

Assembly Bill No. 2629

Passed the Assembly August 24, 2000

Chief Clerk of the Assembly

Passed the Senate August 22, 2000

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 6716, 6775, 8710, and 8780 of, and to add Sections 6749 and 8759 to, the Business and Professions Code, relating to professional engineers and land surveyors.

LEGISLATIVE COUNSEL'S DIGEST

AB 2629, Cox. Professional engineers and surveyors.

The Professional Engineers Act and the Professional Land Surveyors' Act provide for the licensing and regulation of engineers and land surveyors, respectively, by the Board for Professional Engineers and Land Surveyors and authorize the board to discipline professional engineers and licensed land surveyors. Under existing law, a violation of the regulatory provisions of those acts is a misdemeanor.

This bill would revise the provisions relating to reprobving, revoking, or suspending a professional engineers' certificate or licensed land surveyor's license. The bill would also require, with certain exceptions, that professional engineering services and land surveying services be undertaken only after the execution of a written contract, which includes a contract in electronic form, containing specified terms and conditions.

Because a violation of the bill's provisions requiring a specified written contract and providing for rules and regulations of professional conduct would create a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.



The people of the State of California do enact as follows:

SECTION 1. Section 6716 of the Business and Professions Code is amended to read:

6716. (a) The board may adopt rules and regulations consistent with law and necessary to govern its action. These rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act.

(b) The board may adopt rules and regulations of professional conduct that are not inconsistent with state and federal law. The rules and regulations may include definitions of incompetence and negligence. Every person who holds a license or certificate issued by the board pursuant to this chapter shall be governed by these rules and regulations.

(c) The board shall hold at least two regular meetings each year. Special meetings shall be held at such times as the board rules provide. A majority of the board constitutes a quorum. Except as otherwise provided by law, the vote required for any action of the board is a majority of the members present, but not less than five.

SEC. 2. Section 6749 is added to the Business and Professions Code, to read:

6749. (a) A professional engineer shall use a written contract when contracting to provide professional engineering services to a client pursuant to this chapter. The written contract shall be executed by the professional engineer and the client, or his or her representative, prior to the professional engineer commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following:

(1) A description of the services to be provided to the client by the professional engineer.

(2) A description of any basis of compensation applicable to the contract, and the method of payment agreed upon by the parties.



(3) The name, address, and license or certificate number of the professional engineer, and the name and address of the client.

(4) A description of the procedure that the professional engineer and the client will use to accommodate additional services.

(5) A description of the procedure to be used by any party to terminate the contract.

(b) This section shall not apply to any of the following:

(1) Professional engineering services rendered by a professional engineer for which the client will not pay compensation.

(2) A professional engineer who has a current or prior contractual relationship with the client to provide engineering services, and that client has paid the professional engineer all of the fees that are due under the contract.

(3) If the client knowingly states in writing after full disclosure of this section that a contract which complies with the requirements of this section is not required.

(4) Professional engineering services rendered by a professional engineer to any of the following:

(A) A professional engineer licensed or registered under this chapter.

(B) A land surveyor licensed under Chapter 15 (commencing with Section 8700).

(C) An architect licensed under Chapter 3 (commencing with Section 5500).

(D) A contractor licensed under Chapter 9 (commencing with Section 7000).

(E) A geologist or a geophysicist licensed under Chapter 12.5 (commencing with Section 7800).

(F) A manufacturing, mining, public utility, research and development, or other industrial corporation, if the services are provided in connection with or incidental to the products, systems, or services of that corporation or its affiliates.

(G) A public agency.

(c) “Written contract” as used in this section includes a contract that is in electronic form.



SEC. 3. Section 6775 of the Business and Professions Code is amended to read:

6775. The board may receive and investigate complaints against registered professional engineers, and make findings thereon.

By a majority vote, the board may reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer registered under this chapter:

(a) Who has been convicted of a crime substantially related to the qualifications, functions and duties of a registered professional engineer, in which case the certified record of conviction shall be conclusive evidence thereof.

(b) Who has been found guilty by the board of any deceit, misrepresentation, or fraud in his or her practice.

(c) Who has been found guilty by the board of negligence or incompetence in his or her practice.

(d) Who has been found guilty by the board of any breach or violation of a contract to provide professional engineering services.

(e) Who has been found guilty of any fraud or deceit in obtaining his or her certificate.

(f) Who aids or abets any person in the violation of any provision of this chapter.

(g) Who in the course of the practice of professional engineering has been found guilty by the board of having violated a rule or regulation of unprofessional conduct adopted by the board.

(h) Who violates any provision of this chapter.

SEC. 4. Section 8710 of the Business and Professions Code is amended to read:

8710. (a) The Board for Professional Engineers and Land Surveyors is vested with power to administer the provisions and requirements of this chapter, and may make and enforce rules and regulations that are reasonably necessary to carry out its provisions.

(b) The board may adopt rules and regulations of professional conduct that are not inconsistent with state and federal law. The rules and regulations may include



definitions of incompetence and negligence. Every person who holds a license or certificate issued by the board pursuant to this chapter, or a license or certificate issued to a civil engineer pursuant to Chapter 7 (commencing with Section 6700), shall be governed by these rules and regulations.

(c) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section shall render the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of this board shall be limited to only those unresolved issues identified by the Joint Legislative Sunset Review Committee.

SEC. 5. Section 8759 is added to the Business and Professions Code, to read:

8759. (a) A licensed land surveyor or registered civil engineer authorized to practice land surveying shall use a written contract when contracting to provide professional services to a client pursuant to this chapter. The written contract shall be executed by the licensed land surveyor or registered civil engineer and the client, or his or her representative, prior to the licensed land surveyor or registered civil engineer commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following:

(1) A description of the services to be provided to the client by the licensed land surveyor or registered civil engineer.

(2) A description of any basis of compensation applicable to the contract, and the method of payment agreed upon by the parties.

(3) The name, address, and license or certificate number of the licensed land surveyor or registered civil engineer, and the name and address of the client.



(4) A description of the procedure that the licensed land surveyor or registered civil engineer and the client will use to accommodate additional services.

(5) A description of the procedure to be used by any party to terminate the contract.

(b) This section shall not apply to any of the following:

(1) Professional land surveying services rendered by a licensed land surveyor or registered civil engineer for which the client will not pay compensation.

(2) A licensed land surveyor or registered civil engineer who has a current or prior contractual relationship with the client to provide professional services pursuant to this chapter, and that client has paid the surveyor or engineer all of the fees that are due under the contract.

(3) If the client knowingly states in writing after full disclosure of this section that a contract which complies with the requirements of this section is not required.

(4) Professional services rendered by a licensed land surveyor or a registered civil engineer to any of the following:

(A) A professional engineer licensed or registered under Chapter 7 (commencing with Section 6700).

(B) A land surveyor licensed under this chapter.

(C) An architect licensed under Chapter 3 (commencing with Section 5500).

(D) A contractor licensed under Chapter 9 (commencing with Section 7000).

(E) A geologist or a geophysicist licensed under Chapter 12.5 (commencing with Section 7800).

(F) A manufacturing, mining, public utility, research and development, or other industrial corporation, if the services are provided in connection with or incidental to the products, systems, or services of that corporation or its affiliates.

(G) A public agency.

(c) “Written contract” as used in this section includes a contract that is in electronic form.

SEC. 6. Section 8780 of the Business and Professions Code is amended to read:



8780. The board may receive and investigate complaints against licensed land surveyors and registered civil engineers, and make findings thereon.

By a majority vote, the board may reprove, suspend for a period not to exceed two years, or revoke the license or certificate of any licensed land surveyor or registered civil engineer, respectively, licensed under this chapter or registered under the provisions of Chapter 7 (commencing with Section 6700), whom it finds to be guilty of:

(a) Any fraud, deceit, or misrepresentation in his or her practice of land surveying.

(b) Any negligence or incompetence in his or her practice of land surveying.

(c) Any fraud or deceit in obtaining his or her license.

(d) Any violation of any provision of this chapter or of any other law relating to or involving the practice of land surveying.

(e) Any conviction of a crime substantially related to the qualifications, functions, and duties of a land surveyor. The record of the conviction shall be conclusive evidence thereof.

(f) Aiding or abetting any person in the violation of any provision of this chapter.

(g) A breach or violation of a contract to provide land surveying services.

(h) A violation in the course of the practice of land surveying of a rule or regulation of unprofessional conduct adopted by the board.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2000

Governor

