



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB2289

Introduced 1/28/2004, by Lawrence M. Walsh

SYNOPSIS AS INTRODUCED:

225 ILCS 325/3	from Ch. 111, par. 5203
225 ILCS 325/4	from Ch. 111, par. 5204
225 ILCS 325/24	from Ch. 111, par. 5224

Amends the Professional Engineering Practice Act of 1989. Provides that nothing in the Act shall be construed to prohibit any individual from exercising their rights pursuant to the National Labor Relations Act and the Labor Management Relations Act. Provides that nothing in the Act shall be construed to prohibit any professional engineer or any professional engineering company from lawfully obtaining work, even if such work had previously been let to or performed by a competitor professional engineering company. Makes changes in provisions related to grounds for disciplinary action. Effective immediately.

LRB093 16364 AMC 42002 b

1 AN ACT concerning professional regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Professional Engineering Practice Act of
5 1989 is amended by changing Sections 3, 4, and 24 as follows:

6 (225 ILCS 325/3) (from Ch. 111, par. 5203)

7 (Section scheduled to be repealed on January 1, 2010)

8 Sec. 3. Application of the Act; Exemptions.

9 (a) Nothing in this Act shall be construed to prevent the
10 practice of structural engineering as defined in the Structural
11 Engineering Practice Act of 1989 or the practice of
12 architecture as defined in the Illinois Architecture Practice
13 Act of 1989 or the regular and customary practice of
14 construction contracting and construction management as
15 performed by construction contractors.

16 (b) Nothing in this Act shall prevent:

17 (1) Employees, including project representatives, of
18 professional engineers lawfully practicing as sole owners,
19 partnerships or corporations under this Act, from acting
20 under the direct supervision of their employers.

21 (2) The employment of owner's representatives by the
22 owner during the constructing, adding to, or altering of a
23 project, or any parts thereof, provided that such owner's
24 representative shall not have the authority to deviate from
25 the technical submissions without the prior approval of the
26 professional engineer for the project.

27 (3) The practice of officers and employees of the
28 Government of the United States while engaged within this
29 State in the practice of the profession of engineering for
30 the Government.

31 (4) Services performed by employees of a business
32 organization engaged in utility, industrial or

1 manufacturing operations, or by employees of laboratory
2 research affiliates of such business organization which
3 are rendered in connection with the fabrication or
4 production, sale, and installation of products, systems,
5 or nonengineering services of the business organization or
6 its affiliates.

7 (5) Inspection, maintenance and service work done by
8 employees of the State of Illinois, any political
9 subdivision thereof or any municipality.

10 (6) The activities performed by those ordinarily
11 designated as chief engineer of plant operation, chief
12 operating engineer, locomotive, stationary, marine, power
13 plant or hoisting and portable engineers, electrical
14 maintenance or service engineers, personnel employed in
15 connection with construction, operation or maintenance of
16 street lighting, traffic control signals, police and fire
17 alarm systems, waterworks, steam, electric, and sewage
18 treatment and disposal plants, or the services ordinarily
19 performed by any worker regularly employed as a locomotive,
20 stationary, marine, power plant, or hoisting and portable
21 engineer or electrical maintenance or service engineer for
22 any corporation, contractor or employer.

23 (7) The activities performed by a person ordinarily
24 designated as a supervising engineer or supervising
25 electrical maintenance or service engineer who supervises
26 the operation of, or who operates, machinery or equipment,
27 or who supervises construction or the installation of
28 equipment within a plant which is under such person's
29 immediate supervision.

30 (8) The services, for private use, of contractors or
31 owners in the construction of engineering works or the
32 installation of equipment.

33 (c) No officer, board, commission, or other public entity
34 charged with the enforcement of codes and ordinances involving
35 a professional engineering project shall accept for filing or
36 approval any technical submissions that do not bear the seal

1 and signature of a professional engineer licensed under this
2 Act.

3 (d) Nothing contained in this Section imposes upon a person
4 licensed under this Act the responsibility for the performance
5 of any of the foregoing functions unless such person
6 specifically contracts to provide it.

7 (e) Nothing in this Act shall be construed to prohibit any
8 individual from exercising their rights pursuant to the
9 National Labor Relations Act, 29 U.S.C. 151, et seq., and the
10 Labor Management Relations Act, 29 U.S.C. 141, et seq.,
11 including the right to self-organization, the right to form,
12 join, or assist labor organizations, the right to bargain
13 collectively through representatives of their own choosing,
14 and the right to engage in other concerted activities for the
15 purpose of collective bargaining or other mutual aid or
16 protection as provided in 29 U.S.C. 157, et seq.

17 (f) Nothing in this Act shall be construed to prohibit any
18 professional engineer or any professional engineering company
19 from lawfully obtaining work, even if such work had previously
20 been let to or performed by a competitor professional
21 engineering company. This includes accepting work previously
22 performed by a competitor, regardless of the reason the
23 competitor is no longer performing such work and regardless of
24 whether the existence of a labor dispute played any role in the
25 competitor's losing the performance of certain work.

26 (Source: P.A. 91-91, eff. 1-1-00.)

27 (225 ILCS 325/4) (from Ch. 111, par. 5204)

28 (Section scheduled to be repealed on January 1, 2010)

29 Sec. 4. Definitions. As used in this Act:

30 (a) "Approved engineering curriculum" means an engineering
31 curriculum or program of 4 academic years or more which meets
32 the standards established by the rules of the Department.

33 (b) "Board" means the State Board of Professional Engineers
34 of the Department of Professional Regulation, previously known
35 as the Examining Committee.

1 (c) "Department" means the Department of Professional
2 Regulation.

3 (d) "Design professional" means an architect, structural
4 engineer or professional engineer practicing in conformance
5 with the Illinois Architecture Practice Act of 1989, the
6 Structural Engineering Practice Act of 1989 or the Professional
7 Engineering Practice Act of 1989.

8 (e) "Director" means the Director of Professional
9 Regulation.

10 (f) "Direct supervision/responsible charge" means work
11 prepared under the control of a licensed professional engineer
12 or that work as to which that professional engineer has
13 detailed professional knowledge.

14 (g) "Engineering college" means a school, college,
15 university, department of a university or other educational
16 institution, reputable and in good standing in accordance with
17 rules prescribed by the Department, and which grants
18 baccalaureate degrees in engineering.

19 (h) "Engineering system or facility" means a system or
20 facility whose design is based upon the application of the
21 principles of science for the purpose of modification of
22 natural states of being.

23 (i) "Engineer intern" means a person who is a candidate for
24 licensure as a professional engineer and who has been enrolled
25 as an engineer intern.

26 (j) "Enrollment" means an action by the Department to
27 record those individuals who have met the Board's requirements
28 for an engineer intern.

29 (k) "License" means an official document issued by the
30 Department to an individual, a corporation, a partnership, a
31 professional service corporation, a limited liability company,
32 or a sole proprietorship, signifying authority to practice.

33 (l) "Negligence in the practice of professional
34 engineering" means the failure to exercise that degree of
35 reasonable professional skill, judgment and diligence normally
36 rendered by professional engineers in the practice of

1 professional engineering.

2 (m) "Professional engineer" means a person licensed under
3 the laws of the State of Illinois to practice professional
4 engineering.

5 (n) "Professional engineering" means the application of
6 science to the design of engineering systems and facilities
7 using the knowledge, skills, ability and professional judgment
8 developed through professional engineering education, training
9 and experience.

10 (o) "Professional engineering practice" means the
11 consultation on, conception, investigation, evaluation,
12 planning, and design of, and selection of materials to be used
13 in, administration of construction contracts for, or site
14 observation of, an engineering system or facility, where such
15 consultation, conception, investigation, evaluation, planning,
16 design, selection, administration, or observation requires
17 extensive knowledge of engineering laws, formulae, materials,
18 practice, and construction methods. A person shall be construed
19 to practice or offer to practice professional engineering,
20 within the meaning and intent of this Act, who practices, or
21 who, by verbal claim, sign, advertisement, letterhead, card, or
22 any other way, is represented to be a professional engineer, or
23 through the use of the initials "P.E." or the title "engineer"
24 or any of its derivations or some other title implies licensure
25 as a professional engineer, or holds himself out as able to
26 perform any service which is recognized as professional
27 engineering practice.

28 Examples of the practice of professional engineering
29 include, but need not be limited to, transportation facilities
30 and publicly owned utilities for a region or community,
31 railroads, railways, highways, subways, canals, harbors, river
32 improvements; irrigation works; aircraft, airports and landing
33 fields; waterworks, piping systems and appurtenances, sewers,
34 sewage disposal works; plants for the generation of power;
35 devices for the utilization of power; boilers; refrigeration
36 plants, air conditioning systems and plants; heating systems

1 and plants; plants for the transmission or distribution of
2 power; electrical plants which produce, transmit, distribute,
3 or utilize electrical energy; works for the extraction of
4 minerals from the earth; plants for the refining, alloying or
5 treating of metals; chemical works and industrial plants
6 involving the use of chemicals and chemical processes; plants
7 for the production, conversion, or utilization of nuclear,
8 chemical, or radiant energy; forensic engineering,
9 geotechnical engineering including, subsurface investigations;
10 soil classification, geology and geohydrology, incidental to
11 the practice of professional engineering; energy analysis,
12 environmental design, hazardous waste mitigation and control;
13 recognition, measurement, evaluation and control of
14 environmental systems and emissions; automated building
15 management systems; or the provision of professional
16 engineering site observation of the construction of works and
17 engineering systems. Nothing contained in this Section imposes
18 upon a person licensed under this Act the responsibility for
19 the performance of any of the foregoing functions unless such
20 person specifically contracts to provide it.

21 (p) "Project representative" means the professional
22 engineer's representative at the project site who assists in
23 the administration of the construction contract.

24 (q) "Registered" means the same as "licensed" for purposes
25 of this Act.

26 (r) "Related science curriculum" means a 4 year program of
27 study, the satisfactory completion of which results in a
28 Bachelor of Science degree, and which contains courses from
29 such areas as life, earth, engineering and computer sciences,
30 including but not limited to, physics and chemistry. In the
31 study of these sciences, the objective is to acquire
32 fundamental knowledge about the nature of its phenomena,
33 including quantitative expression, appropriate to particular
34 fields of engineering.

35 (s) "Rules" means those rules promulgated pursuant to this
36 Act.

1 (t) "Seal" means the seal in compliance with Section 14 of
2 this Act.

3 (u) "Site observation" is visitation of the construction
4 site for the purpose of reviewing, as available, the quality
5 and conformance of the work to the technical submissions as
6 they relate to design.

7 (v) "Support design professional" means a professional
8 engineer practicing in conformance with the Professional
9 Engineering Practice Act of 1989, who provides services to the
10 design professional who has contract responsibility.

11 (w) "Technical submissions" means designs, drawings, and
12 specifications which establish the standard of quality for
13 materials, workmanship, equipment, and the construction
14 systems, studies, and other technical reports prepared in the
15 course of a design professional's practice.

16 (x) "Labor organization" means a labor organization as
17 defined by the National Labor Relations Act, 29 U.S.C. 151, et
18 seq.

19 (y) "Labor dispute" means any dispute between a labor
20 organization and any employer, as further described by the
21 National Labor Relations Act, 29 U.S.C. 151, et seq., or any
22 National Labor Relations Board or other precedent interpreting
23 the National Labor Relations Act

24 (Source: P.A. 91-91, eff. 1-1-00; 91-92, eff. 1-1-00; 92-16,
25 eff. 6-28-01; 92-145, eff. 1-1-02.)

26 (225 ILCS 325/24) (from Ch. 111, par. 5224)

27 (Section scheduled to be repealed on January 1, 2010)

28 Sec. 24. Rules of professional conduct; disciplinary or
29 administrative action.

30 (a) The Department shall adopt rules setting standards of
31 professional conduct and establish appropriate penalty for the
32 breach of such rules.

33 (a-1) The Department may, singularly or in combination,
34 refuse to issue, restore, or renew a license or registration,
35 revoke or suspend a license or registration, or place on

1 probation, reprimand, or impose a civil penalty not to exceed
2 \$10,000 upon any person, corporation, partnership, or
3 professional design firm licensed or registered under this Act
4 for any one or combination of the following:

5 (1) Material misstatement in furnishing information to
6 the Department.

7 (2) Failure to comply with any provisions of this Act
8 or any of its rules.

9 (3) Conviction of any crime under the laws of the
10 United States, or any state or territory thereof, which is
11 a felony, whether related to practice or not, or conviction
12 of any crime, whether a felony, misdemeanor, or otherwise,
13 an essential element of which is dishonesty or which is
14 directly related to the practice of engineering.

15 (4) Making any misrepresentation for the purpose of
16 obtaining licensure, or in applying for restoration or
17 renewal; or practice of any fraud or deceit in taking any
18 examination to qualify for licensure under this Act.

19 (5) Purposefully making false statements or signing
20 false statements, certificates, or affidavits to induce
21 payment.

22 (6) Negligence, incompetence or misconduct in the
23 practice of professional engineering as a licensed
24 professional engineer or in working as an engineer intern.

25 (7) Aiding or assisting another person in violating any
26 provision of this Act or its rules.

27 (8) Failing to provide information in response to a
28 written request made by the Department within 30 days after
29 receipt of such written request.

30 (9) Engaging in dishonorable, unethical or
31 unprofessional conduct of a character likely to deceive,
32 defraud or harm the public. This item (9) shall not
33 prohibit a professional engineering company from obtaining
34 work, even where such work may have been previously bid to
35 or performed by a competitor professional engineering
36 company. This includes, but is not limited to, obtaining

1 work previously performed by a competitor where any labor
2 dispute played any role in the competitor's losing of such
3 business.

4 (10) Habitual intoxication or addiction to the use of
5 drugs.

6 (11) Discipline by the United States Government,
7 another state, District of Columbia, territory, foreign
8 nation or government agency, if at least one of the grounds
9 for the discipline is the same or substantially equivalent
10 to those set forth in this Act.

11 (12) Directly or indirectly giving to or receiving from
12 any person, firm, corporation, partnership or association
13 any fee, commission, rebate or other form of compensation
14 for any professional services not actually or personally
15 rendered.

16 (13) A finding by the Board that an applicant or
17 registrant has failed to pay a fine imposed by the
18 Department, a registrant whose license has been placed on
19 probationary status has violated the terms of probation, or
20 a registrant has practiced on an expired, inactive,
21 suspended, or revoked license.

22 (14) Signing, affixing the professional engineer's
23 seal or permitting the professional engineer's seal to be
24 affixed to any technical submissions not prepared as
25 required by Section 14 or completely reviewed by the
26 professional engineer or under the professional engineer's
27 direct supervision.

28 (15) Physical illness, including but not limited to
29 deterioration through the aging process or loss of motor
30 skill, which results in the inability to practice the
31 profession with reasonable judgment, skill or safety.

32 (16) The making of a statement pursuant to the
33 Environmental Barriers Act that a plan for construction or
34 alteration of a public facility or for construction of a
35 multi-story housing unit is in compliance with the
36 Environmental Barriers Act when such plan is not in

1 compliance.

2 (17) Failing to file a return, or to pay the tax,
3 penalty or interest shown in a filed return, or to pay any
4 final assessment of tax, penalty or interest as required by
5 a tax Act administered by the Illinois Department of
6 Revenue, until such time as the requirements of any such
7 tax Act are satisfied.

8 (18) Abusing this Act, or attempting to use this Act
9 for purposes outside those central to the practice of
10 professional engineering as defined by this Act. This
11 includes but is not limited to, attempting to use this Act
12 in an effort to interfere with union organizing, employees'
13 choice of a labor organization as their representative, or
14 the pursuit of business opportunities of any competitor
15 company also licensed under this Act.

16 (a-5) In enforcing this Section, the Board upon a showing
17 of a possible violation may compel a person licensed to
18 practice under this Act, or who has applied for licensure or
19 certification pursuant to this Act, to submit to a mental or
20 physical examination, or both, as required by and at the
21 expense of the Department. The examining physicians shall be
22 those specifically designated by the Board. The Board or the
23 Department may order the examining physician to present
24 testimony concerning this mental or physical examination of the
25 licensee or applicant. No information shall be excluded by
26 reason of any common law or statutory privilege relating to
27 communications between the licensee or applicant and the
28 examining physician. The person to be examined may have, at his
29 or her own expense, another physician of his or her choice
30 present during all aspects of the examination. Failure of any
31 person to submit to a mental or physical examination, when
32 directed, shall be grounds for suspension of a license until
33 the person submits to the examination if the Board finds, after
34 notice and hearing, that the refusal to submit to the
35 examination was without reasonable cause.

36 If the Board finds a person unable to practice because of

1 the reasons set forth in this Section, the Board may require
2 that person to submit to care, counseling, or treatment by
3 physicians approved or designated by the Board as a condition,
4 term, or restriction for continued, reinstated, or renewed
5 licensure to practice; or, in lieu of care, counseling, or
6 treatment, the Board may recommend to the Department to file a
7 complaint to immediately suspend, revoke, or otherwise
8 discipline the license of the person. Any person whose license
9 was granted, continued, reinstated, renewed, disciplined, or
10 supervised subject to such terms, conditions, or restrictions
11 and who fails to comply with such terms, conditions, or
12 restrictions shall be referred to the Director for a
13 determination as to whether the person shall have his or her
14 license suspended immediately, pending a hearing by the Board.

15 (b) The determination by a circuit court that a registrant
16 is subject to involuntary admission or judicial admission as
17 provided in the Mental Health and Developmental Disabilities
18 Code, as now or hereafter amended, operates as an automatic
19 suspension. Such suspension will end only upon a finding by a
20 court that the patient is no longer subject to involuntary
21 admission or judicial admission, the issuance of an order so
22 finding and discharging the patient, and the recommendation of
23 the Board to the Director that the registrant be allowed to
24 resume practice.

25 (Source: P.A. 91-92, eff. 1-1-00; 92-145, eff. 1-1-02.)

26 Section 99. Effective date. This Act takes effect upon
27 becoming law.