISCAL IMPACT REPORT

SPONSOR: Larranaga DATE TYPED: 03/18/03 HB 923/aHJC

SHORT TITLE: Amend Engineering & Surveying Practice Act SB _____

ANALYST: Geisler

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
.01 See Narrative	.01 See Narrative	.01 See Narrative		OSF

(Parenthesis () Indicate Revenue Decreases)

Relates to: SB 665 Sanctions for Certain Unlicensed Persons

SOURCES OF INFORMATION

Responses Received From

Board of Licensure for Professional Engineers and Surveyors (BES)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee Amendment to House Bill 923 clarifies that licensure of a professional engineer requires meeting only one of the requirements listed on page 8 and 9 relating to education & experience. This is achieved by striking “either” on line 19 of page 8 and replacing it with “meets one of the following requirements” and then re-lettering the section.

Synopsis of Original Bill

House Bill 923 proposes to amend the practice act of the professional engineering and surveying licensing board. Major changes include:

1. Giving the BES authority to investigate and impose civil penalties for unlicensed individuals acting in the capacity of an engineer or surveyor and;

2. Waiver of the engineer intern exam for certain qualified applicants to encourage licensure.

Significant Issues

1. Investigation of Unlicensed Individuals:

- Identical language is proposed for the engineering and the surveying sections of the Act.
- The proposed language would subject any person (whether licensed or not), who engages in the business, or acts in the capacity of a professional engineer or professional surveyor, except as otherwise exempted under the Act, to the jurisdiction of the Board.
- The Board would have the authority to investigate complaints and assess civil penalties for practicing without a license up to \$5,000 (same as in current law for licensees).
- The civil penalty would be determined in accordance to the seriousness of the violation, the economic benefit to the violator, the violator's history, etc.
- Persons aggrieved by the board's decision would be able to appeal a decision to district court.
- Board would have the authority to enforce its orders through further action and judicial sanctions or relief, including a petition for injunction. Failure to comply with an order issued by the Board would be considered a misdemeanor.
- The definition for "person" as noted in the general state statute would be added to the Act.

2. Exam Requirements:

- The waiving of the Engineer Intern examination would promote licensure among otherwise exempted industry engineers as well as among educators in engineering programs in NM universities, thereby providing more accountability to the public.
- The Engineer Intern examination would be waived for those applicants who may have obtained a doctorate degree in an engineering discipline recognized by the board and who have as a minimum of four years of board-approved engineering experience after the degree.
- The Engineer Intern examination would be waived for those applicants who have obtained masters degrees in engineering disciplines recognized by the board from a board-approved program and who have a minimum of six years of engineering experience subsequent to the awarding of the degree.
- The Engineering Intern examination would be waived for those applicants who have graduated from a board-approved, four-year engineering curriculum and have twelve or more years of engineering experience acceptable to the board.

FISCAL IMPLICATIONS

The Board operates with Other State Funds (OSF). The revenue generated from examinations, licensees, renewals, penalties, etc. goes directly to supporting the Engineering and Surveying Board's operations.

CONFLICT

Relates to SB 665, which proposes to amend the Uniform Licensing Act and would also give li-

censing boards under the Uniform Licensing Act jurisdiction over unlicensed activity, to include disciplinary proceedings and civil penalty. SB 665 establishes a cap of \$1,000 civil penalty. HB 923 includes a cap of \$5,000 which is consistent with the penalty cap for licensees under the Engineering and Surveying Practice Act. It appears that HB 923 would prevail as the more specific law regarding engineering and surveying practice. However, giving boards the flexibility under the ULA to work within their specific statutes would be more appropriate.

OTHER SUBSTANTIVE ISSUES

The BES provided this additional information on jurisdiction over certain unlicensed individuals:

- The bill would allow the Board to investigate and act on complaints filed against unlicensed individuals, for example former licensees who have had their licenses revoked who continue to practice, unlicensed individuals who fraudulently use the seal and signature of other licensees, and/or individuals who purport to be licensed, who obtain monetary retainers and who are not able to complete the services (from examples of cases that have been received by the Board).
- Unlicensed individuals alleged to be in violation of the Engineering and Surveying Practice Act will have the same due process afforded licensees under the Uniform Licensing Act [See proposed amended language in Sec. 61-23-2 "...A person who engages in the business or acts in the capacity of a professional engineer or professional surveyor in New Mexico, except as otherwise provided in Sections 61-23-22 and 61-23-27.10 NMSA 1978[exemptions to Act], with or without a New Mexico license, has thereby submitted to the jurisdiction of the state and to the administrative jurisdiction of the board and is subject to all penalties and remedies available for a violation of any provision of Chapter 61, Article 23 NMSA 1978..."]

GG/sb:njw