

TESTIMONY

TO: SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

FROM: David L. Hoffman, FAIA, NCARB
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RE: SB 54

DATE: January 31, 2013

Good morning Mr. Vice Chair and members of the Committee. I am David Hoffman, Architect member of the Kansas State Board of Technical Professions.

Introduction:

The Kansas State Board of Technical Professions (KSBTP) has utilized the current enabling Statutes for many years without major updates or benefit of re-coordination within the statutes. Minor additions have been made intermittently addressing specific urgent issues; however comprehensive revisions and modifications have not been made and are long overdue. The Board has found it increasingly difficult to meet its regulatory obligations utilizing current law. Senate Bill 54 attempts to correct the current laws' shortcomings in an all-inclusive manner as follows.

General Revisions:

Statute organization has been clarified: Over time, expeditious changes have been made without logical updates to other affected sections. When geologists were added to the Board as a new professional category, new statutes were added without integration into the current fabric. Similarly, liability limitation for surveyors was added numerically without integration. Profession-specific provisions were not always located within the profession's main statute body. The aggregate effect has been to make usage and understanding of current law difficult. The revised statutes attempt to correct these problems.

Modifications have been made due to changes in Professional Practice: Practice means and methods for all five professions have significantly changed over the last three decades. Management methods, use of digital tools, minimum required professional skills, etc. all needed to be re-visited in these updated statutes. Applicable changes have been made where needed to reflect these practice realities.

Professional terminology is updated: Enabling statutes need to reflect contemporary terminology usage if enforcement is to be successful. The revised enabling statutes have been updated to address this need by deletion of outdated terms and the insertion of up-to-date and corrected terminology. Where needed, certain new terminologies' definitions have also been added to clarify meaning and intent.

Clarity of Statutes has been improved: Existing statute requirements and provisions have been found to be vague or conflicting and were difficult to apply in some enforcement circumstances. Where these conflicts were found or confusion was created due to statute structure or organization, the statutes have been revised to improve clarity.

Specific Items:

The following items are listed generally in the statutes' current numerical order. The list includes and describes the more important changes; minor changes have not been included for brevity.

Definitions: All definitions have been alphabetized and, where applicable, relocated from other sections for purposes of consolidation. Definitions have been up-dated to reflect current practice. New/updated terms have been added due to their usage throughout the revised statutes. Certain key terms have been clarified due to their importance when used in enforcement procedures. Each of the five professions' definitions has been rewritten in a format standardized as much as possible so that each is similar in structure and coverage.

Terminology standardization: Certain phrases and terms have been standardized throughout the Statutes for clarity, uniformity in application and for simplicity ("license", "health safety property and welfare", etc.) The use of certain terms ("registration", "certificate of qualification" and others) has been terminated due to conflict and confusion with other similar terms; only one uniform term is now used for each of such items.

Standardization of Board Member requirements: Board Member qualifications now specifically require "responsible charge" experience (now defined). The specific responsibilities of the Board Officers has been updated and clarified.

Board's Rules and regulations: Two sections have been added allowing the KSBTP to develop rules and regulations concerning 1) ethical marketing of professional services and 2) cancelled, inactive and emeritus licensure status. These areas of regulation currently do not have specific statute authorization provisions but need them so that rules and regulations can be developed around them. The language concerning minimum standards for various types of surveys is moved from a repealed statute so it is contained in the same statue with other rules and regulation authorizations.

Qualifications for licensure: Wording has been revised to reflect the KSBTP's need to respond to the continuing evolution of the precursor educational requirements for Architectural and Engineering licensure as established by academic accreditation organizations.

Flexibility of examination and minimum standards adoption: Examination formats in each profession are evolving and the statutes are updated to allow flexibility in the adoption and utilization of these formats (written tests vs. computer administered, etc.). Likewise, statutes have been revised to allow updates of minimum professional standards for surveys and other similar professional deliverables.

Renewal enforcement: Specific requirements, limitations, penalties and deadlines as they apply to renewals and lapse of licenses are now clarified.

Professions nomenclature: References to individuals practicing in geology and surveying have been updated throughout to be "professional geologist" and "professional surveyor" to reflect licensure status.

Terminology update: Due to changes in management methods, computer integration into practice and professional oversight responsibilities, the term "direct supervision" is now replaced with the term "responsible charge" throughout the statutes and the more comprehensive term "responsible charge" is specifically defined.

Exemptions to the Architectural licensure: Clarifications as to what buildings are "exempt" from requirements for an Architect have been made. In those instances that are exempt, specific components of a building which may affect the public's life safety (structure, fire walls, exits, etc.) are defined in more detail and reference applicable codes. Situations which fall into this non-exempt category will require the involvement of a licensed Architect.

Exemptions to Surveying licensure: Clarifications have been added which prohibit the exemption applying when a "conveyance of an interest in real property" is involved. In this instance, the involvement of a licensed Professional Surveyor is required.

Certificates of Authorization: Statutes have been modified to clarify that a Certificate of Authorization is required to be procured by any business entity organized to practice any of the regulated professions prior to doing any business in Kansas.

Practice in separate offices: With the advent of firms establishing multiple offices and managing them from a distance, the need to specifically require supervisory responsibilities by the professional in responsible charge of such satellite offices is clarified.

Sealing, signing and dating technical submissions: Statutes have been amended to make clear to public officials enforcing building codes that technical submissions must be signed and dated in addition to being sealed with the professional's seal.

Calculation of fines and expenses: The statute has been revised to allow the assessment of the Board's costs and attorney's fees, in addition to any fine that may be imposed, upon a violating licensee in a disciplinary action. The limits of fines that may be imposed are not changed.

Immunity from liability: A new added section provides immunity to those individuals participating in good faith and without malicious intent, in disciplinary proceedings regarding licensure, re-issuance of a license or criminal prosecution.