

98-378

TEXAS BOARD OF PROFESSIONAL ENGINEERS No. 26, September 1997

P.E. NEWSLETTER



75th Legislature Grants Engineering Board Increased Authority

The 75th session of the Texas Legislature enacted two bills that provided sweeping changes to the licensing and professional practice regulations of the Texas Board of Professional Engineers. The new laws and the rules enacting the legislation became effective September 1 of this year.

Senate Bill 623

Senate Bill 623 provided the most

extensive alterations to the Texas Engineering Practice Act in the past decade. The bill affected licensing and enforcement issues as well as updating standard terminology. The provisions of Senate Bill 623 have:

- ◆ Granted the Board authority to issue administrative penalties or monetary fines for violations of the Act or Board rules
- ◆ Granted the Board authority to waive engi-

neering examinations by Board rule under certain circumstances

- ◆ Required engineering businesses to employ a full-time, licensed engineer on staff to perform engineering services
- ◆ Altered the name of the licensing agency from the "State Board of Registration for Professional Engineers" to the "Texas Board of Professional Engineers"
- ◆ Changed the standard terminology from that of "registered Engineer" to "licensed Engineer"
- ◆ Updated the definition of the practice of engineering in specific terms

"Authority" story continued on page 5

New Law Provides for Exam Waivers

Previously Licensed P.E.s Have Unique Opportunity

Under the provisions of the new Texas engineering law, certain individuals pursuing the P.E. status may be exempt from the required exams for licensing.

The waivers provide a unique opportunity to relicense Engineers who were licensed without examinations and have allowed their license to lapse.

"Exam Waivers" continued on page 5



Board Member Jose Guerra, P.E., Director of Licensing Walter May, Jr., P.E., Board Vice-Chair Herb Treat, P.E., and Board Member Dave Dorchester, P.E., discuss the new terms under which the Board may waive licensing exams.

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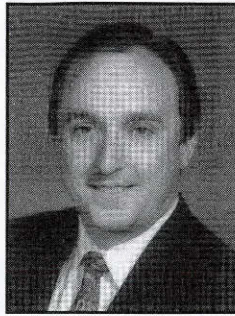
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NEWS from Executive Director

John R. Speed, P.E.



The P.E., Ethics & Responsibility

The regulation of the engineering profession in Texas entered a new era on September 1, 1997. The changes that directly resulted from Senate Bill 623 are certainly extensive, but the real changes come from an update of the Board rules regarding professional practice.

The legislative intent behind Senate Bill 623 is clear. Under the new law, Professional Engineers are to regulate ourselves firmly and without extensive bureaucracy. We are to place the interest of the public first, regardless of whether they are our clients or people we have never met. Professional Engineers are to establish and maintain business relationships that place the Engineer in direct supervision of engineering activities. We are to establish clear minimum standards for licensing that are fair, but flexible.

However, the story doesn't end with Senate Bill 623. Legislative intent is implemented through Board rules. Board Rules 131.151 -131.156 have been drastically rewritten to reflect legislative changes. These new rules establish the professional and ethical standards under which Professional Engineers must operate.

P.E. Responsibilities

The new rules are structured in a way that marks a transition from informing Engineers of what they *shouldn't* do to a system that instructs them on what Engineers *should* do. The following list is a description of a few of the new rules and their application for Professional Engineers.

Each of the sections of 131.151 begins with a positive assertion of Engineers' responsibilities. Those assertions are then followed by the most needed prohibitions found in the previous rule system.

Engineers Shall Protect the Public. Board Rule 131.151 establishes that Engineers must place the health, safety, property and general welfare of the public above all. The public is no longer an ab-

stract figure; it is broadly defined as anyone whose normal course of life might reasonably include an interaction with the Engineer's work. Engineers are to perform work within their areas of competency and consider environmental and energy impacts. Most significantly, Engineers are required to be intolerant of fraudulent, negligent, unethical or illegal behavior in our fellow Engineers. We now are obligated to translate that intolerance into action by notifying those involved of our concern and notifying the Board if the concerns are not allayed.

Engineers Shall Be Objective and Truthful. Board Rule 131.152 states the obvious: as Professional Engineers, we must conduct ourselves with integrity in all our communications. Objectivity in engineering requires us to assess our vantage point, possible conflicts of interest, and the way in which our clients and the public receive our engineering statements. Over the past few years, a small number of attorneys have made significant amounts of money through the careful use of innuendo and misleading impressions. In the process, the average citizen has a much diminished regard for an otherwise honorable profession. We must learn to hold ourselves to the highest possible standards so that the engineering profession is not viewed in a similar, stilted light.

Engineers' Actions Shall Be Competent. Board Rule 131.153 establishes Engineers' obligation to assess themselves and only provide services that fall within their area of competency. One of the most important things for Engineers to *know* is that *which they do not know*. Admission of inadequacies is an act of wisdom, not an act of shame. Our Board expects Engineers to exercise their wisdom.

Engineers Shall Maintain the Confidentiality of Clients. As more Engineers enter the consulting arena, they should become aware of how Board Rule 131.154 impacts their actions. Confidences and private information are the tools of profession-

als and are to be used in an ethical manner.

Engineers' Responsibility to the Profession. Board Rule 131.155 establishes the common "do's" and "don'ts" of the profession. Engineers shall exercise care in interactions with business partners and in trying to meet codes and ordinances. They shall not aid in unlawful practice of engineering, improper inducements to clients, or engage in retaliatory behavior. We are responsible to behave towards each other in a manner that is ethical, professional and respectful of the standing that we all have within the engineering community.

Conclusion

Most of us think of rules as the box that confines us into a particular behavior. For the first time, I feel that our profession has rules that can be viewed as the tools that free us to achieve greater levels of professionalism in engineering. I am gratified to have participated in their preparation, and I am proud of the results. I would also like to thank Dr. Jimmy Smith, Ph.D., P.E., of the Murdough Center for Engineering Professionalism and the team of Engineers from the U.S., Mexico and Canada who created the "Principles of Ethical Conduct in Engineering Practice Under the NAFTA" upon which these rules are loosely based. My hope is that we can take the mandated alterations, and use them to voluntarily implement change that can help maintain our standing as the honored and respected profession of engineering.

CPC & the Roster

Since the inception of the voluntary Continuing Professional Competency (CPC) program, the Board and the steering committees had planned to provide recognition to CPC participants. Unfortunately, despite my best intentions, the CPC participants who renewed their licenses in March were not identified in the 1997 roster. The Board is currently pursuing other options to recognize all CPC participants.

For more information, contact the:

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Licensing Notes:

What a P.E. License Does for You

A P.E. license allows Texas Professional Engineers to legally represent themselves to the general public as an engineer, offer consulting engineering services to private and public entities, and perform engineering design or construction on public works. Licensed Engineers must also adhere to the code of ethics and professionalism established by the Board.

P.E. License Renewal

Engineers must renew their license annually if they wish to continue to practice professional engineering. Renewal dates are staggered into quarters so that approximately one-fourth of the state's licensees will renew every three months. Regardless of whether a renewal notice is received, each licensee is still responsible for license renewal. Additional fees will be charged to Engineers who renew late. Renewal notices are sent out 30-45 days prior to the license expiration dates listed below.

Examination Statistics

From Jan. 2, 1997 to July 25, 1997, the Board licensed 791 people. This number includes persons passing the April 1997 Principles and Practice of Engineering examination (PE) and the Fundamentals of Engineering examination (FE). The pass rate from the April 1997 exams and the October 1996 exams are listed below.

April '97 PE exam	Oct. '96 PE exam	April '97 FE exam	Oct. '96 FE exam
63.6%	54.3%	76.8%	74.9%

Board Calendar:

Board Meeting Dates:

Nov. 19, 1997 - Austin
Feb. 18, 1998 - Austin
June 17, 1998 - Fort Worth
Aug. 19, 1998 - Austin

Licensing Committee:

Sept. 19-20, 1997 - Laredo

Examination Schedule

Principles & Practice Exam	Fundamentals Exam	Sign-up Deadline*
Oct. 31, '97	Nov. 1, '97	Sept. 12, '97
April, 24 '98	April, 25 '98	Feb. 27, '98
Oct. 30, '98	Oct. 31, '98	Sept. 11, '98

*The Principles and Practice exam (P&P) and the Fundamentals of Engineering exam (FE) share the same deadline for submittal of the examinee scheduling form.

License Expiration Dates

March 31, June 30, Sept. 30, Dec. 31

Enforcement Matters

The enforcement department at the Board receives complaints from the public and other state agencies concerning violations of the Board rules and the Texas Engineering Practice Act. During the period from Jan. 1, 1997 to July 31, 1997, the enforcement department conducted 593 inquiries; 402 of those were resolved by achieving voluntary compliance. In addition, 17 Cease and Desist Orders were signed by individuals found to be in violation of the Act. Persons who signed Consent Orders or Agreed Board Orders with the board neither admitted nor denied the charges brought against them.

As part of the Board's disciplinary action, individuals may be required to successfully complete an ethics and professionalism course offered through the Murdough Center for Engineering Professionalism at Texas Tech University in Lubbock. Since publication of the February 1997 *P.E. Newsletter*, the following actions have been taken:

Edward H. Fox, of Houston, Texas, signed a Consent Order effective June 18, 1997, for a two-year suspension of his Texas P.E. license with the final 15 months to be probated. Fox's probationary status is contingent upon his successful completion of an ethics and professionalism course offered through Texas Tech University by Dec. 18, 1997, and his submittal of a summary concerning his engineering activities to the Board at three month intervals during his probationary period. Fox must also maintain a current Texas P.E. license during the two-year period. Fox allegedly conducted a structural evaluation of an apartment complex in Haltom City, Texas, and allegedly placed his seal and signature on a letter to city officials while his license was in an expired status. Fox also allegedly failed to meet the agreement set forth by the Board to renew and maintain his license.

Clifford J. Hall, of Taylor, Texas, had his Texas P.E. license revoked on June 18, 1997, as a result of his indictment, guilty plea, conviction and incarceration for conspiracy to commit an offense or defraud the United States, filing fraudulent or fictitious

statements and aiding and abetting. A felony conviction with incarceration requires the Board to revoke an engineering license under the provisions of Texas Civil Statutes.

Zane P. Laurini, of Rowlett, Texas, signed an Agreed Board Order for a one-year suspension of his Texas P.E. license effective April 16, 1997. Laurini must successfully complete an ethics and professionalism course offered through Texas Tech University by Oct. 16, 1997, to prevent the Board from taking additional disciplinary action against him. Laurini allegedly affixed his Texas Engineer seal to a report that addressed an inspection conducted in DeSoto, Texas, that was not performed by him nor conducted under his supervision.

Lester Duane Peck, P.E., of Copperas Cove, Texas, signed an Agreed Board Order for a one-year probated suspension of his Texas P.E. license effective April 16, 1997. Peck must successfully complete an ethics and professionalism course offered through Texas Tech University by Oct. 16, 1997, to prevent his P.E. license from being fully suspended for the remaining six months. Peck must also inform the Board on a monthly basis of any engineering service he performs. Plans prepared by Peck in regards to topography, drainage and water distribution, and traffic access design for a proposed Copperas Cove subdivision allegedly did not conform to Copperas Cove zoning standards and subdivision regulations.

Dr. Gilbert Aguirre Ramirez, P.E., of San Antonio, Texas, signed an Agreed Board Order effective April 16, 1997, for a two-year probated suspension. His Texas P.E. license is suspended for the first month with the following 23 months to be probated. Ramirez's probation is contingent upon his provision of a report on a monthly basis to the Board describing any engineering services he performs during the 23 month period and his successful completion of an ethics and professionalism course offered through Texas Tech University by Oct. 16, 1997. Ramirez

Enforcement continued on page 4

How to file a complaint:

- ◆ call the enforcement department to verify that the case is within the Board's jurisdiction.
- ◆ send a letter describing the details of the situation to enforcement; please provide sufficient evidence such as names of witnesses, plans, specifications, or other sources of proof with the letter.
- ◆ return a completed complaint form to the Board.

Enforcement

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also submitted a letter to the Board prior to May 14, 1997, outlining measures he has taken to prevent future occurrences of violative activities. Ramirez allegedly signed and affixed his Texas Engineer seal on two foundation repair design sheets for a Terrell Hills residence without placing a date of execution on the sheets. Ramirez also allegedly failed to conduct an adequate inspection as he certified, which would have disclosed that repairs performed were not done as he had recommended or designed.

Victor Joseph Sirgo, P.E., of Midland, Texas, signed an Agreed Board Order for a one-year probated suspension of his Texas P.E. license effective April 16, 1997. The terms of Sirgo's probation require him to successfully complete an ethics course offered through Texas Tech University by Oct. 16, 1997, to prevent his P.E. license from being fully suspended for the remaining six months. Sirgo allegedly af-

fixed his Engineer seal and signature to design plans and specifications that were not prepared by him nor performed under his supervision. The plans Sirgo is allegedly involved with were for a running track and post-tensioned tennis courts to be constructed at Sul Ross University in Alpine.

Michael D. Copeland, P.E., of Amarillo, Texas, **James V. Johnson, P.E.**, of Wellington, Texas, **Timothy L. McDaniel, P.E.**, of Tyler, Texas, **Shane E. Nance, P.E.**, of Amarillo, Texas, **C.V. Girija Vallabhan, P.E.**, of Lubbock, Texas, **Vasant N. Vijayvergiya, P.E.**, of Sugar Land, Texas, and **David Allen Wright, P.E.**, of Tyler, Texas, signed separate Orders for a probated suspension of their Texas P.E. licenses for one year because of their alleged participation in competitive bidding on engineering services for a political subdivision of the State of Texas. Each man's probation is contingent upon successful completion of an ethics and professionalism course offered through Texas Tech University and submission of reports describing their individual engineering activities to the Board.

For more information on competitive bidding, see the related story below.

Cease and Desist Orders

As of June 1, 1997

James M. Dykes - Trophy Club, TX
Myron I. Kuhlman - Houston, TX
Joseph T. Lewis - Houston, TX
Bhakti N. Mitra - Houston, TX
Allen Crawford Skiles - Fairfax, VA
Hector Villa - El Paso, TX
Dennis B. Wadsworth - Wichita Falls, TX
Richard Lee Hagerman - Lexington, KY
Kachirayan Saravanan - Houston, TX
Philip Don Wood - Oklahoma City, OK

Injunction/ Default Judgments:

As of April 16, 1997

Thomas Lawrence Craig -
League City, TX
Carl White - Houston, TX

Suspended Licenses:

As of April 16, 1997

Zane P. Laurini - Rowlett, TX
As of June 18, 1997
Edward H. Fox - Houston, TX

Revoked License:

As of June 18, 1997

Clifford J. Hall - Taylor, TX

Competitive Bidding Disciplinary Action on the Rise

The Board's enforcement committee has seen an increase in the number of cases this year involving alleged violations of the Professional Services Procurement Act (PSPA) and Texas engineering law.

"While selecting the most expensive engineer may not always guarantee the best product, selecting the cheapest will almost guarantee that you receive the worst, said Danny Perkins, chairman of the enforcement committee. "Public owners such as school districts, utility districts, and small communities are very vulnerable when they do not follow the law."

PSPA and Texas engineering law aim at getting engineering done right the first time, Perkins said. These regulations prohibit competitive bidding for engineering services offered to political subdivisions of the state. The PSPA also requires that individuals hiring engineering professionals review, evaluate and select the Engineer based only on qualifications before negotiating a price for their services.

Seven Engineers were sanctioned by the Board in recent cases concerning competitive bidding. The cases involved a high school project in the Wills Point Independent School District and a project on a city reservoir in Whiteface. For more information on these competitive

bidding cases, refer to the enforcement section on this page.

Currently, the enforcement department at the Board is investigating several other Professional Engineers in connection with similar allegations. The Board receives enforcement complaints from concerned Professional Engineers statewide.

P.E.s Can Earn Continuing Professional Competency Credit Hours for:

- ◆ writing papers, articles, books, or acquiring patents
- ◆ examination preparation or grading
- ◆ documented self-study
- ◆ short courses or tutorials
- ◆ seminars
- ◆ continuing education or college courses
- ◆ professional engineering associations
- ◆ teaching classes or seminars

For more information:

<http://www.main.org/peboard>

Board Staff Update

Margaret Hunt joined the Board staff this past spring as investigator after serving 18 years in a similar capacity with several government organizations. **Yvonne Liscano** also joined the Board's operations staff this past spring.

Roster Notes

Law and Rules On-line

Because the passage of Senate Bill 623 was pending on the date of publication, the Board did not publish a copy of the law in the roster that was mailed in July of this year. However, the changes to the law and Board rules are now posted on the Board's home page.

Mailed Copies of Law and Rules

To expedite mailing, please send a self-addressed, 9" by 12" envelope with postage-paid for \$1.45 with your request to the Board. Label the outside of the envelope addressed to the board, "New Law and Rules".

Memoriam Correction:

Two P.E.s passed away and were not included in the Memoriam section of the 1997 roster. The Board extends its apologies for this omission. The P.E.s are: *Marion Walter Wilcox, PE # 24552, from Dallas, Texas, and Ralph Wayne Wilkinson, PE #23633, from Montgomery, Texas.*

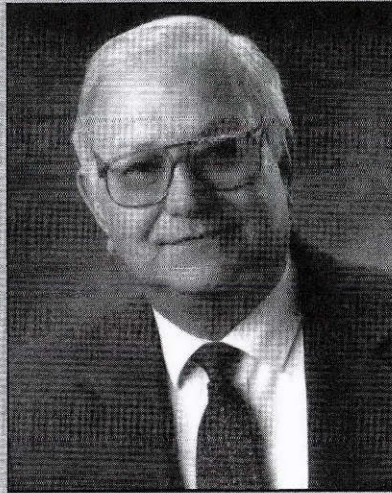
Edmundo Gonzalez, P.E., Named Board Chair

Board members who served during the past year elected new officers at the June 18, 1997 meeting for the fiscal year beginning Sept 1, 1997 and ending Aug. 31, 1998.

Edmundo R. Gonzalez, Jr., P.E., will serve as the new board chair. A previous secretary of the board, Gonzalez currently owns Gonzalez Engineering and Surveying, Inc., in Brownsville, Texas.

C. Herb Treat, Ph.D., P.E., will remain as vice-chair for the board. Dr. Treat serves as a partner in the Austin firm Precision Forensics, L.L.C.

Danny R. Perkins will fill the position of board secretary. The chair of the enforcement committee, Perkins acts



Edmundo R. Gonzalez, Jr., P.E.

as a principal owner of ESC Polytech Consultants, Inc., in Houston.

Authority

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- ◆ Granted the Board authority to issue temporary and provisional licenses
- ◆ Acknowledged the roles of allied design professionals such as architects, interior designers, and landscape architects as they perform work authorized under their respective licensing acts.
- ◆ Allowed limited use of common construction job titles that are not in conjunction with the offer of engineering services
- ◆ Removed a clause that allows applicants to temporarily use their out-of-state engineering licenses while awaiting a Texas license
- ◆ Allowed the Board to review the status of a license holder who may be a danger to the public
- ◆ Protected the confidentiality of complaints.

Several legislators were instrumental in Senate Bill 623's construction and passage. Senators Bill Ratliff, P.E. of Mt. Pleasant and Robert Duncan of Lubbock were coauthors and sponsors of the bill and Representatives Tom Uher of Bay City and Delwin Jones of Lubbock authored and sponsored a House version of the bill. Senator Ratliff has previously sponsored other legislation altering the Act.

The Texas Society of Professional Engineers, the Consulting Engineers Council of Texas, the Texas section of the American Society of Civil Engineers, and the Texas Council of Engineering Laboratories also played significant roles in the presentation of information to the Legislature.

Senate Bill 583

Sen. Ratliff also sponsored Senate Bill 583 which altered the Texas Education Code by regulating design/build, construction management and other forms of construction and repair in school districts and institutions of higher education.

"Both bills provide badly needed modernization to the engineering profession," said John R. Speed, P.E., executive director of the Board.

"Design/build in the public education sector is an excellent first step in bringing proven delivery methods for engineering services into the public sector without sacrificing public safety. Our challenge over the next year will be to implement these rather aggressive initiatives," Speed added.

More detailed information on the bills may be accessed from the Texas Legislature ONLINE's web site at: <http://www.capitol.state.tx.us/tlo/billnbr.htm>

Information on the Board rules may be accessed at: <http://www.main.org/peboard>

Exam Waivers, continued from page 1

Special rules will allow these individuals to submit an abbreviated application that requests a waiver of exams and uses some of the documentation from their original application.

"The provisions for exam waivers became necessary with the changes required to implement NAFTA in our licensing act. We also needed terms for temporary licensing and permanent licensing," said John R. Speed P.E., executive director of the Board.

The waivers will apply to U.S. Engineers far more often than Engineers from either Mexico or Canada, Speed said.

Waivers from the Fundamentals of Engineering and/or the Principles and Practice Engineering examinations can now be granted on a case-by-case basis if applicants meet certain qualifications. Applicants who possess an accredited degree and at least 12 years of experience approved by the Board are eligible to request a waiver; applicants who graduated from college with an accredited degree and at least 16 years of experience that is approved by the Board also are eligible to request a waiver.

The Board anticipates a large

number of applications within the first few months, especially from Engineers over age 65 who can take advantage of a \$25 annual renewal fee after the initial reapplication, said C. Walter May, Jr., P.E., director of licensing.

"Another large number of applications will probably be submitted by unlicensed Engineers from industrial settings who are facing personnel cuts, but could be hired by the same company as a consultant if they became a licensed P.E.," May said.

The waivers provide a unique opportunity to relicense Engineers who were licensed without examinations and have allowed their license to lapse.

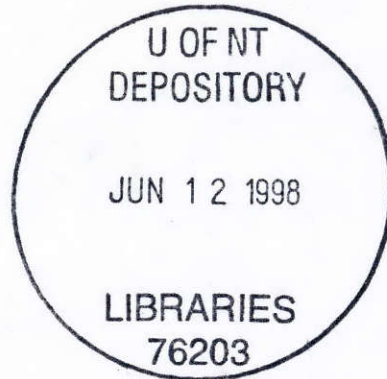
Anyone who believes that they are eligible to receive a waiver from one or more of the two licensing exams, can find more information on the Board's home page at <http://www.main.org/peboard>

**The Texas Board
of Professional Engineers,
formerly known as the Texas State Board of
Registration for Professional Engineers**

TEXAS BOARD OF PROFESSIONAL ENGINEERS

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Austin, TX 78760-8329

No forwarding or return. New address notification provided.



The Texas Board of Professional Engineers is a state agency that ***licenses*** engineers, ***enforces*** the Texas Engineering Practice Act and ***regulates*** the practice of engineering in Texas. Currently, there are 47,000 licensed Engineers practicing in 23 disciplines throughout Texas.



Board Committees from September 1997 to August 1998

Education Advisory Committee

C. Roland Haden, Ph.D., P.E. - Chair,
Texas A&M
William P. Osborne, Ph.D., -
Rec. Sec., UT Dallas
Committee includes 19 other Texas
engineering university deans and
four members at large

Enforcement Committee

Danny R. Perkins - Chair, Houston
Derrell E. Johnson, P.E., Ft. Worth
Edmundo R. Gonzalez, Jr., P.E.,
Brownsville
Linda Y. Chew, Esq., El Paso

General Issues Committee

C.H. (Herb) Treat, P.E. - Chair, Austin
Roxanne L. Pillar, P.E., Ft. Worth
Hubert Oxford III, Beaumont

Industry Advisory Committee

Joseph J. Beal, P.E. - Chair, Austin
Albert A. "Pete" Smith, P.E. - V. Chair,
Amarillo
Charles E. Nemir, P.E. - Rec. Sec., Austin
Committee includes 11 other members

Licensing Committee

E.D. (Dave) Dorchester, P.E. - Chair,
Midland
C.H. (Herb) Treat, P.E., Austin
Jose I. Guerra, P.E., Austin
Linda Y. Chew, Esq., El Paso

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