

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE JOINT  
RESOLUTION NO. 1081

By: Leist

AS INTRODUCED

A Joint Resolution relating to certain rules of the State Board of Registration for Professional Engineers and Land Surveyors; disapproving certain rules; providing for distribution; and declaring an emergency.

WHEREAS, pursuant to Sections 250.2 and 308 of Title 75 of the Oklahoma Statutes, the Legislature reserves the right to determine that a rule is not consistent with legislative intent and disapprove such rule; and

WHEREAS, on June 11, 1993, the State Board of Registration for Professional Engineers and Land Surveyors promulgated OAC Rules 245:15-15-2 and 245:15-15-3(c), which relate to definitions for ethical marketing of services and solicitation of professional employment from governmental clients; and

WHEREAS, the rules restrict engineers and land surveyors from discussing fees for services with governmental clients until after the client has selected the engineer or land surveyor; and

WHEREAS, state policy has been to select services for state contracts based on the lowest and best bid standard; and

WHEREAS, the effect of OAC Rules 245:15-15-2 and 245:15-15-3(c) would be to impair the ability of governmental entities to ensure lowest and best bid; and

WHEREAS, in this severe economic climate, the public demands cost-effective decision-making; and

WHEREAS, OAC Rules 245:15-15-2 and 245:15-15-3(c) do not reflect the intent of the Legislature or the policy or law of this state.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 2ND SESSION OF THE 44TH OKLAHOMA LEGISLATURE:

SECTION 1. OAC Rules 245:15-15-2 and 245:15-15-3(c) relating to the solicitation of professional services from governmental clients by professional engineers and land surveyors are hereby disapproved by the Oklahoma Legislature.

SECTION 2. The language of OAC Rule 245:15-15-2, which is disapproved by this resolution, reads as follows:

"245:15-15-2. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Ethical marketing of professional services" means the solicitation or offer by a registrant, either as an individual or on behalf of a firm, to provide professional services for a potential governmental client, based on the registrant's professional qualifications, technical ability, specialized training, and the ability to provide the services to the client in a timely manner; with the fee for said services entering into the discussions only after said client has selected registrant as qualified to provide the services required. For the purpose of this Subchapter, if an individual who is not a registrant (i.e. Marketing Director, etc.) is acting on behalf of a firm, as defined in the act, the firm shall be held responsible for the actions of the non-registrant.

"Government client" means any federal, state, county and city governmental bodies including, but not limited to, all departments, agencies, quasi public governmental agencies, authorities, sub-state planning districts, boards, commissions, offices, institutions, colleges, universities and all individuals representing such governmental bodies."

The language of OAC Rule 245:15-15-3(c), which is disapproved by this resolution, reads as follows:

"(c) The Professional Engineer or Land Surveyor, acting individually or through a firm, shall seek professional employment from governmental clients on the basis of qualifications, previous experience and technical competence for proper accomplishment of the work. The procedure for seeking professional employment restricts the engineer, land surveyor, or firm from submitting a fee or price for services until the governmental client has selected, on the basis of qualifications, previous experience and technical competence, engineers, land surveyors, or firms for negotiation."

SECTION 3. The Secretary of State is hereby directed to distribute copies of this resolution to the Governor, the State Board of Registration for Professional Engineers and Land Surveyors and the editor of "The Oklahoma Register".

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this resolution shall take effect and be in full force from and after its passage and approval.

44-2-9283

KSM