

Tentative Minutes

Arizona State Board of Technical Registration
LEGISLATION AND RULES COMMITTEE

1110 W. Washington Street, Suite 240
Phoenix, Arizona 85007

Tuesday, August 11, 2015 – 9:30AM

1. CALL TO ORDER – 9:30 am

2. **ROLL CALL** - Members in attendance: LeRoy Brady, Douglas Folk, William Greenslade, Stuart Lane, and Edward Marley. Absent: Ronald Starling. Staff: Melissa Cornelius, Douglas Kraemer, Douglas Parlin, Patrice Pritzl, and Gregory Wisher.

3. **CALL TO THE PUBLIC** - Ms. Sheila Bowen, Civil Engineer and Public Works Director for the Town of Sahuarita, addressed the Board to request that the Board clarify the process for subsequent engineers to seal plans. Mr. Matthew Gorman, Architect, addressed the Board to request that the Board issue a statement to clarify the purpose of the expiration date under the seal.

4. ADOPTION OF MINUTES

Review, Consideration and Possible Action of the following:

- A. Approve, modify and/or reject March 19, 2015 Committee minutes. Moved to the next meeting's agenda on October 6, 2015.

5. REVIEW, DISCUSSION AND POSSIBLE ACTION ON THE FOLLOWING:

- A. Proposed modifications to the Board's Statutes for a future Omnibus Bill. – Mr. David Schwartz, Chairman of the Home Inspection Rules and Standards Committee, appeared before the Board to discuss the Board's statutes pertaining to financial assurance, a.k.a. proof of financial responsibility. Mr. Schwartz stated that an applicant applying for a Home Inspection License must send proof of insurance to the Board within 60 days of being granted certification. He also stated that the statute is not clear as to whether the licensee is authorized to perform a Home Inspection within the 60 day time period while waiting to receive the licensee's proof of financial responsibility. Mr. Schwartz requested that the Board have the statute changed to reflect that a Home Inspector cannot perform an inspection until the financial assurance information is on file with the Board.

Mr. Schwartz requested that the Board rescind the third method of financial assurance, currently in the statute, allowing for the licensee to produce collateral as a form of financial assurance. This option is not feasible at this time.

Ms. Janice Burnett, Executive Director of the American Council of Engineering Companies of Arizona, addressed the Committee and requested that the Firm Registration laws be clarified so that everyone understands their importance.

Mr. Michael Fonderon, Land Surveyor, Arizona Professional Land Surveyors, addressed the Committee to request that the Board impose a minimum training standard and a duration of experience period for the Land Surveyor profession before a land surveyor could be granted registration. Ms. Cornelius stated that the Board is considering an amendment to § 32-122-01 which would require land surveyors to provide the Board with 8 years of education and/or experience to qualify for registration.

Mr. R. L. Lawrence, Land Surveyor, Arizona Professional Land Surveyors (Saguaro Chapter) addressed the Committee to elaborate on the proposed definition change for surveying practice.

Ms. Cornelius presented the proposed draft of modified statutes to the Committee for discussion and review. The Committee reviewed the proposals and entertained input from the public and staff. Ms. Cornelius proposed striking some subsections under § 32-101; (B)(7) Architect in training, (B)(9) Assayer, (B)(10) Assayer in training, (B)(13) Certified remediation specialist, (B)(15) Drug Laboratory site remediation firm, (B)(26) Home Inspector in training, (B)(34) On-site supervisor, and (B)(35) On-site worker.

Mr. Folk suggested that perhaps it was time to have a definition of “responsible charge” in the statute. Mr. Folk stated that in his opinion having a definition of “responsible charge” might give the Board an avenue to provide better guidance to registrants and their clients about how much involvement the registrant has to have in the work and what kind of oversight is necessary when plans are sealed.

Mr. Greenslade commented that some of the things the Board proposed striking in the statutes need to be struck in the rules as well; e.g. some issues pertaining to Drug Labs.

Ms. Cornelius reported to the Committee that she made some proposed changes to the Board rules for its review and approval. The Committee reviewed other proposed modifications to the Board’s statutes, including to ARS § 32-108, 32-106.01, etc.

- B. Proposed modifications to the Board’s Rules for a future Rule Making. - Ms. Janice Burnett, Executive Director of the American Council of Engineering Companies of Arizona, addressed the Committee and requested that the definitions under the Drug Lab rules be removed.

Mr. Folk noted that there was a challenge at the last Board meeting pertaining to the checklist that the EAC uses for the Home Inspectors that has not been adopted by the Board and is not enforceable. Ms. Cornelius stated that § 32-111 “Home Inspector Rules and Standards Committee” subsection “D” explains the committee’s responsibilities.

Ms. Cornelius stated that there are proposed changes to R4-30-106, the Fees Rule, including license verification, and BTR has received approval from the Governor’s Office to open a docket and proceed with rule making. Ms. Cornelius stated that she

estimated that BTR can recoup about \$30,000.00 a year from verification fees. Ms. Cornelius stated that under R4-30-106 (B) she'd like to make provisions for credit card payments. Mr. Marley stated that subsection "D" conflicts with the statute as it currently stands. He suggested that BTR modify the rule to coincide with the statute.

Ms. Cornelius asked the Committee if the language for the geologist statute should read "a geologist may take the in-training examination on the same day as the professional examination." The Committee agreed.

Mr. Marley suggested that the Committee reschedule a meeting to revisit the Rules.

C. Questions from the Public:

1. Whether a Non-Registrant can hold the title of "City Engineer." – Ms. Sheila Bowen commented on item 5.C.1. She stated that the rules are clear pertaining to the practice of engineering, especially when it pertains to public works. Ms. Bowen stated that it is a disservice to the public when the title of City or Town Engineer is errantly given to a non-registrant. The Committee suggested that a letter from the BTR Executive Director be sent to the League of Cities and Towns stating the position of the Board on said titles.
2. Whether the Board should review Water Well Inspection Reports – Mr. Gary Hix, a registered Professional Geologist, appeared before the Committee to request that the Board consider Certifying Water Well inspectors in the same manner as Home Inspectors.

Mr. Folk asked Mr. Hix, if he believed that the water well inspection reports amount to the practice of geology or engineering. Mr. Hix answered "yes, if the report is certified by the inspector." Mr. Folk also asked Mr. Hix if there were elements of work involving a requirement for technical skill and competence involved doing a water well inspection report that fit within the Board's definition of Engineering or Geology. Mr. Hix answered "yes", and stated that if the person performing the inspection certifies that the water will be there for the life of the mortgage, it comprises the practice of geology or engineering.

Mr. Folk asked Mr. Hix if a complaint had been filed against any person who is not a registrant for making the certification. Mr. Hix answered "no."

Mr. Folk asked Mr. Hix if the language of the certifications exceeds what a qualified professional could sign and exercise good judgement. Mr. Folk also asked Mr. Hix if the language of the certifications requirements exceeds what would be the standard of practice. Mr. Hix stated that he is the only one who can certify the inspections because he is a registered professional engineer.

The Committee decided that it cannot address or evaluate problems with Water Well Inspections until a complaint is filed at the Board.

D. Questions regarding Signing and Sealing Documents:

1. Whether Registered Engineers can sign and seal “2C Certification Letters.” – The Board discussed whether registered engineers can sign and seal “2 C Certification Letters.” The Committee concluded that it depends on incidental practices.
2. Whether a subsequently employed engineer can seal plans created by previously employed engineers. – The Committee dialogued with Ms. Bowen regarding registered engineers who act in the capacity of subsequently employed engineers and are responsible for sealing plans. The Committee reached consensus that newly hired engineering professionals who seal plans created by previously employed professionals shall first review the plans for accuracy and confirm that the plans are up-to-date with the current codes.
3. Whether digital signatures have to be registered with a third party company or whether self-certification is acceptable. – Mr. Philip Mouw (registered Mechanical Engineer) addressed the Committee to inquire whether the Board requires registrants to use a third party company for the digital signature authentication process. Mr. Lane stated that the Board does not require registrants to use a third party company for digital signatures.
4. Whether unsigned digital drawings can be sent to a collaborating professional. – The Committee discussed whether unsigned digital drawings can be sent to a collaborating professional. The Committee agreed that unsigned digital drawings can be sent to a collaborating professional.

6. FUTURE AGENDA ITEMS – Statutes and Rules

7. FUTURE MEETINGS – October 6, 2015

8. ADJOURNMENT – 1:38 p.m.