

Approved April 26, 1991
Date

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Lana Oleen at
Chairperson

4:20 ~~a.m.~~/p.m. on April 3, 1991 in room 123-S of the Capitol.

~~1~~ members ~~present~~: Senators Oleen, Bogina, Francisco, Kanan, Strick and Vidricksen.

Committee staff present:

Julian Efird, Kansas Legislative Research Department
Fred Carman, Revisor of Statutes Office
Mary Allen, Committee Secretary

Conferees appearing before the committee:

The Senate Committee on Governmental Organization was called to order at 4:20 p.m. by the Chairman, Senator Lana Oleen, who called for discussion on SB 380.

Senate Bill 380 - Amendments concerning licensure of technical professions.

The Committee considered the balloon version of SB 380 provided by staff at the previous meeting. (Attachment 1)

Senator Bogina moved that SB 380 be amended by the adoption of the balloon version with the following exceptions:

- (1.) On page 5, line 6, add language to provide that a public member will serve on each of the sub-sections and that the subsections of engineers and surveyors will meet separately.
- (2.) On page 12, line 8, change the word "four" to the word "eight".
- (3.) On page 12, at the end of line 8, after the word "experience" add the words "or education, or a combination thereof,".
- (4.) On page 12, in line 8, remove the balloon words "Until July 1, 1996,".
- (5.) On page 12, strike lines 28 through 31 from the bill including the balloon items.
- (6.) On page 18, strike the balloon items.

Senator Strick seconded the motion. The motion carried.

Senator Vidricksen moved that SB 380 as amended be recommended favorably for passage. Senator Bogina seconded the motion. The motion carried.

The Committee turned its attention to HB 2472.

House Bill 2472 - Kansas emergency planning and community right-to-know act.

A member of the Committee discussed the provision in HB 2472 regarding the composition of the proposed State Emergency Response Commission and observed that he has a problem with providing that the people who are to serve on the Commission can designate someone to serve in his or her place.

Senator Bogina moved that HB 2472 be amended on page 1, line 24, by striking the word "or" and in line 25, by striking the words "their designees". Senator Kanan seconded the motion. The motion carried.

Senator Francisco moved that HB 2472 as amended be recommended favorably for passage. Senator Bogina seconded the motion. The motion carried.

The meeting was adjourned at 4:35 p.m. by the Chairman.

GUEST LIST

COMMITTEE: SENATE GOVERNMENTAL ORGANIZATION

DATE April 3, 1991

NAME	COMPANY / ORGANIZATION	ADDRESS
LINDA MCGILL	KSTA	TOPEKA
Betty Rose	KSBTP	Topeka
Trudy Aron	Am Inst of Arch	"
Helen Stephens	KSL5	✓
Frank Pasin	Pharm. Mfg.	Washington, D.C.
TREVA POTTER	PEOPLES NAT. GAS	TOPEKA
GILL HENRY	KS ENG SOCIETY	TOPEKA
George Barber	KS Consulting Engrs	Topeka

1 (1) The performance of any professional service, the adequate
2 performance of which involves the application of special knowledge
3 and experience in the principles of mathematics, the related physical
4 and applied sciences, the relevant requirements of law and the meth-
5 ods of surveying measurements in measuring and locating of lines,
6 angles, elevation of natural and man-made features in the air, on
7 the surface of the earth, within underground workings and on the
8 bed of bodies of water for the purpose of determining areas, volumes
9 and monumentation of property boundaries;

10 (2) the preparation of plats of land and subdivisions thereof,
11 including the topography, rights-of-way, easements and any other
12 boundaries that affect rights to or interests in land, but excluding
13 features requiring engineering or architectural design;

14 (3) the preparation of the original descriptions of real property
15 for the conveyance of or recording thereof and the preparation of
16 maps, plats and field note records that represent these surveys; and

17 (4) the teaching of land surveying by a licensed land surveyor
18 in a college or university offering an approved land surveying cur-
19 riculum of four years or more.

20 (l) "Person" means a natural person, firm, corporation or
21 partnership.

22 (m) "Plat" means a diagram drawn to scale showing all essential
23 data pertaining to the boundaries and subdivisions of a tract of land,
24 as determined by survey or protraction. A plat should show all data
25 required for a complete and accurate description of the land which
26 it delineates, including the bearings (or azimuths) and lengths of the
27 boundaries of each subdivision.

28 Sec. 2. K.S.A. 74-7005 is hereby amended to read as follows:
29 74-7005. (a) Membership of the board shall be as follows:

30 (1) ~~Three~~ (3) members of the board shall have been engaged
31 in the practice of engineering, as defined in this act, for at least
32 five eight years. ~~one~~ (1) member and shall be licensed engineers.
33 At least one of such members shall be engaged in private practice
34 as an engineer.

Four

35 (2) ~~Three~~ members shall have been engaged in the practice of
36 land surveying, as defined in this act, for at least five years; ~~eight~~
37 years and shall be licensed land surveyors.

At least one of such members shall also be licensed as a land surveyor, as well as a licensed engineer.

38 (3) Three (3) members shall be licensed architects of recognized
39 standing and shall have been engaged in the practice of the profession
40 of architecture, as defined in this act, for at least ten eight years,
41 which practice shall include responsible charge of architectural work
42 as principals.

Two

43 (4) One (1) member shall be a licensed landscape architect, as

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Attachment 1

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1 defined in this act, and shall have been engaged in the practice
2 of landscape architecture for at least seven *eight* years, which practice
3 shall include responsible charge of landscape architectural work
4 as principal; and.

Three members

5 ~~(5) One (1) member~~ shall be from the general public of this
6 state.

7 (b) Each member of the board shall be a citizen of the United
8 States and a resident of this state.

9 (c) *The amendments to this section shall not be applicable to any
10 member of the board who was appointed to the board and qualified
11 for such appointment under this section prior to the effective date
12 of this act.*

13 Sec. 3. K.S.A. 74-7006 is hereby amended to read as follows:
14 74-7006. ~~The members of the first board shall be appointed
15 within sixty (60) days after the effective date of this act, to
16 serve for the following terms: One member of the board shall
17 be appointed to serve for one (1) year, two for two (2) years,
18 three for three (3) years, and three for four (4) years. The term
19 of each board member, first appointed hereunder, shall commence
20 on the day this act becomes effective. Whenever a vacancy
21 shall occur in the membership of the board by reason of the expiration
22 of a term of office, the governor shall appoint a successor of
23 like qualifications. All appointments made subsequent to those
24 herein first specified shall be for a term of four (4) years, but no
25 member shall be appointed for more than three (3) successive four-
26 year terms, except that any term served by a member as secretary
27 shall not be considered, in applying successive term
28 limitations. *The term of each member first appointed after January
29 1, 1992, for the purpose of computing the length of the term of
30 such member, shall commence on the first calendar day subsequent
31 to the day of expiration of the preceding term, regardless of when
32 the appointment is made, and shall end on June 30 of the fourth
33 year of the member's term for those members whose terms commence
34 on July 1, or on June 30 following the third full year of the member's
35 term for those members whose terms commence on January 1. There-
36 after, for the purpose of computing the length of term of a member
37 of the board, the terms of members appointed to the board shall
38 commence on the July 1 immediately following the day of expiration
39 of the preceding term, regardless of when the appointment is made,
40 and shall expire on June 30 of the fourth year of the member's term.*
41 Each shall serve until a successor is appointed and qualified. When-
42 ever a vacancy shall occur in the membership of the board for any
43 reason other than the expiration of a member's term of office, the~~

1 be considered as equivalent to not more than one (1) year of
2 experience specified in paragraph 2 of subsection (a).

3 (d) Any person, licensed as a professional engineer in the
4 state of Kansas at the time this act takes effect, shall thereafter
5 continue to possess the same rights and privileges with respect
6 to the practice of engineering, without being required to be
7 licensed anew under the provisions of this act, subject, how-
8 ever, to the power of the board as provided in this act to
9 suspend or revoke the license of any such person for any of
10 the causes set forth in this act, and subject to power of the
11 board to require any such person to renew said license as
12 provided in this act.

13 (e) Prior to completion of the requisite years of experience
14 in engineering work, an applicant may be permitted to take an
15 eight-hour written examination in the fundamentals of engi-
16 neering and satisfactory passage of this portion of the profes-
17 sional examination by the applicant shall constitute a credit for
18 a period of ten years. The board shall issue to each applicant
19 upon successfully passing the examination in the fundamentals
20 of engineering a certificate stating that he or she has passed
21 the examination.

22 (a) *Graduation from a college or university program that is ad-*
23 *equate in its preparation of students for the practice of engineering;*
24 *and*

25 (b) *the satisfactory passage of such written examination in the*
26 *fundamentals of engineering as utilized by the board; and*

27 (c) *proof of four years of engineering experience of a character*
28 *satisfactory to the board, as defined by rules and regulations of the*
29 *board; and*

30 (d) *the satisfactory passage of such examination in professional*
31 *practice as utilized by the board.*

32 Sec. 13. K.S.A. 1990 Supp. 74-7022 is hereby amended to read
33 as follows: 74-7022. (a) Minimum qualifications of applicants seeking
34 licensure as land surveyors are the following:

35 (1) Graduation in an accredited engineering curriculum of
36 four years or more, approved by the board and two or more
37 years survey experience of a character satisfactory to the board;
38 or

39 (2) Graduation in an accredited surveying curriculum of not
40 less than two years with two years survey experience of a
41 character satisfactory to the board; or

42 (3) completion of six years or more of active experience in
43 land surveying, of a character satisfactory to the board. Each

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1 year of satisfactory work in an accredited engineering or sur-
2 veying curriculum may be considered as equivalent to one year
3 of experience in land surveying, but not exceeding a total of
4 four years; and

5 ~~(1) Graduation from a college or university program that is ad- ✓
6 equate in its preparation of students for the practice of land sur-
7 veying, and~~

8 ~~(2) proof of at least four years of land surveying experience~~ (1) Until July 1, 1996,
9 satisfactory to the board, as defined by rules and regulations of the
10 board; and

11 (4) ~~(3)~~ the satisfactory passage of an examination given utilized (2)
12 by the board. Such examination may be taken prior to or during
13 the period of work experience by any applicant who is a grad-
14 uate in such approved curriculum.

15 (b) (1) The board may exempt from examination and may
16 issue, upon application therefor and receipt of payment of the
17 application fee prescribed under K.S.A. 74-7009, and amend-
18 ments thereto, a license to practice land surveying to any
19 professional engineer licensed in the state of Kansas who was
20 so licensed prior to January 1, 1986, and who submits, under
21 oath, evidence satisfactory to the board that the applicant is
22 and was, for at least one year prior to July 1, 1986, a resident
23 of the state of Kansas and is and was, for at least two years
24 prior to July 1, 1986, in responsible charge of land surveying
25 work.

26 (2) The provisions of this subsection (b) shall expire on (After
27 September 30, 1988.

28 (b) Before July 1, 1996, the requirements of subsections (a)(1)
29 and (2) may be fulfilled by (1) graduation from a college or university
30 surveying experience or education, or a combination thereof, sat- program that is adequate in its preparation
31 isfactory to the board. (2) of students for the practice of land surveying,

32 Sec. 14. K.S.A. 74-7023 is hereby amended to read as follows: (2)
33 74-7023. (a) All examinations required by this act shall be held at
34 such time and place as the board shall determine determines. The
35 scope of the examinations and the methods of procedure shall be
36 prescribed by the board. The board, after receiving satisfactory evi-
37 dence of the qualifications of applicants and after satisfactory ex-
38 amination of said the applicants, shall issue a license authorizing the
39 applicant to practice the technical profession for which he or she
40 the applicant is qualified and to use the title appropriate to such
41 technical profession. Each license shall show the full name of the
42 licensee, shall have a serial number and shall be signed by the
43 chairperson and the secretary of the board under seal of the board.

1 construed to prevent or to affect:

2 (a) The design or erection of any structure or work by the owner
3 thereof, upon such owner's own premises for such owner's own use.

4 (b) Persons preparing plans, drawings or specifications for one or
5 two family dwellings or for agricultural buildings.

6 (c) Persons engaged in planning, drafting, and designing of prod-
7 ucts manufactured for resale to the public.

8 (d) The performance of services by a licensed landscape architect
9 in connection with landscape and site planning for the sites, ap-
10 proaches or environment for buildings, structures or facilities.

11 ~~(e) The practice of engineering by any officer or employee~~
12 ~~of the federal government while engaged in the performance~~
13 ~~of official duties.~~

14 Sec. 21. K.S.A. 1990 Supp. 74-7034 is hereby amended to read
15 as follows: 74-7034. The provisions of this act requiring licensure or
16 the issuance of a certificate of authorization under K.S.A. 74-7036,
17 and amendments thereto, to engage in the practice of land surveying
18 shall not be construed to prevent or to affect:

19 (a) Surveying, other than land surveying where such surveying
20 is incidental to the design or construction of engineering or archi-
21 tectural works.

22 (b) The practice of land surveying by an individual of such in-
23 dividual's own real property or that of such individual's employer
24 for purposes other than the conveyance of an interest in such real
25 property.

26 (c) The surveying on farms for agricultural purposes other than
27 the conveyance of an interest in such farm property.

28 (d) The performance of services by a licensed landscape architect
29 or by a corporation issued a certificate of authorization to provide
30 services in landscape architecture under K.S.A. 74-7036, and amend-
31 ments thereto, in connection with landscape and site planning for
32 the sites, approaches or environment for buildings, structures or
33 facilities.

34 ~~(e) The practice of land surveying by any officer or em-~~
35 ~~ployee of any federal, state, county or city governmental agency~~
36 ~~while engaged in the performance of official duties.~~

37 Sec. 22. K.S.A. 74-7035 is hereby amended to read as follows:
38 74-7035. The provisions of this act shall not apply to:

39 (a) The practice of any technical profession by a person *who is*
40 *not a resident of and having has* no established place of business
41 in the state of Kansas, or who has recently become a resident of
42 this state, if such person *shall have has* filed with the board an
43 application for a license and *shall have has* paid the application fee

(e) (1) The practice of land surveying by
any employee of the Kansas department of
transportation.

(2) The provisions of this subsection
shall expire on December 31, 1996.

1 required by this act. Such person shall be legally qualified by license
 2 or registration to practice ~~said the~~ profession in his or her ~~such~~
 3 ~~person's~~ own state or country in which the requirements and qual-
 4 ifications for obtaining a license or certificate of registration are not
 5 lower than those specified in this act. Such practice shall continue
 6 only for such time as the board requires for the consideration of the
 7 application for license; or

8 (b) the work of an employee or a subordinate of a person holding
 9 a license under this act, or an employee of a person practicing
 10 lawfully under subsection (a) ~~of this section; provided, if~~ such work
 11 does not include final designs or decisions, responsible charge of
 12 design or supervision and is done under the direct responsibility and
 13 supervision of a person practicing lawfully under subsection (a) ~~of~~
 14 ~~this section; or;~~

15 (c) the practice of persons who are not residents of and have not
 16 established a place of business in this state, who are acting as con-
 17 sulting associates of persons licensed under the provisions of this
 18 act. ~~Such person shall be and who are~~ legally qualified for such
 19 professional service in his or her ~~such persons'~~ own state or country;
 20 or

21 (d) the practice of persons who are employees of any person,
 22 firm or corporation *and* who do not offer to the public their services
 23 in the technical professions as ~~herein defined; or;~~

24 (e) the practice of any person who is exclusively and regularly
 25 employed by one employer only, ~~said the~~ employer not being an
 26 engineering, architectural, or land surveying firm, and ~~said the~~ em-
 27 ployer not being primarily engaged in the business of conveying an
 28 interest in real property, in an employer-employee relationship, in
 29 making surveys of land and determinations of physical property rights
 30 in connection only with the affairs of such employer or its subsidiaries
 31 and affiliates and for the uses, purposes and benefit of such employer,
 32 subsidiaries and affiliates, only; or

33 (f) *a nonresident person who holds a license or certificate of*
 34 *registration to practice the technical professions in another state and*
 35 *whose practice in this state is limited to agreeing to perform or*
 36 *holding the person's self out as able to perform a technical profession,*
 37 *if the person notifies the board in writing before engaging in such*
 38 *practice and does not engage in such practice for more than 30*
 39 *days. If, within that time, the person applies for licensure to practice*
 40 *the technical professions in this state, the person may practice in*
 41 *this state to the extent permitted by subsection (a).*

42 Sec. 23. K.S.A. 74-7036 is hereby amended to read as follows:
 43 74-7036. (a) The practice of or offer to practice any profession

(g) For purposes of this act, public officers and employees who, within the scope of their employment and in the discharge of their public duties, provide information pertinent to or review the sufficiency of technical submissions, or who inspect property or buildings for compliance with requirements safeguarding life, health or property, are not engaged in the practice of the technical professions.

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1 (d) No corporation issued a certificate of authorization under this
 2 section shall be relieved of responsibility for the conduct or acts of
 3 its agents, employees or officers by reason of its compliance with
 4 the provisions of this section, nor shall any individual practicing a
 5 branch of the technical professions be relieved of responsibility and
 6 liability for services performed by reason of employment or rela-
 7 tionship with such corporation. The requirements of this section shall
 8 not affect a corporation and its employees in performing services
 9 included within the term "technical professions" solely for the benefit
 10 of such corporation or subsidiary or affiliated corporations. Nothing
 11 in this section shall exempt any corporation from the provisions of
 12 any other law applicable thereto.

13 ~~(e) As used in this section, the term "corporation" shall not~~
 14 ~~include corporations organized under the professional corpo-~~
 15 ~~ration law of Kansas.~~

16 New Sec. 24. A public official charged with the enforcement of
 17 any state, county or municipal building code shall not accept or
 18 approve any technical submissions involving the practice of the tech-
 19 nical professions unless the technical submissions have been stamped
 20 with the technical professional's seal as required by this act or unless
 21 the applicant has certified on the technical submission to the appli-
 22 cability of a specific exception provided for in K.S.A. 74-7035 and
 23 amendments thereto permitting the preparation of the technical sub-
 24 missions by a person not licensed under this act. A building permit
 25 issued with respect to technical submissions which does not conform
 26 to the requirements of this act is invalid.

27 New Sec. 25. (a) The state board of technical professions, in
 28 addition to any other penalty prescribed under the act governing
 29 the technical professions, may assess civil fines and costs, including
 30 attorney fees, after proper notice and an opportunity to be heard,
 31 against any person or entity for a violation of the statutes, rules and
 32 regulations or orders enforceable by the board in an amount not to
 33 exceed \$5,000 for the first violation, \$10,000 for the second violation
 34 and \$15,000 for the third violation and for each subsequent violation.
 35 All civil fines assessed and collected under this section shall be
 36 remitted to the state treasurer at least monthly and shall be deposited
 37 in the state treasury and credited to the state general fund. All costs
 38 assessed under this section shall be remitted to the state treasurer
 39 at least monthly and shall be deposited in the state treasury and
 credited to the technical professions fee fund.

42 (b) In determining the amount of penalty to be assessed pursuant
 43 to this section, the board may consider the following factors among
 others: (1) Willfulness of the violation; (2) repetitions of the violation;

The acceptance or approval of technical submissions or the issuance of a building permit by a public official, contrary to the provisions of this act, shall not create liability upon the public official or the official's governmental agency.