

The legislation (H.B. 347), introduced in January, will require engineering firms to obtain a permit from the State Board for Professional Engineers (which operates under the Department of Labor, Licensing, and Regulation) to provide professional engineering services. The permit allows the business—either a corporation, partnership or limited liability corporation—to operate through a dedicated professional engineer and indicates to the public that the firm is authorized to provide engineering services. Currently, architects and surveyors are required to obtain a firm permit in the state.

South Carolina Bill Seeks Protections for Design Professionals – Design professionals in South Carolina may get some relief if a liability protections bill is enacted. The legislation, introduced in January, seeks to amend the state's Limited Liability Corporation Act to shield design professionals from personal liability when acting in good faith as a member of a limited liability corporation.

The bill (S. 124) was introduced after the South Carolina Supreme Court ruled that the state legislature didn't intend for the law to protect a member of a limited liability corporation from personal liability while performing for the business

The [South Carolina Society of Professional Engineers](#) supports the legislation because numerous A/E firms in the state are limited liability corporations. The bill changes the language in the act to state that the debts, obligations, and liabilities of a limited liability corporation (whether arising in contract, tort, or otherwise) are solely the debts, obligations, and liabilities of the company. A member or manager, as an agent of that company, cannot be held personally liable for these debts, obligations, and liabilities. The liability shield can only be waived if a waiver is set forth in the articles of organization and the design professional has consented to the waiver in writing.

Hawaii PEs Oppose Bill Allowing Vets to Skip PE Exam – Professional engineers in Hawaii are questioning the wisdom of a bill being considered by the state senate aimed at making licensure easier for veterans.

The bill (S.B. 506) applies to all forms of professional licensure in the state and, as it is currently written, is also opposed by dentists and accountants, according to Majella Stevenson, P.E., F.NSPE, the [Hawaii Society of Professional Engineers](#)' representative for veteran issues. "It's got a bunch of good language in it aimed at helping veterans to get a license easier," she says. "But there's also a stipulation that, based on military experience, the exam requirement can be waived."

If enacted, the bill would allow applicants to skip the PE exam if the Hawaii licensing board determines they are qualified for licensure based on education, training, or service.

Despite her own veteran status, Stevenson does not support such a provision. "We really do support veterans getting jobs and assisting them, and we think a lot of the other portions of the bill are fine," Stevenson says. "Our concern is that they do need to sit for an exam."

FEDERAL LEGISLATIVE/REGULATORY MATTERS

Sequestration and the Public Health, Safety, and Welfare – The National Society of Professional Engineers has written to national leaders about perhaps an overlooked, but potentially grave, result of the current budget impasse and sequestration: the severely diminished ability of professional engineers in the public and private sectors to fulfill their ethical obligation to protect the public health and safety. In short, the continuing failure to reach agreement on federal budget matters has the very real potential to place U.S. citizens at risk.

In letters to President Obama, Senate Majority Leader Harry Reid, and Speaker of the House John Boehner, NSPE President Dan Wittliff, P.E., F.NSPE, writes, "The efforts of tens of thousands of America's professional engineers working to improve our nation's infrastructure, to identify new energy sources, to protect our environment, and to support our national security are being jeopardized because of the federal government's inability to resolve the current budget impasse."

While the critical work of professional engineers in the public and private sector continues, declining funds present a major impediment to their efforts. Dedicated to practicing engineering in an ethical manner, professional engineers hold paramount the health, safety, and welfare of the American public. Reducing funding for vital engineering projects has the potential to create project authorization barriers at the state and local levels, force engineers to postpone critical projects, and even worse, to complete projects in a manner opposed to their ethical standards and that jeopardizes the safety of the public.

"To minimize the possibility that these and other important engineering efforts are put at risk," writes Wittliff, "NSPE urges all parties in these budget discussions to vigorously pursue expeditious resolution of their differences for the benefit of the health, safety, and welfare of the American people."

Lifelong Learning Critical to U.S. Competitiveness – More lifelong learning opportunities for practicing engineers are critical to improving U.S. innovation and competitiveness, says a recent National Academy of Engineering report.

In a survey of more than 3,000 engineers, researchers found that engineers are enthusiastic for lifelong learning opportunities and want to be recognized by their peers and employers for these activities. They believe that the development of program content should be driven by scientific and technological advances; changing global practices; new policies and regulations; and new industries and marketplaces.

Despite the interest, there are barriers to accessing and engaging in lifelong learning. The lack of time and finances were cited as the leading obstacles followed by the lack of an appropriate program.

The study's authors also found that the current lifelong learning infrastructure models are inadequate. The courses available to practicing engineers often lack standardization and uniformity and don't address the changing needs of learners, particularly learners who want to study and interact online.

Infrastructure Neglect Hurts Economy, Report Says – U.S. infrastructure received a D grade in the American Society of Civil Engineers' 2009 report card. Now, a new report series from the organization poses an important question: How does this grade affect America's economic future?

ASCE's Failure to Act report series examines this question in nine infrastructure categories, including roads, rail, water, and energy. According to the recently released culminating report, the results show that "deteriorating infrastructure, long known to be a public safety issue, has a cascading impact on the nation's economy, negatively affecting business productivity, gross domestic product, employment, personal income, and international competitiveness."

The report estimates a \$1.1 trillion cumulative gap between projected needs and likely investment in critical systems by 2020. If that shortfall isn't addressed, it says, businesses and households will face less efficient and more expensive infrastructure services. For instance, travel and commuting will cost more, and goods will become more expensive to produce and transport. That in turn will affect such factors as consumer spending and companies' ability to provide well-paying jobs.

Expected results of the investment gap through 2020 include:

- \$3,100 per year drop in disposable income per household;
- \$2.4 trillion decrease in consumer spending;
- 3.5 million lost jobs;
- \$1.1 trillion loss in total trade; and
- \$3.1 trillion cost to GDP.

Water Safety Expert Named Federal Engineer of the Year – Capt. Richard Gelting, P.E., an international expert on water safety with the Department of Health and Human Services' Centers for Disease Control and Prevention has been named the NSPE's 2013 Federal Engineer of the Year.

Gelting, who manages and coordinates the CDC's water, sanitation, and hygiene team, has led numerous efforts to improve living conditions around the world. He has not only coordinated implementation of water safety plans in seven countries but, working with the International Water Association and the World Health Organization, has led teams that developed evaluation documents for those water safety plans and shaped the global research agenda.

Gelting also championed and directed a 10-year sustainability study of water, sanitation, and hygiene interventions implemented by the Red Cross in Honduras, Nicaragua, El Salvador, and Guatemala. Results from this study have led to changes in the way the Red Cross works to sustain health benefits.

Gelting holds a bachelor's degree in hydrology from the University of New Hampshire, a master's degree in water resources engineering from Stanford University, and a doctoral degree in civil engineering from Stanford.

COURT DECISIONS

Beacon Residential Community Assoc v Skidmore, 211 Cal.App.4th 1301 (2012) – In a recent ruling, the California Court of Appeal in *Beacon Residential Community Assoc v Skidmore*, 211 Cal.App.4th 1301 (2012) held that a design professional owes a reasonable duty of care to provide competent plans/design to a home owners association and foreseeable residential purchasers. This decision, if sustained by the California Supreme Court which recently granted review, expands the scope of design professionals' duty of care and will undoubtedly open design professionals up to a great deal of litigation from home owner purchasers. Furthermore, while not explicitly stated in the holding, we may see the duty flow to other third parties like contractors and subcontractors, and perhaps even impact design professionals' liability in future non-residential projects as well.

In *Beacon*, plaintiff Beacon Residential Community Association ("BRCA") sued Skidmore, Owings and Merrill ("Skidmore") an architectural and engineering firm, alleging multiple construction defects including a condition causing the condominium units to have excessively high temperatures. Skidmore had provided architectural, landscape architecture, and engineering services as well as construction administration and construction contract management for the 595 unit condominium project.

BRCA alleged that Skidmore's plans provided non-rated windows which caused the individual condo units to become overheated and that they lacked proper ventilation, making them uninhabitable, and sued for violation of the building standards set forth by Civil Code sections 896 and 897 (aka "SB 800"), and professional negligence. Skidmore argued it owed no duty to the association or the condominium owners. The trial court agreed. As a result, the court held that absent such a duty, Skidmore was immune and liability could not be imposed for negligent design. In its ruling in Skidmore's favor, the trial court relied largely on *Weseloh Family Ltd. Partnership v. K.L. Wessell Construction Co., Inc.* (2004) 125 Cal.App.4th 152, where defendant engineers were sued by the property owner and by the general contractor. In *Weseloh*, the trial court granted motions for summary judgment on the ground that the design engineers did not owe a duty of care to the property owner or to the general contractor. In *Beacon*, the trial court also stated that BRCA was required to show that the design professionals had "control" in the construction process beyond merely providing design recommendations to the owner.

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