

CERTIFICATION OF ENROLLMENT

SENATE BILL 5266

55th Legislature
1997 Regular Session

Passed by the Senate April 21, 1997
YEAS 45 NAYS 0

President of the Senate

Passed by the House April 10, 1997
YEAS 95 NAYS 0

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5266** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 5266

AS AMENDED BY THE HOUSE

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By Senators Horn, Fraser, Newhouse and Schow; by request of Department of Licensing

Read first time 01/21/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to regulating engineers and land surveyors;
2 amending RCW 18.43.035, 18.43.110, and 18.43.130; adding a new section
3 to chapter 18.43 RCW; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.43 RCW
6 to read as follows:

7 Upon request of the board, and with approval of the director, the
8 board chair shall appoint up to two individuals to serve as pro tem
9 members of the board. The appointments are limited, as defined by the
10 board chair, for the purpose of participating as a temporary member of
11 the board on any combination of one or more committees or formal
12 disciplinary hearing panels. An appointed individual must meet the
13 same qualifications as a regular member of the board. While serving as
14 a board member pro tem, an appointed person has all the powers, duties,
15 and immunities of a regular member of the board and is entitled to the
16 same compensation, including travel expenses, in accordance with RCW
17 18.43.030. A pro tem appointment may not last for more than one
18 hundred eighty days unless approved by the director.

1 **Sec. 2.** RCW 18.43.035 and 1986 c 102 s 2 are each amended to read
2 as follows:

3 The board may adopt and amend bylaws establishing its organization
4 and method of operation, including but not limited to meetings,
5 maintenance of books and records, publication of reports, code of
6 ethics, and rosters, and adoption and use of a seal. Four members of
7 the board shall constitute a quorum for the conduct of any business of
8 the board. The board may employ such persons as are necessary to carry
9 out its duties under this chapter. It may adopt rules (~~and~~
10 ~~regulations~~) reasonably necessary to administer the provisions of this
11 chapter. It may conduct investigations concerning alleged violations
12 of (~~the provisions of~~) this chapter or the rules adopted by the
13 board. In making such investigations and in all proceedings under RCW
14 18.43.110, the chairman of the board or any member of the board acting
15 in his place may administer oaths or affirmations to witnesses
16 appearing before the board, subpoena witnesses and compel their
17 attendance, and require the production of books, records, papers and
18 documents. If any person shall refuse to obey any subpoena so issued,
19 or shall refuse to testify or produce any books, records, papers or
20 documents so required to be produced, the board may present its
21 petition to the superior court of the county in which such person
22 resides, setting forth the facts, and thereupon the court shall, in any
23 proper case, enter a suitable order compelling compliance with (~~the~~
24 ~~provisions of~~) this chapter and imposing such other terms and
25 conditions as the court may deem equitable. The board shall submit to
26 the governor such periodic reports as may be required. A roster,
27 showing the names and places of business of all registered professional
28 engineers and land surveyors may be published for distribution, upon
29 request, to professional engineers and land surveyors registered under
30 this chapter and to the public.

31 **Sec. 3.** RCW 18.43.110 and 1989 c 175 s 62 are each amended to read
32 as follows:

33 The board shall have the exclusive power to fine and reprimand the
34 registrant and suspend or revoke the certificate of registration of any
35 registrant who is found guilty of:

36 The practice of any fraud or deceit in obtaining a certificate of
37 registration; or

1 Any gross negligence, incompetency, or misconduct in the practice
2 of engineering or land surveying as a registered engineer or land
3 surveyor.

4 Any person may prefer (~~(charges of)~~) a complaint alleging fraud,
5 deceit, gross negligence, incompetency, or misconduct against any
6 registrant(~~(. Such charges)~~) and the complaint shall be in writing and
7 shall be sworn to in writing by the person making (~~(them and shall be~~
8 ~~filed with the secretary of the board)~~) the allegation. A registrant
9 against whom a complaint was made must be immediately informed of such
10 complaint by the board.

11 All procedures related to hearings on such charges shall be in
12 accordance with provisions relating to adjudicative proceedings in
13 chapter 34.05 RCW, the Administrative Procedure Act.

14 If, after such hearing, a majority of the board vote in favor of
15 finding the (~~(accused guilty)~~) violations had occurred, the board shall
16 revoke or suspend the certificate of registration of such registered
17 professional engineer or land surveyor.

18 The board, for reasons it deems sufficient, may reissue a
19 certificate of registration to any person whose certificate has been
20 revoked or suspended, providing a majority of the board vote in favor
21 of such issuance. A new certificate of registration to replace any
22 certificate revoked, lost, destroyed, or mutilated may be issued,
23 subject to the rules of the board, and a charge determined by the
24 director as provided in RCW 43.24.086 shall be made for such issuance.

25 Any person who shall feel aggrieved by any action of the board in
26 denying or revoking his certificate of registration may appeal
27 therefrom to the superior court of the county in which such person
28 resides, and after full hearing, said court shall make such decree
29 sustaining or revoking the action of the board as it may deem just and
30 proper.

31 Fines imposed by the board shall not exceed one thousand dollars
32 for each offense.

33 In addition to the imposition of civil penalties under this
34 section, the board may refer violations of this chapter to the
35 appropriate prosecuting attorney for charges under RCW 18.43.120.

36 **Sec. 4.** RCW 18.43.130 and 1991 c 19 s 6 are each amended to read
37 as follows:

38 This chapter shall not be construed to prevent or affect:

1 (1) The practice of any other legally recognized profession or
2 trade; or

3 (2) The practice of a person not a resident and having no
4 established place of business in this state, practicing or offering to
5 practice herein the profession of engineering or land surveying, when
6 such practice does not exceed in the aggregate more than thirty days in
7 any calendar year: PROVIDED, Such person has been determined by the
8 board to be legally qualified by registration to practice the said
9 profession in his or her own state or country in which the requirements
10 and qualifications for obtaining a certificate of registration are not
11 lower than those specified in this chapter. The person shall request
12 such a determination by completing an application prescribed by the
13 board and accompanied by a fee determined by the director. Upon
14 approval of the application, the board shall issue a permit authorizing
15 temporary practice; or

16 (3) The practice of a person not a resident and having no
17 established place of business in this state, or who has recently become
18 a resident thereof, practicing or offering to practice herein for more
19 than thirty days in any calendar year the profession of engineering or
20 land surveying, if he or she shall have filed with the board an
21 application for a certificate of registration and shall have paid the
22 fee required by this chapter: PROVIDED, That such person is legally
23 qualified by registration to practice engineering or land surveying in
24 his or her own state or country in which the requirements and
25 qualifications of obtaining a certificate of registration are not lower
26 than those specified in this chapter. Such practice shall continue
27 only for such time as the board requires for the consideration of the
28 application for registration; or

29 (4) The work of an employee or a subordinate of a person holding a
30 certificate of registration under this chapter, or an employee of a
31 person practicing lawfully under provisions of this section: PROVIDED,
32 That such work does not include final design or decisions and is done
33 under the direct responsibility, checking, and supervision of a person
34 holding a certificate of registration under this chapter or a person
35 practicing lawfully under the provisions of this section; or

36 (5) The work of a person rendering engineering or land surveying
37 services to a corporation, as an employee of such corporation, when
38 such services are rendered in carrying on the general business of the
39 corporation and such general business does not consist, either wholly

1 or in part, of the rendering of engineering services to the general
2 public: PROVIDED, That such corporation employs at least one person
3 holding a certificate of registration under this chapter or practicing
4 lawfully under the provisions of this chapter; or

5 (6) The practice of officers or employees of the government of the
6 United States while engaged within the state in the practice of the
7 profession of engineering or land surveying for (~~said~~) the government
8 of the United States; or

9 (7) Nonresident engineers employed for the purpose of making
10 engineering examinations; or

11 (8) The practice of engineering or land surveying, or both, in this
12 state by a corporation or joint stock association: PROVIDED, That

13 (a) (~~Such~~) The corporation (~~shall file~~) has filed with the
14 board an application for certificate of authorization upon a form to be
15 prescribed by the board and containing information required to enable
16 the board to determine whether such corporation is qualified in
17 accordance with (~~the provisions of~~) this chapter to practice
18 engineering or land surveying, or both, in this state;

19 (b) (~~Such~~) For engineering, the corporation (~~shall file~~) has
20 filed with the board a certified copy of a resolution of the board of
21 directors of the corporation (~~which~~) that shall designate a person
22 holding a certificate of registration under this chapter as responsible
23 for the practice of engineering by (~~said~~) the corporation in this
24 state and shall provide that full authority to make all final
25 engineering decisions on behalf of (~~said~~) the corporation with
26 respect to work performed by the corporation in this state shall be
27 granted and delegated by the board of directors to the person so
28 designated in (~~said~~) the resolution(~~:- PROVIDED, That~~)). For land
29 surveying, the corporation has filed with the board a certified copy of
30 a resolution of the board of directors of the corporation which shall
31 designate a person holding a certificate of registration under this
32 chapter as responsible for the practice of land surveying by the
33 corporation in this state and shall provide full authority to make all
34 final land surveying decisions on behalf of the corporation with
35 respect to work performed by the corporation in this state be granted
36 and delegated by the board of directors to the person so designated in
37 the resolution. If a corporation offers both engineering and land
38 surveying services, the board of directors shall designate both a
39 licensed engineer and a licensed land surveyor. If a person is

1 licensed in both engineering and land surveying, the person may be
2 designated for both professions. The resolution shall further state
3 that the bylaws of the corporation shall be amended to include the
4 following provision: "The designated engineer or land surveyor,
5 respectively, named in the resolution as being in responsible charge,
6 or an engineer or land surveyor under the designated engineer or land
7 surveyor's direct supervision, shall make all engineering or land
8 surveying decisions pertaining to engineering or land surveying
9 activities in the state of Washington." However, the filing of
10 ((such)) the resolution shall not relieve the corporation of any
11 responsibility or liability imposed upon it by law or by contract;

12 (c) ((Such corporation shall file with the board a designation in
13 writing setting forth the name or names of a person or persons holding
14 certificates of registration under this chapter who shall be in
15 responsible charge of each project and each major branch of the
16 engineering activities in which the corporation shall specialize in
17 this state. In the event there shall be a change in the person or
18 persons in responsible charge of any project or major branch of the
19 engineering activities, such changes shall be designated in writing and
20 filed with the board within thirty days after the effective date of
21 such changes)) If there is a change in the designated engineer or
22 designated land surveyor, the corporation shall notify the board in
23 writing within thirty days after the effective date of the change. If
24 the corporation changes its name, the corporation shall submit a copy
25 of its amended certificate of authority or amended certificate of
26 incorporation as filed with the secretary of state within thirty days
27 of the filing;

28 (d) Upon the filing with the board ((of)) the application for
29 certificate for authorization, certified copy of resolution((7)) and an
30 affidavit ((and designation of persons)), the designation of a
31 designated engineer or designated land surveyor, or both, specified in
32 ((subparagraphs (a)7)) (b)((7 and (c))) of this ((section)) subsection,
33 a certificate of incorporation or certificate of authorization as filed
34 with the secretary of state, and a copy of the corporation's current
35 Washington business license, the board shall issue to ((such)) the
36 corporation a certificate of authorization to practice engineering or
37 land surveying, or both, in this state upon a determination by the
38 board that:

1 (i) (~~The bylaws of the corporation contain provisions that all~~
2 ~~engineering decisions pertaining to any project or engineering~~
3 ~~activities in this state shall be made by the specified engineer in~~
4 ~~responsible charge, or other responsible engineers under his or her~~
5 ~~direction or supervision)) The designated engineer or designated land
6 surveyor, or both, hold a certificate of registration in this state in
7 accordance with this chapter and the certificate is in force;~~

8 (ii) (~~The application for certificate of authorization states the~~
9 ~~type, or types, of engineering practiced, or to be practiced by such~~
10 ~~corporation;~~) The designated engineer or designated land surveyor, or
11 both, are not designated in responsible charge for another corporation
12 or a limited liability company; and

13 (iii) (~~A current certified financial statement accurately~~
14 ~~reflecting the financial condition of the corporation has been filed~~
15 ~~with the board and is available for public inspection;~~

16 (iv) ~~The applicant corporation has the ability to provide through~~
17 ~~qualified engineering personnel, professional services or creative work~~
18 ~~requiring engineering experience, and that with respect to the~~
19 ~~engineering services which the corporation undertakes or offers to~~
20 ~~undertake such personnel have the ability to apply special knowledge of~~
21 ~~the mathematical, physical, and engineering sciences to such~~
22 ~~professional services or creative work as consultation, investigation,~~
23 ~~evaluation, planning, design, and supervision of construction for the~~
24 ~~purpose of assuring compliance with specifications and design, in~~
25 ~~connection with any public or private utilities, structures, buildings,~~
26 ~~machines, equipment, processes, works, or projects;~~

27 (v) ~~The application for certificate of authorization states the~~
28 ~~professional records of the designated person or persons who shall be~~
29 ~~in responsible charge of each project and each major branch of~~
30 ~~engineering activities in which the corporation shall specialize;~~

31 (vi) ~~The application for certificate of authorization states the~~
32 ~~experience of the corporation, if any, in furnishing engineering~~
33 ~~services during the preceding five year period and states the~~
34 ~~experience of the corporation, if any, in the furnishing of all~~
35 ~~feasibility and advisory studies made within the state of Washington;~~

36 (vii) ~~The applicant corporation meets such other requirements~~
37 ~~related to professional competence in the furnishing of engineering~~
38 ~~services as may be established and promulgated by the board in~~
39 ~~furtherance of the objectives and provisions of this chapter; and~~

1 Upon a determination by the board based upon an evaluation of the
2 foregoing findings and information that the applicant corporation is
3 possessed of the ability and competence to furnish engineering services
4 in the public interest)) The corporation is licensed with the secretary
5 of state and holds a current unified business identification number and
6 the board determines, based on evaluating the findings and information
7 in this section, that the applicant corporation possesses the ability
8 and competence to furnish engineering or land surveying services, or
9 both, in the public interest.

10 The board may ~~((in the))~~ exercise ~~((of))~~ its discretion to refuse
11 to issue or it may suspend ~~((and/))~~ or revoke a certificate of
12 authorization issued to a corporation ~~((where))~~ if the board ~~((shall))~~
13 finds that any of the officers, directors, incorporators, or the
14 stockholders holding a majority of stock of such corporation has
15 committed misconduct or malpractice as defined in RCW 18.43.105 or has
16 been found personally responsible for misconduct or malpractice under
17 ~~((the provisions of subsections))~~ (f) and (g) ~~((hereof))~~ of this
18 subsection.

19 ~~((The certificate of authorization shall specify the major branches~~
20 ~~of engineering of which the corporation has designated a person or~~
21 ~~persons in responsible charge as provided in subsection (8)(c) of this~~
22 ~~section.~~

23 ~~(e) In the event a corporation, organized solely by a group of~~
24 ~~engineers, each holding a certificate of registration under this~~
25 ~~chapter, applies for a certificate of authorization, the board may, in~~
26 ~~its discretion, grant a certificate of authorization to such~~
27 ~~corporation based on a review of the professional records of such~~
28 ~~incorporators, in lieu of the required qualifications set forth in this~~
29 ~~subsection. In the event the ownership of such corporation shall be~~
30 ~~altered, the corporation shall apply for a revised certificate of~~
31 ~~authorization, based upon the professional records of the owners, if~~
32 ~~exclusively engineers or, otherwise, under the qualifications required~~
33 ~~by subparagraphs (a), (b), (c), and (d) hereof.))~~ (e) Engineers or land
34 surveyors organized as a professional service corporation under chapter
35 18.100 RCW are exempt from applying for a certificate of authorization
36 under this chapter.

37 (f) Any corporation authorized to practice engineering under this
38 chapter, together with its directors and officers for their own
39 individual acts, are responsible to the same degree as an individual

1 registered engineer, and must conduct its business without misconduct
2 or malpractice in the practice of engineering as defined in this
3 chapter.

4 (g) Any corporation (~~((which has been duly))~~) that is certified under
5 (~~((the provisions of))~~) this chapter (~~((and has engaged in the practice of~~
6 ~~engineering shall have its certificate of authorization either~~
7 ~~suspended or revoked by the board if, after a proper hearing, the board~~
8 ~~shall find that the corporation has committed misconduct or malpractice~~
9 ~~as defined in RCW 18.43.105. In such case any individual engineer~~
10 ~~holding a certificate of registration under this chapter, involved in~~
11 ~~such malpractice or misconduct, shall have his or her certificate of~~
12 ~~registration suspended or revoked also))~~ is subject to the authority of
13 the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, and
14 18.43.120.

15 (h) All plans, specifications, designs, and reports when issued in
16 connection with work performed by a corporation under its certificate
17 of authorization shall be prepared by or under the (~~((responsible~~
18 ~~charge))~~) direct supervision of and shall be signed by and shall be
19 stamped with the official seal of a person holding a certificate of
20 registration under this chapter.

21 (i) For each certificate of authorization issued under (~~((the~~
22 ~~provisions of))~~) this subsection (8) (~~((of this section))~~) there shall be
23 paid an initial fee determined by the director as provided in RCW
24 43.24.086 and an annual renewal fee determined by the director as
25 provided in RCW 43.24.086.

26 (9) The practice of engineering and/or land surveying in this state
27 by a partnership(~~(: PROVIDED, That~~

28 (a) ~~A majority of the members of the partnership are engineers or~~
29 ~~architects or land surveyors duly certificated by the state of~~
30 ~~Washington or by a state, territory, possession, district, or foreign~~
31 ~~country meeting the reciprocal provisions of RCW 18.43.100: PROVIDED,~~
32 ~~That at least one of the members is a professional engineer or land~~
33 ~~surveyor holding a certificate issued by the director under the~~
34 ~~provisions of RCW 18.43.070; and~~

35 (b) ~~Except where all members of the partnership are professional~~
36 ~~engineers or land surveyors or a combination of professional engineers~~
37 ~~and land surveyors or where all members of the partnership are either~~
38 ~~professional engineers or land surveyors in combination with an~~
39 ~~architect or architects all of which are holding certificates of~~

1 ~~qualification therefor issued under the laws of the state of~~
2 ~~Washington, the partnership shall file with the board an instrument~~
3 ~~executed by a partner on behalf of the partnership designating the~~
4 ~~persons responsible for the practice of engineering by the partnership~~
5 ~~in this state and in all other respects such person so designated and~~
6 ~~such partnership shall meet the same qualifications and shall be~~
7 ~~subject to the same requirements and the same penalties as those~~
8 ~~pertaining to corporations and to the responsible persons designated by~~
9 ~~corporations as provided in subsection (8) of this section.~~

10 For each certificate of authorization issued under the provisions
11 of this subsection (9) of this section there shall be paid an initial
12 fee determined by the director as provided in RCW 43.24.086 and an
13 annual renewal fee determined by the director as provided in RCW
14 43.24.086)) if the partnership employs at least one person holding a
15 valid certificate of registration under this chapter to practice
16 engineering or land surveying, or both. The board shall not issue
17 certificates of authorization to partnerships after July 1, 1998.
18 Partnerships currently registered with the board are not required to
19 pay an annual renewal fee after July 1, 1998.

20 (10) The practice of engineering or land surveying, or both, in
21 this state by limited liability companies: Provided, That

22 (a) The limited liability company has filed with the board an
23 application for certificate of authorization upon a form to be
24 prescribed by the board and containing information required to enable
25 the board to determine whether the limited liability company is
26 qualified under this chapter to practice either or both engineering or
27 land surveying in this state.

28 (b) The limited liability company has filed with the board a
29 certified copy of a resolution by the company manager or managers that
30 shall designate a person holding a certificate of registration under
31 this chapter as being responsible for the practice of engineering or
32 land surveying, or both, by the limited liability company in this state
33 and that the designated person has full authority to make all final
34 engineering or land surveying decisions on behalf of the limited
35 liability company with respect to work performed by the limited
36 liability company in this state. The resolution shall further state
37 that the limited liability company agreement shall be amended to
38 include the following provision: "The designated engineer or land
39 surveyor, respectively, named in the resolution as being in responsible

1 charge, or an engineer or land surveyor under the designated engineer
2 or land surveyor's direct supervision, shall make all engineering or
3 land surveying decisions pertaining to engineering or land surveying
4 activities in the state of Washington." However, the filing of the
5 resolution shall not relieve the limited liability company of
6 responsibility or liability imposed upon it by law or by contract.

7 (c) The designated engineer for the limited liability company must
8 hold a current professional engineer license issued by this state.

9 The designated land surveyor for the limited liability company must
10 hold a current professional land surveyor license issued by this state.

11 If a person is licensed as both a professional engineer and as a
12 professional land surveyor in this state, then the limited liability
13 company may designate the person as being in responsible charge for
14 both professions.

15 If there is a change in the designated engineer or designated land
16 surveyor, the limited liability company shall notify the board in
17 writing within thirty days after the effective date of the change. If
18 the limited liability company changes its name, the company shall
19 submit to the board a copy of the certificate of amendment filed with
20 the secretary of state's office.

21 (d) Upon the filing with the board the application for certificate
22 of authorization, a certified copy of the resolution, an affidavit from
23 the designated engineer or the designated land surveyor, or both,
24 specified in (b) and (c) of this subsection, a copy of the certificate
25 of formation as filed with the secretary of state, and a copy of the
26 company's current business license, the board shall issue to the
27 limited liability company a certificate of authorization to practice
28 engineering or land surveying, or both, in this state upon
29 determination by the board that:

30 (i) The designated engineer or designated land surveyor, or both,
31 hold a certificate of registration in this state under this chapter and
32 the certificate is in force;

33 (ii) The designated engineer or designated land surveyor, or both,
34 are not designated in responsible charge for another limited liability
35 company or a corporation;

36 (iii) The limited liability company is licensed with the secretary
37 of state and has a current unified business identification number and
38 that the board determines, based on evaluating the findings and
39 information under this subsection, that the applicant limited liability

1 company possesses the ability and competence to furnish either or both
2 engineering or land surveying services in the public interest.

3 The board may exercise its discretion to refuse to issue, or it may
4 suspend or revoke a certificate of authorization issued to a limited
5 liability company if the board finds that any of the managers or
6 members holding a majority interest in the limited liability company
7 has committed misconduct or malpractice as defined in RCW 18.43.105 or
8 has been found personally responsible for misconduct or malpractice
9 under the provisions of (f) and (g) of this subsection.

10 (e) Engineers or land surveyors organized as a professional limited
11 liability company are exempt from applying for a certificate of
12 authorization under this chapter.

13 (f) Any limited liability company authorized to practice
14 engineering or land surveying, or both, under this chapter, together
15 with its manager or managers and members for their own individual acts,
16 are responsible to the same degree as an individual registered engineer
17 or registered land surveyor, and must conduct their business without
18 misconduct or malpractice in the practice of engineering or land
19 surveying, or both.

20 (g) A limited liability company that is certified under this
21 chapter is subject to the authority of the board as provided in RCW
22 18.43.035, 18.43.105, 18.43.110, and 18.43.120.

23 (h) All plans, specifications, designs, and reports when issued in
24 connection with work performed by a limited liability company under its
25 certificate of authorization shall be prepared by or under the direct
26 supervision of and shall be signed by and shall be stamped with the
27 official seal of a person holding a certificate of registration under
28 this chapter.

29 (i) For each certificate of authorization issued under this
30 subsection (10) there shall be paid an initial fee determined by the
31 director as provided in RCW 43.24.086 and an annual renewal fee
32 determined by the director as provided in RCW 43.24.086.

33 NEW SECTION. Sec. 5. Section 4 of this act takes effect July 1,
34 1998.

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