



Legislative Background Brief

for the
Economic Affairs Interim Committee

April 2012

Board of Professional Engineers and Professional Land Surveyors

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2-15-1763, MCA - Nine-member board appointed by the governor with the consent of the Senate. Five members must be professional engineers engaged in the practice of engineering for at least 12 years and who either have been engineering teachers or responsible for "important engineering work" for at least 5 years. No more than two of these members may be from the same engineering branch. Two members must be professional and practicing land surveyors who have been engaged in the practice of land surveying for at least 12 years and responsible for large surveying or "important land surveying work" for at least 5 years. All professional members must have been licensed in Montana for 5 years. Two public members who are not engaged in engineering or land surveying. Terms are for 4 years and after three consecutive terms a member may not be reappointed.

Board Members (end of term in parentheses)

Licensed Representatives:

- David Elias, Anaconda, professional land surveyor (7/1/2014)
- Tom Heinecke, Kalispell, mechanical engineer (7/1/2013)
- Jake Neil, Great Falls, professional civil engineer (7/1/2013)
- Casey Johnston, Butte, professional electrical engineer (7/1/2015)
- M. Ruhul Amin, Bozeman, mechanical/professional engineer-instructor (7/1/2015)
- Ronald Drake, Helena, professional engineer (7/1/2014)
- Jane Eby, Kalispell, professional surveyor (7/1/2015)

Public Members:

- Hal Jacobson, Helena (7/1/2014)
- Ingrid Clare Lovitt-Abramson, Missoula (7/1/2015)

Number of Licensees* FY2011 ... 13,147 FY 2010 ... 13,009 FY 2009 ... 12,615

*Licenses are issued biennially except for the interns' indefinite license in both professions (these indefinite licenses are being phased out to a 6-year term). The intern licenses inflate the number of practicing professional engineers and professional land surveyors.

By Type of License, FY 2011 & FY 2010 and License Renewal Costs (annually):

Professional Engineers =	4,935 + 4,945	(renewal costs \$90/2 years)
Professional Land Surveyors =	435 + 428	(renewal costs \$90/2 years)
Engineer Surveyor =	60 + 63	(renewal costs \$110 for dual license/2 yrs.)
Engineer Intern =	6,583 + 6,482	(initial application = \$25)
Land Surveyor Intern =	137 + 138	(initial application = \$25)

Revenues/Expenditures FY2009-2010 and Budgets for FY2012-2013

	Revenues		Expenditures	
	Licensing	Other	Personal Services	Operating
FY 2009	\$213,827		\$245,174	
FY 2010	(base budget in HB 2) \$360,884			
			Budgeted in HB 2	
FY 2012			\$378,239	
FY 2013			\$378,402	

Expenditures, FY 2010	Direct	Indirect	
		Admin	Div. IT/Bureau
Personal Services, incl. per diem	\$159,412	\$11,129	\$12,900
Operating Expenses			
Consulting, Printing, IT, Other	\$34,735		\$5,884
Supplies, incl. Computer	\$25,435		\$3,477
Postage, mailing, IT network, voice services	\$9,095		\$5,053
Travel for Board Members	\$11,800		--
Rent and other expenses*	\$23,952		\$29,048
Legal and hearings	\$53,840		--

*Includes for direct expenses: dues, education & training and fee collection expense of \$23,946 and \$6 repair/maintenance and for indirect expenses: DLI OIT charges of \$5,587, indirect agency of \$13,134, rent of \$9,939, and \$388 for computer/ equipment repair.

Number of New Complaints

FY 11 89
contested cases = 7

FY 10 64
contested cases = 11

FY 09 87

Disciplinary Action (may be from other years)

FY 11 - 0 licenses revoked, 0 fines, 1 multiple sanctions, 54 dismissed, 4 injunctions or cease/desist orders, 1 reprimand, 10 withdrawn

FY 10 - 1 license revoked, 2 probations, 1 fine, 3 multiple sanctions, 59 dismissed, 1 voluntarily surrendered, 2 injunctions/ cease/desist

FY 09 - 0 licenses revoked, 0 suspended, 61 dismissed, 10 other sanctions, 7 investigations

Scope of Practice

- The practice of engineering is defined in 37-67-101 as (a)(i) any service or creative work the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to the services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the use of water, teaching of advanced engineering subjects, engineering surveys, and the inspection of construction for the purpose of ensuring compliance with drawings and specifications;

(ii) any of the functions described in subsection (6)(a)(i) that embrace the services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of mechanical, electrical, hydraulic, pneumatic, or thermal nature insofar as they involve safeguarding life, health, or property.

(b) The term includes other professional services necessary to the planning, progress, and completion of any engineering services.

(c) The term does not include the work ordinarily performed by persons who operate or maintain machinery or equipment, communication lines, signal circuits, electric powerlines, or pipelines".

- The practice of land surveying is defined in 37-67-101 as "any service or work, the performance of which requires the application of special knowledge of the principles of mathematics, physical sciences, applied sciences, and:
 - (a) the principles of property boundary law to the recovery and preservation of evidence pertaining to earlier land surveys;
 - (b) teaching of land surveying subjects;
 - (c) measurement and allocation of lines, angles, elevations, and coordinate systems;
 - (d) location of natural and constructed features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water, including work for the determination of areas and volumes;
 - (e) monumenting of property boundaries;
 - (f) platting and layout of lands and the subdivisions of land, including the alignment and grades of streets and roads in subdivisions;
 - (g) preparation and perpetuation of maps, plats, field note records, and property descriptions; and
 - (h) locating, relocating, establishing, reestablishing, laying out, or retracing of any property line or boundary of any tract of land or road, right-of-way, easement, right-of-way easement, alignment, or elevation of any of the fixed works embraced within the practice of engineering."

Other References to Title 37, Chapter 67, and its licensees in Montana Statutes:

- Public contract procurements include a definition that architectural, engineering, or land surveying means services, in terms of engineering or land surveying that is provided by persons licensed under Title 37, chapter 67, and for architects under Title 37, chapter 65.
- Professional Land surveyors or persons acting under a professional land surveyor's direction are not subject to criminal trespass laws if they meet the conditions and restrictions in 70-16-111, regarding entry to property by a professional land surveyor or other qualified person -- trespass exception -- notice -- liability.
- The Corner Recordation Act in Title 70, chapter 22, part 1, outlines duties of surveyors licensed under Title 37, chapter 67.
- Professional engineers are referenced under Title 76, chapter 4, part 1, regarding sanitation in subdivisions.
- Professional engineers are referenced in the Dam Safety Act definitions of 85-15-106.
- Professional engineers and land surveyors are exempt from bidding requirement under conflict of interest laws in 20-9-204.

2011 Bill Affecting Professional Engineers and Professional Land Surveyors

- HB 94, introduced by Rep. Elsie Arntzen, generally revising professional licensing boards, with a revision for comity consideration for professional engineers and professional land surveyors from other states. The change says the board may set application terms and that the applicant must meet certain qualifications, including passing an examination.

Summary of 161 Responses from Survey as of April 4, 2012:

Responses from Board of Professional Engineers and Professional Land Surveyors licensees

- Most had few complaints. Of those that did, there were concerns about lack of information and the long time to process licenses.
- In terms of laws or regulations that caused the most problems, there were several references to the Subdivision and Platting Act, particularly to frequent legislative changes.