

House Bill 3143

Sponsored by COMMITTEE ON JUDICIARY (at the request of Department of Justice)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Revises definitions regarding activities and oral representations constituting practice of engineering, professional engineering or land surveying.

A BILL FOR AN ACT

1
2 Relating to occupations regulated by the State Board of Examiners for Engineering and Land Sur-
3 veying; amending ORS 672.005, 672.007 and 672.060.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 672.005 is amended to read:

6 672.005. As used in ORS 672.002 to 672.325, unless the context requires otherwise:

7 (1) "Practice of engineering" or "practice of professional engineering" means[*doing*] any of the
8 following **when done for others**:

9 (a) Performing [*any professional*] a service or [*creative*] **creating an original** work requiring
10 engineering education, training and experience.

11 [*(b) Applying special knowledge of the mathematical, physical and engineering sciences to such*
12 *professional services or creative work as consultation, investigation, testimony, evaluation, planning,*
13 *design and services during construction, manufacture or fabrication for the purpose of ensuring com-*
14 *pliance with specifications and design, in connection with any public or private utilities, structures,*
15 *buildings, machines, equipment, processes, works or projects.*]

16 **(b) In connection with utilities, structures, buildings, machines, equipment, processes,**
17 **works or projects, whether private or public, applying special knowledge of the mathematical,**
18 **physical and engineering sciences to services or original works such as:**

19 **(A) Consultation;**

20 **(B) Investigation;**

21 **(C) Evaluation;**

22 **(D) Planning;**

23 **(E) Design; and**

24 **(F) Services during construction, manufacture or fabrication for the purpose of ensuring**
25 **compliance with specifications and design.**

26 (c) Surveying to determine area or topography.

27 (d) Surveying to establish lines, grades or elevations, or to determine or estimate quantities of
28 materials required, removed or in place.

29 (e) Surveying required for design and construction layout of engineering and architectural
30 infrastructure.

31 (f) Performing photogrammetric mapping.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

- 1 (2) “Practice of land surveying” means doing any of the following **for others**:
- 2 (a) Providing or offering to provide professional services that apply mathematics, geodesy and
 3 other sciences and involve:
- 4 (A) The making of geometric measurements and gathering of related information pertaining to:
- 5 (i) The physical or legal features of the earth;
- 6 (ii) Improvements on the earth; or
- 7 (iii) The space above or below the earth; or
- 8 (B) The development of measurements and information described in subparagraph (A) of this
 9 paragraph into graphics, data, maps, plans, reports, descriptions, projects or other survey products.
- 10 (b) Performing geodetic surveys.
- 11 (c) Establishing, reestablishing or replacing boundaries or geodetic control monuments or ref-
 12 erence points.
- 13 (d) Locating, relocating, establishing, reestablishing or retracing any property lines or bounda-
 14 raries for any tract of land, road right-of-way or easement.
- 15 (e) Making any survey for the division or subdivision of a tract of land or for the consolidation
 16 of tracts of land.
- 17 (f) Locating and laying out alignments, positions or elevations for the construction of fixed
 18 works.
- 19 (g) Performing or offering to perform any investigation, interpretation or evaluation of, or any
 20 consultation [*or testimony*] about, any of the services described in paragraphs (a) to (f) of this sub-
 21 section.
- 22 (h) Collecting, preparing, manipulating or modifying data related to activities described in par-
 23 agraphs (a) to (f) of this subsection, other than acting as a scrivener.
- 24 (i) Performing photogrammetric mapping.
- 25 (j) Making surveys that involve horizontal or vertical mapping control or geodetic control.
- 26 **SECTION 2.** ORS 672.007 is amended to read:
- 27 672.007. For purposes of ORS 672.002 to 672.325:
- 28 (1) A person is practicing or offering to practice engineering if the person:
- 29 (a) By verbal claim, sign, advertisement, letterhead[,] **or** card or in any other way implies that
 30 the person is or purports to be a **professional engineer or** registered professional engineer;
- 31 (b) Through the use of some other title implies that the person is [*an*] **a professional** engineer
 32 or a registered professional engineer; or
- 33 (c) [*Purports to be able to perform, or who does perform, any*] **Bids to perform or performs**
 34 **commercial or professional** service or work that is defined by ORS 672.005 as the practice of en-
 35 gineering.
- 36 (2) A person is practicing or offering to practice land surveying if the person:
- 37 (a) By verbal claim, sign, advertisement, letterhead[,] **or** card or in any other way implies that
 38 the person is or purports to be a **professional land surveyor or registered professional** land
 39 surveyor;
- 40 (b) Through the use of some other title implies that the person is a **professional land surveyor**
 41 **or registered professional** land surveyor; or
- 42 (c) [*Purports to be able to perform, or who does perform, any*] **Bids to perform or performs**
 43 **commercial or professional** land surveying service or work or any other service that is defined
 44 by ORS 672.005 as the practice of land surveying.
- 45 (3) A person is practicing or offering to practice photogrammetric mapping if the person:

1 (a) By verbal claim, sign, advertisement, letterhead, card or in any other way implies that the
 2 person is or purports to be a photogrammetrist, **registered photogrammetrist or professional**
 3 **photogrammetrist;**

4 (b) Through the use of some other title implies that the person is a photogrammetrist, **regis-**
 5 **tered photogrammetrist or professional photogrammetrist;** or

6 (c) [*Purports to be able to perform, or who does perform, any*] **Bids to perform or performs**
 7 photogrammetric service or work or any other service that is defined by ORS 672.002 as pho-
 8 togrammetric mapping.

9 **SECTION 3.** ORS 672.060 is amended to read:

10 672.060. ORS 672.002 to 672.325 do not apply to the following:

11 (1) A registered architect practicing architecture.

12 (2) A registered environmental health specialist or registered environmental health specialist
 13 trainee working under the supervision of a registered environmental health specialist practicing
 14 environmental sanitation, or a registered waste water specialist or registered waste water specialist
 15 trainee working under the supervision of a registered waste water specialist practicing waste water
 16 sanitation.

17 (3) A person working as an employee or a subordinate of a registered professional engineer if:

18 (a) The work of the person does not include final engineering designs or decisions;

19 (b) The work of the person is done under the supervision and control of and is verified by a
 20 registered professional engineer; and

21 [*(c) The person does not purport to be an engineer or registered professional engineer by any verbal*
 22 *claim, sign, advertisement, letterhead, card or title.*]

23 **(c) The person does not by verbal claim, sign, advertisement, letterhead or card or in any**
 24 **other way imply that the person is or purports to be a professional engineer or registered**
 25 **professional engineer.**

26 (4) A person practicing land surveying under the supervision of a registered professional land
 27 surveyor or registered professional engineer. The exemption in this subsection does not allow an
 28 engineer to supervise a land surveying activity the engineer could not personally perform under
 29 ORS 672.025.

30 (5) An individual, firm, partnership or corporation practicing engineering or land surveying:

31 (a) On property owned or leased by the individual, firm, partnership or corporation, or on
 32 property in which the individual, firm, partnership or corporation has an interest, estate or
 33 possessory right; and

34 (b) That affects exclusively the property or interests of the individual, firm, partnership or cor-
 35 poration, unless the safety or health of the public, including employees and visitors, is involved.

36 (6) The performance of engineering work by a person, or by full-time employees of the person,
 37 provided:

38 (a) The work is in connection with or incidental to the operations of the person; and

39 (b) The engineering work is not offered directly to the public.

40 (7) A person executing engineering work designed by a professional engineer or supervising the
 41 construction of engineering work as a foreman or superintendent.

42 (8) A landowner performing land surveying within the boundaries of the landowner's land or the
 43 landowner's regular employee performing land surveying services as part of the employee's official
 44 duties within the boundaries of the land of the employer.

45 (9) An individual, firm, partnership or corporation offering to practice engineering, land sur-

1 surveying or photogrammetric mapping if:

2 (a) The individual, firm, partnership or corporation holds a certificate of registration to engage
 3 in the practice of professional engineering, land surveying or photogrammetric mapping issued by
 4 the proper authority of any other state, a territory or possession of the United States, or a foreign
 5 country; and

6 (b) The offer includes a written statement that the offeror is not registered to practice engi-
 7 neering, land surveying or photogrammetric mapping in the State of Oregon, but will comply with
 8 ORS 672.002 to 672.325 by having an individual holding a valid certificate of registration in this
 9 state in responsible charge of the work prior to performing any engineering, land surveying or
 10 photogrammetric mapping work within this state.

11 (10) A person making plans or specifications for, or supervising the erection, enlargement or
 12 alteration of, a building, or an appurtenance thereto, if the building is to be used for a single family
 13 residential dwelling or farm building or is a structure used in connection with or auxiliary to a
 14 single family residential dwelling or farm building, including but not limited to a three-car garage,
 15 barn or shed or a shelter used for the housing of domestic animals or livestock. The exemption in
 16 this subsection does not apply to a registered professional engineer.

17 (11) A person making plans or specifications for, or supervising the erection, enlargement or
 18 alteration of, a building, or an appurtenance thereto, if the building has a ground area of 4,000
 19 square feet or less and is not more than 20 feet in height from the top surface of lowest flooring to
 20 the highest interior overhead finish of the structure. The exemption in this subsection does not apply
 21 to a registered professional engineer.

22 (12) A construction contractor licensed under ORS chapter 701 that offers services constituting
 23 the practice of engineering if:

24 (a) The services are appurtenant to construction services to be provided by the contractor;

25 (b) The services constituting the practice of engineering are performed by an engineer or engi-
 26 neers registered under ORS 672.002 to 672.325; and

27 (c) The offer by the construction contractor discloses in writing that the contractor is not an
 28 engineer and identifies the engineer or engineers that will perform the services constituting the
 29 practice of engineering.

30 (13) A person transcribing existing georeferenced data into a Geographic Information System
 31 or Land Information System format by manual or electronic means, and the maintenance of that
 32 data, if the data are clearly not intended to indicate the authoritative location of property bounda-
 33 ries, the precise shape or contour of the earth or the precise location of fixed works of humans.

34 (14) A person carrying out activities under ORS 306.125 or 308.245. This exemption applies to
 35 the transcription of tax maps, zoning maps and other public data records into Geographic Informa-
 36 tion System or Land Information System formatted cadastre and the maintenance of those cadastre,
 37 if:

38 (a) The data are not modified for other than graphical purposes; and

39 (b) The data are clearly not intended to authoritatively represent property boundaries.

40 (15) A person preparing maps or compiling databases depicting the distribution of natural or
 41 cultural resources, features or phenomena, if the maps or data are not intended to indicate the au-
 42 thoritative location of property boundaries, the precise shape or contour of the earth or the precise
 43 location of fixed works by humans.

44 (16) A federal agency or its contractors, in the preparation of military maps, quadrangle
 45 topographic maps, satellite imagery or other maps or images that do not define real property

1 boundaries.

2 (17) A federal agency or its contractors, in the preparation or transcription of documents or
3 databases into a Geographical Information System or Land Information System format, including but
4 not limited to the preparation or transcription of federal census and other demographic data.

5 (18) A law enforcement agency or its contractors, in the preparation of documents or maps for
6 traffic accidents, crime scenes or similar purposes depicting physical features or events or generat-
7 ing or using georeferenced data involving crime statistics or criminal activities.

8 (19) A peace officer, as defined in ORS 161.015, or a fire service professional, as defined in ORS
9 181A.355, conducting, reporting on or testifying about or otherwise performing duties regarding an
10 official investigation.

11 (20) A person creating general maps prepared for private firms or governmental agencies:

12 (a) For use as guides to motorists, boaters, aviators or pedestrians;

13 (b) For publication in a gazetteer or an atlas as an educational tool or reference publication;

14 (c) For use in the curriculum of any course of study;

15 (d) If produced by any electronic or print media, for use as an illustrative guide to the ge-
16 ographic location of any event; or

17 (e) If prepared for conversational or illustrative purposes, including but not limited to for use
18 as advertising material or user guides.

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