

By: Representatives Chism, Smith (39th)

To: Judiciary A

HOUSE BILL NO. 1283

1 AN ACT TO AMEND SECTION 73-13-41, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY A PROFESSIONAL ENGINEER'S AUTHORITY TO REVIEW DESIGNS;
3 TO AMEND SECTION 73-13-43, MISSISSIPPI CODE OF 1972, TO CLARIFY
4 THE REQUIREMENT THAT CORPORATIONS OFFERING ENGINEERING SERVICES TO
5 THE PUBLIC MUST HAVE AN ENGINEER AS A PRINCIPAL OFFICER OR
6 PARTNER; TO BRING FORWARD SECTION 73-13-3, MISSISSIPPI CODE OF
7 1972, FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** Section 73-13-41, Mississippi Code of 1972, is
10 amended as follows:

11 73-13-41. (1) Sections 73-13-1 through 73-13-45 shall not
12 be construed to prevent or to affect:

13 (a) The practice of any other legally recognized
14 profession or trade, such as: (i) engineers employed by
15 contractors to supervise work on which a registered engineer is
16 engaged; and (ii) architects who are registered under the
17 provisions of Chapter 1 of this Title;

18 (b) The work of an employee or a subordinate of a
19 person holding a certificate of registration under this act,
20 provided such work does not include final designs or decisions and
21 is done under the responsibility, checking and supervision of a
22 person holding a certificate of registration under Sections
23 73-13-1 through 73-13-45;

24 (c) The practice of officers and employees of the
25 government of the United States while engaged within this state in
26 the practice of engineering for said government; * * *

27 (d) The performance of engineering services by any
28 regular full-time employee of a manufacturing, research and
29 development, railroad or other industrial corporation, provided:



30 (i) Such services are rendered on or in connection
31 with existing fixed works, equipment, systems, processes or
32 facilities owned, operated, or leased by such corporation and/or
33 its affiliates;

34 (ii) Such services are not rendered to third
35 parties;

36 (iii) Such services do not consist of original
37 plant design, original system design, or original process design,
38 other than routine system extensions that do not compromise the
39 integrity of the original design;

40 (iv) Such services comply with all requirements
41 specified by the employee's company or corporation;

42 (v) All fixed works, equipment, systems, processes
43 or facilities modified by such services undergo a safety review
44 that confirms: (A) the construction and equipment is in
45 accordance with design specifications; and (B) safety, operating,
46 maintenance and emergency procedures are in place to safeguard
47 life, health and property;

48 (vi) Such services are not required to be
49 performed, approved, or certified by a professional engineer
50 pursuant to law or regulation, whether federal, state, or local,
51 other than Sections 73-13-1 through 73-13-45 hereof or any
52 applicable rules or regulations promulgated by the Mississippi
53 State Board of Registration for Professional Engineers and Land
54 Surveyors.

55 It is further stated that this subsection (d) is intended to
56 codify the policy and practices of the board at the time of
57 enactment of this Senate Bill No. 2380, 1999 Regular Session, and
58 that any ambiguities in this subsection should be construed in
59 accordance with this intent;

60 (e) The performance of engineering services with
61 respect to utility facilities by any public utility subject to
62 regulation by the Mississippi Public Service Commission, the



63 Federal Communications Commission, the Federal Energy Regulatory
64 Commission, or the Nuclear Regulatory Commission, including its
65 parents, affiliates, subsidiaries; or by the officers and regular
66 full-time employees of any such public utility, including its
67 parents, affiliates or subsidiaries, provided that they are
68 engaged solely and exclusively in performing service for such
69 public utility and/or its parents, affiliates or subsidiaries, and
70 as long as such services comply with all standard operating
71 procedures and requirements specified by the employee's company or
72 corporation. This exemption shall not extend to: (i) the
73 practice of engineering performed by public utilities or their
74 officers or employees when such services are rendered to
75 non-affiliated third parties in exchange for compensation other
76 than that received from their employer, or the use of any name,
77 title or words which tend to convey the impression that a
78 nonregistrant is offering engineering services to the public; and
79 (ii) services which are required to be performed, approved or
80 certified by a professional engineer pursuant to law or regulation
81 whether federal, state or local, other than Sections 73-13-1
82 through 73-13-45 hereof or any applicable rules or regulations
83 promulgated by the Mississippi State Board of Registration for
84 Professional Engineers and Land Surveyors.

85 It is further stated that this subsection (e) is intended to
86 codify the policy and practices of the board at the time of
87 enactment of this Senate Bill No. 2380, 1999 Regular Session, and
88 that any ambiguities in this subsection should be construed in
89 accordance with this intent; or

90 (f) The performance by a professional engineer of
91 services which involve the review and approval of designs created
92 by other persons but presented to a professional engineer for
93 review and approval.

94 (2) In addition to the exemptions provided in subsection
95 (1), there is hereby granted and reserved to the board the



96 authority to exempt from Sections 73-13-1 through 73-13-45 by
97 regulation specific engineering tasks or functions performed by
98 regular full-time employees of manufacturing, public utility,
99 research and development, railroad or other industrial
100 corporations rendered in the course and scope of their employment,
101 on a case by case basis, if, in the opinion of the board, the
102 public health and welfare is not endangered nor the engineering
103 profession diminished.

104 **SECTION 2.** Section 73-13-43, Mississippi Code of 1972, is
105 amended as follows:

106 73-13-43. A corporation, firm or partnership may engage in
107 the practice of professional engineering in this state, providing
108 the person or persons connected with such corporation, firm or
109 partnership in charge of the designing, or supervision, which
110 constitutes such practice, is or are registered as herein required
111 of professional engineers. Any corporation, firm or partnership
112 engaged in offering engineering services to the public as its
113 principal business must have at least one (1) registered
114 professional engineer as a principal officer or partner of the
115 firm who has management responsibility for such practice. A
116 corporation, firm or partnership, when performing engineering
117 services to the public for a fee or other emoluments, shall
118 include in each agreement for such services the name and
119 registration number of the professional engineer who will bear the
120 primary responsibility for the engineering work involved. The
121 same exemptions shall apply to corporations, firms and
122 partnerships as apply to individuals under Sections 73-13-1
123 through 73-13-45.

124 **SECTION 3.** Section 73-13-3, Mississippi Code of 1972, is
125 brought forward as follows:

126 73-13-3. The term "engineer" as used in Sections 73-13-1
127 through 73-13-45 shall mean a professional engineer as hereinafter
128 defined.



129 The term "professional engineer" within the meaning and
130 intent of Sections 73-13-1 through 73-13-45 shall mean a person
131 who has met the qualifications as required under Section
132 73-13-23(1) and who has been issued a certificate of registration
133 as a professional engineer.

134 The term "engineer intern" as used in Sections 73-13-1
135 through 73-13-45 shall mean a candidate for registration as a
136 professional engineer who has met the qualifications as required
137 under Section 73-13-23(2) and who has been issued a certificate of
138 enrollment as an engineer intern.

139 The term "practice of engineering" within the meaning and
140 intent of Sections 73-13-1 through 73-13-45 shall mean any service
141 or creative work the adequate performance of which requires
142 engineering education, training, and experience in the application
143 of special knowledge of the mathematical, physical, and
144 engineering sciences to such services or creative work as
145 consultation, investigation, evaluation, planning, design, and
146 design coordination of engineering works and systems, planning the
147 use of land and water, performing engineering surveys and studies,
148 and the review of construction for the purpose of monitoring
149 compliance with drawings and specifications; any of which embraces
150 such services or work, either public or private, in connection
151 with any highways, transportation facilities, utilities,
152 structures, buildings, machines, equipment, processes, work
153 systems, projects and industrial or consumer products or
154 equipment, of a mechanical, electrical, hydraulic, pneumatic or
155 thermal nature, insofar as they involve safeguarding life, health
156 or property, and including such other professional services as may
157 be necessary to the planning, progress and completion of any
158 engineering services.

159 Design coordination includes the review and coordination of
160 those technical submissions prepared by others, including as
161 appropriate and without limitation, consulting engineers,



architects, landscape architects, land surveyors and other professionals working under direction of the engineer.

Engineering surveys include all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects but exclude the practice of land surveying as defined in Section 73-13-71(d).

A person shall be construed to practice or offer to practice engineering within the meaning and intent of Sections 73-13-1 through 73-13-45, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer, or through the use of some other title implies that he is a professional engineer; or who holds himself out as able to perform, or who does perform any engineering service or work or any other professional service designated by the practitioner or recognized by educational authorities as engineering.

The practice of engineering shall not include the work ordinarily performed by persons who operate or maintain: machinery, equipment, water plants, light plants, and sewage plants.

The term "board" as used in Sections 73-13-1 through 73-13-45 shall mean the State Board of Registration for Professional Engineers and Land Surveyors provided for by said sections.

SECTION 4. This act shall take effect and be in force from and after July 1, 2002.

