

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 1871

By: Coates, Burrage and  
Barrington of the Senate

6 and

7 Steele, Jones and Harrison  
of the House

8  
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to engineering; amending 59 O.S.  
11 2001, Sections 475.8, as amended by Section 7,  
12 Chapter 115, O.S.L. 2005 and 475.22, as amended by  
13 Section 21, Chapter 115, O.S.L. 2005 (59 O.S. Supp.  
14 2009, Sections 475.8 and 475.22), which relate to  
15 engineering and surveying; modifying powers of the  
16 Board; modifying exceptions to prohibited acts;  
17 exempting certain persons and businesses from certain  
18 licensing requirements based upon certain acts;  
19 allowing certain persons to determine cost estimates,  
20 material options and material takeoff from certain  
21 source for certain construction projects; providing  
22 for codification; and declaring an emergency.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. AMENDATORY 59 O.S. 2001, Section 475.8, as  
amended by Section 7, Chapter 115, O.S.L. 2005 (59 O.S. Supp. 2009,  
Section 475.8), is amended to read as follows:

Section 475.8 A. The State Board of Licensure for Professional  
Engineers and Land Surveyors shall have the power to adopt and amend  
all bylaws and rules of procedure, not inconsistent with the

1 Constitution and laws of this state or Section 475.1 et seq. of this  
2 title, including the adoption and promulgation of Rules of  
3 Professional Conduct for Professional Engineers and Land Surveyors,  
4 which may be reasonably necessary for the proper performance of its  
5 duties and the regulation of its proceedings, meetings, records,  
6 examinations and the conduct thereof. These actions by the Board  
7 shall be binding upon persons licensed under Section 475.1 et seq.  
8 of this title and shall be applicable to firms holding a certificate  
9 of authorization. The Board shall adopt and have an official seal,  
10 which shall be affixed to each certificate issued. The Board shall  
11 have the further power and authority to:

12 1. Establish and amend minimum standards for the practice of  
13 engineering and land surveying;

14 2. Establish continuing education requirements for renewal of  
15 professional engineering and professional land surveyor licenses;

16 3. Promulgate rules concerning the ethical marketing of  
17 professional engineering and land surveying services;

18 4. Upon good cause shown, as hereinafter provided, deny the  
19 issuance of a certificate of licensure or certificate of  
20 authorization or suspend, revoke or refuse to renew certificates of  
21 licensure or certificates of authorization previously issued, and  
22 upon proper showing to review, affirm, reverse, vacate or modify its  
23 orders with respect to such denial, suspension, revocation or  
24 refusal to renew; ~~and~~

1           5. Levy administrative penalties against any person or entity  
2 who or which violates any of the provisions of Section 475.1 et seq.  
3 of this title or any rule or regulation promulgated pursuant  
4 thereto. The Board is hereby authorized to initiate disciplinary,  
5 prosecutorial and injunctive proceedings against any person or  
6 entity who or which has violated any of the provisions of Section  
7 475.1 et seq. of this title or any rule or regulation of the Board  
8 promulgated pursuant thereto. The Board shall investigate alleged  
9 violations of the provisions of Section 475.1 et seq. of this title  
10 or of the rules or regulations, orders or final decisions of the  
11 Board; and

12           6. Acquire by purchase, lease, gift, solicitation of gift or by  
13 any other lawful means, and maintain, use and operate real property  
14 and improvements; contract for the maintenance, use, and operation  
15 of or lease of any and all real property and improvements; lease or  
16 sublease any part of real property and improvements acquired  
17 pursuant to this section to public entities, private entities, or  
18 private persons, on any terms and for any consideration deemed  
19 appropriate by the Board, subject to restrictions in purchase or  
20 lease documents relating to property acquired; provided, all  
21 contracts for real property and improvements shall be subject to the  
22 provisions of Section 63 of Title 74 of the Oklahoma Statutes.

23           B. In carrying into effect the provisions of Section 475.1 et  
24 seq. of this title, the Board, under the hand of its Chair, Vice

1 Chair, or Executive Director and the seal of the Board, may subpoena  
2 witnesses and compel their attendance, and may also require the  
3 submission of books, papers, documents or other pertinent data, in  
4 any disciplinary matters, or in any case wherever a violation of  
5 Section 475.1 et seq. of this title is alleged. Upon failure or  
6 refusal to comply with any such order of the Board, or upon failure  
7 to honor its subpoena, as herein provided, the Board may apply to a  
8 court of proper jurisdiction for an order to enforce compliance with  
9 same.

10 C. The Board is hereby authorized in the name of the state to  
11 apply for relief by injunction in the established manner provided in  
12 cases of civil procedure, without bond, to enforce the provisions of  
13 Section 475.1 et seq. of this title, or to restrain any violation  
14 thereof. In such proceedings, it shall not be necessary to allege  
15 or prove either that an adequate remedy at law does not exist or  
16 that substantial or irreparable damage would result from the  
17 continued violation thereof. The members of the Board shall not be  
18 personally liable under this proceeding.

19 D. The Board may subject an applicant for licensure or a  
20 licensee to such examinations as it deems necessary to determine the  
21 applicant's or licensee's qualifications. The Board may dispose of  
22 a formal complaint against a licensee for a violation of Section  
23 475.1 et seq. of this title by an order that a licensee shall  
24 complete the examinations as the Board deems necessary to determine

1 the qualifications of the licensee, and upon the initial failure or  
2 refusal to successfully complete the examination, within the time  
3 ordered, place conditions on the license of the licensee to practice  
4 and order other remedies until competence is demonstrated.

5 E. No action or other legal proceedings for damages shall be  
6 instituted against the Board or against any Board member or employee  
7 of the Board for any act done in good faith and in the intended  
8 performance of any power granted under Section 475.1 et seq. of this  
9 title or for any neglect or default in the performance or exercise  
10 in good faith of any such duty or power.

11 SECTION 2. AMENDATORY 59 O.S. 2001, Section 475.22, as  
12 amended by Section 21, Chapter 115, O.S.L. 2005 (59 O.S. Supp. 2009,  
13 Section 475.22), is amended to read as follows:

14 Section 475.22 Section 475.1 et seq. of this title shall not be  
15 construed to prevent:

16 1. Other Professions. The practice of any other legally  
17 recognized profession;

18 2. Temporary Permit:

19 a. Professional engineer. The practice or offer to  
20 practice engineering by a person not a resident of or  
21 having no established place of business in this state  
22 is allowed; provided, such person is legally qualified  
23 by licensure to practice engineering, as defined in  
24 Section 475.2 of this title, in the applicant's own

1 state or country and who has made application for  
2 licensure to this Board. Such person shall make  
3 application for temporary permit to the Board, in  
4 writing, and after payment of a temporary permit fee  
5 may be granted a written permit to perform a  
6 particular job for a definite period of time, to  
7 expire the earliest of the issuance of a license by  
8 this Board, the rejection of the application for  
9 licensure or a time limit stated in the temporary  
10 permit; provided, however, no right to practice  
11 engineering shall accrue to such applicant by reason  
12 of a temporary permit for any works not set forth in  
13 said permit, and

14 b. Professional land surveyor. The practice of land  
15 surveying under a temporary permit by a person  
16 licensed as a land surveyor in another state is not  
17 considered to be in the best interest of the public  
18 and therefore shall not be granted; ~~and~~

19 3. Employees and subordinates. The work of an employee or a  
20 subordinate of a person holding a certificate of licensure under  
21 Section 475.1 et seq. of this title, or an employee of a person  
22 practicing lawfully under paragraph 2 of this section is allowed;  
23 provided, such work does not include final engineering or land  
24 surveying designs or decisions and is done under the direct

1 supervision of and verified by a person holding a certificate of  
2 licensure under Section 475.1 et seq. of this title or a person  
3 practicing lawfully under paragraph 2 of this section; and

4 4. Material Takeoff. Providing a list of material derived from  
5 measuring and interpreting a set of blueprints or plans, otherwise  
6 known as a "material takeoff" or advising a person on such a  
7 "material takeoff" shall not constitute the practice of engineering.

8 SECTION 3. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 4002 of Title 59, unless there  
10 is created a duplication in numbering, reads as follows:

11 The owner of property, or an owner's agent, or a lumber yard or  
12 building material center, or its agents or employees, who attempts  
13 to determine cost estimates, determine various material options,  
14 secure a detailed list of materials, or prepare a material takeoff  
15 based upon a drawing, plan, computer program calculation or any  
16 professional source of written information for his or her  
17 construction project, shall not be held liable for the acts of, nor  
18 deemed to practice, a profession or trade required to be licensed in  
19 this state.

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

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