

THE HOUSE OF REPRESENTATIVES
Thursday, April 8, 2010

Committee Substitute for
ENGROSSED
Senate Bill No. 1851

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1851 - By:
LASTER, BARRINGTON AND BURRAGE of the Senate and STEELE AND JONES of
the House.

An Act relating to the State Board of Licensure for Professional Engineers and
Land Surveyors; amending 59 O.S. 2001, Sections 475.8, as amended by
Section 7, Chapter 115, O.S.L. 2005 and 475.22, as amended by Section 21,
Chapter 115, O.S.L. 2005 (59 O.S. Supp. 2009, Sections 475.8 and 475.22),
which relate to engineering and surveying; modifying powers of the Board;
modifying exceptions to prohibited acts; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 59 O.S. 2001, Section 475.8, as amended by
2 Section 7, Chapter 115, O.S.L. 2005 (59 O.S. Supp. 2009, Section 475.8), is amended to
3 read as follows:
4 Section 475.8 A. The State Board of Licensure for Professional Engineers and
5 Land Surveyors shall have the power to adopt and amend all bylaws and rules of
6 procedure, not inconsistent with the Constitution and laws of this state or Section 475.1
7 et seq. of this title, including the adoption and promulgation of Rules of Professional
8 Conduct for Professional Engineers and Land Surveyors, which may be reasonably
9 necessary for the proper performance of its duties and the regulation of its proceedings,

1 meetings, records, examinations and the conduct thereof. These actions by the Board
2 shall be binding upon persons licensed under Section 475.1 et seq. of this title and shall
3 be applicable to firms holding a certificate of authorization. The Board shall adopt and
4 have an official seal, which shall be affixed to each certificate issued. The Board shall
5 have the further power and authority to:

6 1. Establish and amend minimum standards for the practice of engineering and
7 land surveying;

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

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

12 4. Upon good cause shown, as hereinafter provided, deny the issuance of a
13 certificate of licensure or certificate of authorization or suspend, revoke or refuse to
14 renew certificates of licensure or certificates of authorization previously issued, and upon
15 proper showing to review, affirm, reverse, vacate or modify its orders with respect to such
16 denial, suspension, revocation or refusal to renew; ~~and~~

17 5. Levy administrative penalties against any person or entity who or which violates
18 any of the provisions of Section 475.1 et seq. of this title or any rule or regulation
19 promulgated pursuant thereto. The Board is hereby authorized to initiate disciplinary,
20 prosecutorial and injunctive proceedings against any person or entity who or which has
21 violated any of the provisions of Section 475.1 et seq. of this title or any rule or regulation
22 of the Board promulgated pursuant thereto. The Board shall investigate alleged

1 violations of the provisions of Section 475.1 et seq. of this title or of the rules or
2 regulations, orders or final decisions of the Board; and

3 6. Acquire by purchase, lease, gift, solicitation of gift or by any other lawful means,
4 and maintain, use and operate real property and improvements; contract for the
5 maintenance, use, and operation of or lease of any and all real property and
6 improvements; lease or sublease any part of real property and improvements acquired
7 pursuant to this section to public entities, private entities, or private persons, on any
8 terms and for any consideration deemed appropriate by the Board, subject to restrictions
9 in purchase or lease documents relating to property acquired; provided, all contracts for
10 real property and improvements shall be subject to the provisions of Section 63 of Title
11 74 of the Oklahoma Statutes.

12 B. In carrying into effect the provisions of Section 475.1 et seq. of this title, the
13 Board, under the hand of its Chair, Vice Chair, or Executive Director and the seal of the
14 Board, may subpoena witnesses and compel their attendance, and may also require the
15 submission of books, papers, documents or other pertinent data, in any disciplinary
16 matters, or in any case wherever a violation of Section 475.1 et seq. of this title is alleged.
17 Upon failure or refusal to comply with any such order of the Board, or upon failure to
18 honor its subpoena, as herein provided, the Board may apply to a court of proper
19 jurisdiction for an order to enforce compliance with same.

20 C. The Board is hereby authorized in the name of the state to apply for relief by
21 injunction in the established manner provided in cases of civil procedure, without bond,
22 to enforce the provisions of Section 475.1 et seq. of this title, or to restrain any violation

1 thereof. In such proceedings, it shall not be necessary to allege or prove either that an
2 adequate remedy at law does not exist or that substantial or irreparable damage would
3 result from the continued violation thereof. The members of the Board shall not be
4 personally liable under this proceeding.

5 D. The Board may subject an applicant for licensure or a licensee to such
6 examinations as it deems necessary to determine the applicant's or licensee's
7 qualifications. The Board may dispose of a formal complaint against a licensee for a
8 violation of Section 475.1 et seq. of this title by an order that a licensee shall complete
9 the examinations as the Board deems necessary to determine the qualifications of the
10 licensee, and upon the initial failure or refusal to successfully complete the examination,
11 within the time ordered, place conditions on the license of the licensee to practice and
12 order other remedies until competence is demonstrated.

13 E. No action or other legal proceedings for damages shall be instituted against the
14 Board or against any Board member or employee of the Board for any act done in good
15 faith and in the intended performance of any power granted under Section 475.1 et seq.
16 of this title or for any neglect or default in the performance or exercise in good faith of
17 any such duty or power.

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

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

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

1 2. Temporary Permit:

- 2 a. Professional engineer. The practice or offer to practice engineering by
3 a person not a resident of or having no established place of business in
4 this state is allowed; provided, such person is legally qualified by
5 licensure to practice engineering, as defined in Section 475.2 of this
6 title, in the applicant's own state or country and who has made
7 application for licensure to this Board. Such person shall make
8 application for temporary permit to the Board, in writing, and after
9 payment of a temporary permit fee may be granted a written permit to
10 perform a particular job for a definite period of time, to expire the
11 earliest of the issuance of a license by this Board, the rejection of the
12 application for licensure or a time limit stated in the temporary
13 permit; provided, however, no right to practice engineering shall
14 accrue to such applicant by reason of a temporary permit for any works
15 not set forth in said permit, and
- 16 b. Professional land surveyor. The practice of land surveying under a
17 temporary permit by a person licensed as a land surveyor in another
18 state is not considered to be in the best interest of the public and
19 therefore shall not be granted; ~~and~~

20 3. Employees and subordinates. The work of an employee or a subordinate of a
21 person holding a certificate of licensure under Section 475.1 et seq. of this title, or an
22 employee of a person practicing lawfully under paragraph 2 of this section is allowed;

1 provided, such work does not include final engineering or land surveying designs or
2 decisions and is done under the direct supervision of and verified by a person holding a
3 certificate of licensure under Section 475.1 et seq. of this title or a person practicing
4 lawfully under paragraph 2 of this section; and

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

9 SECTION 3. It being immediately necessary for the preservation of the public
10 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
11 this act shall take effect and be in full force from and after its passage and approval.

12 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
13 FINANCIAL SERVICES, dated 04-07-10 - DO PASS, As Amended.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.