

Legislative Update Summary

Bills Directly Impacting the Profession

On the affirmative front legislation to require the use of **Qualifications Based Selection by Public Authorities and Public Benefit Corporations**, in addition to state agencies, has passed both houses and will be forwarded to the Governor for his consideration.

At the same time, legislation strongly opposed by the Society **vesting authority in New York City to independently sanction Professional Engineers** and Registered Architects for professional misconduct arising out of the improper use of NYC's Department of Building's Self-Certification procedures has passed both houses. The legislation, if approved by the Governor, could lead to the fragmentation of the mechanism presently in place to discipline design professionals.

Additional NYSSPE Priority Bills include:

Bachelors' Degree - Requires a Bachelor's Degree to be licensed as a PE. Union opposition from the Public Employees' Federation has created a roadblock to approval of this measure.

Liberalization of Firm Ownership - The Society supports legislation to permit non-licensees to own not more than Twenty-Five Percent of a **Design Professional Service Corporation** (i.e. firms permitted to practice professional engineering, architecture, landscape architecture and/or land surveying).

Statute of Repose - Creates a 10-year Statute of Repose requiring that actions for personal injury and wrongful death be commenced not more than 10 years after a project is completed. This legislation continues to face vociferous opposition from the New York State Trial Lawyer's Association.

NYSSPE – Support/Neutral

Licensure of professional geologists- NYSSPE supports legislation licensing geologists, provided geologists are not authorized to provide design services and professional engineers are not precluded from undertaking all aspects of geology within the province of a professional engineer.

Alteration of Surveys - This legislation has had more than a dozen iterations. NYSSPE does not oppose the most recent legislation, vetoed by former Governor Pataki that would have barred the use of a survey update by visual inspection undertaken by a land surveyor in connection with a title transfer or mortgage of real property. Prior versions of the legislation would have prevented a PE from altering a land boundary survey prepared by a land surveyor, including preventing the preparation of a site plan.

Following is a partial **list of bills defeated** to date:

Expansion of Exemptions to Engineering Licensure Requirement - This legislation expands a number of provisions in the Education Law which exempt certain projects from the requirement that design services be provided by a professional engineer.

Land Surveyor's Scope of Practice - The NYS Association of Professional Land Surveyors supports legislation to greatly expand the scope of practice of land surveying to include significant aspects of professional engineering and severely limit surveying and other services by Professional Engineers.

Designed Delegation - Requires that portions of an overall project design prepared by a secondary designed professional retained by a contractor or subcontractor be reviewed and approved by the primary designed professional (PE or RA) with limited exceptions for pre-engineered or manufactured components and means and methods of construction.

Wastewater Treatment - This legislation permits the design of specific wastewater treatment systems (less than 1,500 gallons per day), by individuals not holding a license as professional engineers.

December 12, 2007: Last minute update from the NYSSPE:

Legislative

The New York State Legislature will be returning for a special session next week, however we do not anticipate any of our bills to be considered at this time.

Regulatory

State Board for Engineering & Land Surveying:

At their last meeting, the Board reviewed our written comments on the 3 Practice Guidelines and indicated that they would take them into consideration when they finalize these drafts. The Board discussed the effects of the new law that gives the Department of Buildings the right to sanction licensees who are found to be violators of DOB standards. The Board questioned the constitutionality of a city agency punishing a state licensee. The Board also discussed the NCEES "B+30" proposal, recognizing that we still do not have a bachelor's requirement in this state.

Home Inspection Council:

The Council met to discuss the Standards of Practice Guidelines, which were amended in a previous meeting and approved as written. It was not clear what all of the changes were; however they will be submitted to the Governor's Office of Regulatory Reform and then published for a 45 day public comment period in early 2008. The next meeting will be held on February 27, 2008 in NYC.

For greater detail on these legislative issues and a listing of the sponsoring legislators, visit our local NSPE chapter's website at www.capdistpe.org and the NYSSPE website at <http://www.nysspe.org/government.shtml>.

Provided by John Steele, P.E, as adapted from information provided by Kelly Norris, NYSSPE Executive Director, and the article Legislative Update written this past year for NYSSPE by Mark Kriss, Esq., Legislative Counsel for the NYSSPE. Please feel free to direct any questions, comments, or concerns regarding legislative issues to John at jsteele@SteeleEngineers.com.