

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Miguel Garcia DATE TYPED 2/23/05 HB 99/aHBIC

SHORT TITLE Engineer & Surveyor Licensure Requirements SB _____

ANALYST Moser

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 163

SOURCES OF INFORMATION

LFC Files

Responses Received From

Board of Professional Engineers and Surveyors

SUMMARY

Synopsis of Amendment

Item 1 of the amendment makes it clarifies that if a ¾ vote is not reached by the new engineering and surveying joint standing committee on any interdisciplinary practice dispute as to whether the issue at hand is exclusive to engineering or exclusive to surveying, then the determination shall be made by the full board.

Item 2 of the amendment mandates that all surveying services contractors (providers) issue a written statement when providing professional surveying services indicating (1) the minimum terms and conditions of professional liability insurance coverage, including limits and exceptions; or (2) the absence of professional liability insurance coverage.”

Significant Issues of Amendment

Item 1 ensures that the full board will act on exclusivity issues that the engineering and surveying joint standing committee is unable to resolve.

Item 2 provides consumers with information on whether a provider of professional surveying services carries errors and omissions insurance or not. This would give the consumer additional information when considering who to hire for professional surveying services.

Mandatory disclosure of errors & omissions insurance coverage rather than a mandatory insurance requirement for professional surveyors would provide consumers with a more complete knowledge of the surveying services provider. Mandatory E&O insurance requirement would drive the cost of surveying services higher for professional surveyors.

The Board of Professional Engineers and Surveyors indicates a comprehensive study needs to be completed to assess the practicality and impact of making E&O insurance mandatory. This study should include an examination of the necessary state requirements in establishing a risk pool for those practitioners unable to procure E&O insurance coverage through standard commercial avenues. It is contemplated that a risk pool for surveyors would differ from existing models, such as for realtors, in that surveying varies widely among practitioners and not all licensees interact with the public, therefore some exemptions would need to be carefully identified and established. Factors such as type of surveying activity conducted, size of organization, annual revenues, and professional history would affect insurance risk pool assignments. Other study items should include requirements of other states as well as impact of such a requirement on practice of surveying in New Mexico.

The board indicates that to date there have been no reports that any licensing jurisdiction for engineering or surveying in the country require E&O insurance. The Florida surveying board is the only reporting entity that requires mandatory disclosure of E&O coverage.

Synopsis of Bill

House Bill 99 empowers the professional engineering committee to promulgate and adopt rules of professional responsibility for professional engineers for all matters exclusive to engineering. It also empowers the professional surveying committee to promulgate and adopt rules of professional responsibility for professional surveyors. The bill provides a clarification of professional overlap between engineers and surveyors by adding a definition of “supplemental surveying work.” The bill creates a joint engineering and surveying practices committee with equal representation from both aforementioned committees with the authority to determine exclusivity of issues that come before the Board. The bill gives more autonomy to each profession in the regulating of its individual profession while at the same time provides a mechanism to address concerns of interdisciplinary practices between the two professions within the Board. Other changes are mainly for clarification and housekeeping.

Significant Issues

According to the Board, the law in the past was interpreted as giving the full board authority to promulgate rules whether they affected engineers or surveyors. This created conflict between the professions since the board is composed of more engineers than surveyors. This bill authorizes each committee to promulgate its own rules of professional responsibility for each discipline. If there is an interdisciplinary practice concern, the bill authorizes the joint engineering and surveying practices committee (composed of 1 engineer and 1 surveyor and the two public members of the Board) to rule on whether it is exclusive to engineering or exclusive to surveying. The bill also clarifies that engineers on occasions, when performing engineering projects, may perform

supplemental surveying work that is incidental to their project. A definition of “supplemental surveying work” is added to mean surveying work performed in order to densify, augment and enhance previously performed survey work or site information, but excludes surveying of real property.

The bill also clarifies the engineering licensing experience requirement of twelve years without the intern examination to be after graduation. It authorizes the Board to clarify the licensing requirements for engineers, specifically the sequence of completing the licensing requirements. The Good Samaritan provision is expanded to cover activities including aeronautical, aircraft structure and reference to terrorist acts.

FISCAL IMPLICATIONS

There are no fiscal impacts anticipated for the Board’s budget expenses or revenues. The Board operates with Other State Funds (OSF). The revenues generated from license fees are appropriated to support the Engineering & Surveying Board’s operations.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Number 1 of the amendment is already part of SB 163 which is a duplicate bill of HB 99. HB 306 (Sunset Bill) is companion to HB 99 & SB 163.

TECHNICAL ISSUES

“absense” under D. (2) should be “absence”

OTHER SUBSTANTIVE ISSUES

1. Minor housekeeping changes to language. (61-23-3. DEFINITIONS- E, L, M, N, Q)
2. Empower Engineering Committee to promulgate and adopt rules of professional responsibility for professional engineers for all matters exclusive to engineering. (61-23-3. DEFINITIONS - F)
3. Clarify definition of surveying in regards to establishment of horizontal and vertical control. (61-23-3. DEFINITIONS – N - 4)
4. Empower Surveying Committee to promulgate and adopt rules of professional responsibility for professional surveyors for all matters exclusive to surveying. (61-23-3. DEFINITIONS - O)
5. Clarification of professional overlap between engineers and surveyors. Adds definition of “supplemental surveying work” (61-23-3. DEFINITIONS - R, S)
6. Adds “professional” before surveyor in the name of the Board of Licensure (61-23-5 STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND SURVEYORS—MEMBERS—TERMS – A)
7. Clarification of board member qualifications requiring New Mexico licensure experience. (BOARD MEMBER –QUALIFICATIONS 61-23-6. A & B)
8. Clarification of quorum requirement for the engineering committee. Similar to existing language for the surveying committee. (61-23-9. BOARD-ORGANIZATION-MEETINGS - A)
9. Minor housekeeping changes to language. (61-23-9. BOARD-ORGANIZATION-MEETINGS - B, C, E)

10. Creates (engineering & surveying) joint practices committee with equal representation for engineering (1 PE board member) and surveying (1 PS board member) plus the (2) two public board members within the existing **Board of Licensure (BOL)** framework to determine exclusivity of issues that come before the board. (61-23-9. BOARD-ORGANIZATION-MEETINGS - D)
11. Clarification that the BOL is the sole state agency empowered to determine the qualification of engineers and surveyors. (61-23-10. DUTIES AND POWERS OF THE BOARD - A)
12. Empowers engineering and surveying committees of the BOL to individually promulgate and adopt rules of professional responsibility exclusive to their respective profession and creates mechanism to determine exclusivity. (61-23-10. DUTIES AND POWERS OF THE BOARD - C, D, E)
13. Removes one-year waiting period after three unsuccessful examinations attempts. (61-23-14. CERTIFICATION AS AN ENGINEERING INTERN-REQUIREMENTS - B)
14. Clarifies engineering licensing experience requirement of twelve years without the intern examination to be after graduation. (61-23-14.1 LICENSURE AS A PROFESSIONAL ENGINEER—REQUIREMENTS – A, 2, (e)
15. Authorizes the Board to clarify the licensing requirements for engineers, specifically the sequence of meeting the licensing requirements. (61-23-14.1. LICENSURE AS A PROFESSIONAL ENGINEER- REQUIREMENTS- B, C)
16. Minor housekeeping changes to language. (61-23-17. APPLICATION AND EXAMINATION FEES - A)
17. Minor housekeeping changes to licensure fee collection procedure to be implemented by rules. (61-23-20. ENGINEERING-LICENSURE AND RENEWAL FEES- EXPIRATIONS - A)
18. Minor housekeeping changes to language to conform to earlier revisions. (61-23-24. ENGINEERING-VIOLATIONS-DISCIPLINARY ACTION – B, I)
19. Clarification of experience requirements for licensure as professional surveyor. (61-23-27.4. A.3)
20. Minor housekeeping changes to licensure fee collection procedure. (61-23-27.7 SURVEYING-LICENSURE AND RENEWAL FEES-EXPIRATIONS- A)
21. Minor housekeeping changes to language to conform to earlier revisions. (61-23-27.11.SURVEYING-VIOLATIONS-DISCIPLINARY ACTION-H)
Expansion of activities covered by Good Samaritan provisions to include aeronautical, aircraft structure and reference to terrorist acts. (61-23-31.1 GOOD SAMARITAN- A)

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Current items of concern between engineers and surveyors would not be addressed. The surveying and engineering community have worked together in recommending this legislation.

EM/lg/rs