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Chapter No. 425
12/SS01/R845
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SENATE BILL NO. 2474

Originated in Senate

Liz Welch

Secretary

SENATE BILL NO. 2474

AN ACT TO AMEND SECTION 73-13-41, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ENGINEERS LICENSING LAW DOES NOT APPLY TO ACTIVITIES CONDUCTED DURING THE COURSE OF, OR IN ANTICIPATION OF, LITIGATION; AND FOR RELATED PURPOSES.

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

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

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

(a) The practice of any other legally recognized profession or trade, such as: (i) engineers employed by contractors to supervise work on which a licensed engineer is engaged; (ii) architects who are registered under the provisions of Chapter 1 of this title; and (iii) the practice of geology as regulated pursuant to Title 73, Chapter 63;

(b) The work of an employee or a subordinate of a person holding a certificate of licensure under Sections 73-13-1 through 73-13-45, provided such work does not include final designs or decisions and is done under the responsibility, checking and supervision of a person holding a certificate of licensure under Sections 73-13-1 through 73-13-45;

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

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

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

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

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

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

(v) All fixed works, equipment, systems, processes or facilities modified by such services undergo a safety review that confirms: 1. the construction and equipment is in accordance with design specifications; and 2. safety, operating, maintenance and emergency procedures are in place to safeguard life, health and property;

(vi) Such services are not required to be performed, approved or certified by a professional engineer pursuant to law or regulation, whether federal, state or local, other than Sections 73-13-1 through 73-13-45 hereof or any applicable rules or regulations promulgated by the Mississippi Board of Licensure for Professional Engineers and Surveyors;

It is further stated that this subsection (d) is intended to codify the policy and practices of the board on July 1, 1999, and that any ambiguities in this subsection should be construed in accordance with this intent;

(e) The performance of engineering services with respect to utility facilities by any public utility subject to regulation by the Mississippi Public Service Commission, the Federal Communications Commission, the Federal Energy Regulatory Commission, or the Nuclear Regulatory Commission, including its

parents, affiliates, subsidiaries; or by the officers and regular full-time employees of any such public utility, including its parents, affiliates or subsidiaries, provided that they are engaged solely and exclusively in performing service for such public utility and/or its parents, affiliates or subsidiaries, and as long as such services comply with all standard operating procedures and requirements specified by the employee's company or corporation. This exemption shall not extend to: (i) the practice of engineering performed by public utilities or their officers or employees when such services are rendered to nonaffiliated third parties in exchange for compensation other than that received from their employer, or the use of any name, title or words which tend to convey the impression that a nonregistrant is offering engineering services to the public; and (ii) services which are required to be performed, approved or certified by a professional engineer pursuant to law or regulation whether federal, state or local, other than Sections 73-13-1 through 73-13-45 hereof or any applicable rules or regulations promulgated by the Mississippi Board of Licensure for Professional Engineers and Surveyors;

It is further stated that this subsection (e) is intended to codify the policy and practices of the board on July 1, 1999, and that any ambiguities in this subsection should be construed in accordance with this intent; * * *

(f) The practice of engineering shall not include the work ordinarily performed by persons who operate or maintain machinery, equipment, water plants, power generation, utility transmission, utility distribution facilities, sewage plants and solid waste disposal facilities; or

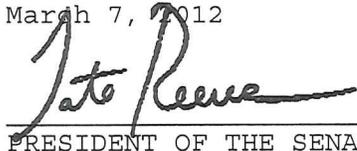
(g) Activities conducted during the course of, or in anticipation of, litigation including, but not exclusively: analyzing, evaluating, consulting, reconstructing, testing, responding to the opinions and testing conducted by others, and

offering expert testimony. However, this exemption shall not apply in legal proceedings where the subject matter of the litigation or claim is nonforensic engineering activity legally required to be performed under a Mississippi engineer's license.

(2) In addition to the exemptions provided in subsection (1), there is hereby granted and reserved to the board the authority to exempt from Sections 73-13-1 through 73-13-45 by regulation specific engineering tasks or functions performed by regular full-time employees of manufacturing, public utility, research and development, railroad or other industrial corporations rendered in the course and scope of their employment, on a case by case basis, if, in the opinion of the board, the public health and welfare is not endangered nor the engineering profession diminished.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

PASSED BY THE SENATE
March 7, 2012



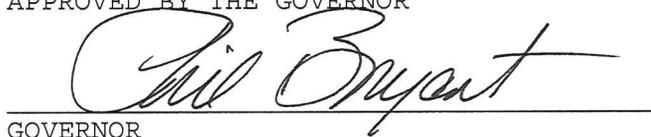
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
April 4, 2012



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

5:45 pm