

North Dakota State Board of Registration for Professional  
Engineers and Land Surveyors

Testimony for ND Administrative Rules Committee (December 15, 2010)

1. Did the rules result from statutory changes made by the Legislative Assembly? **Yes in part. When the Sixty-First Legislative Assembly passed SB-2268 it required an extensive rewrite of Chapter 28 of the North Dakota Administrative Code (NDAC). Part of that rewrite related to the Administrative Code Section dealing with changes in fees and fee caps. When the ND Attorney General reviewed the rewrite, that office did not approve the proposed changes to Section 28-02.1-02 dealing with Examinations and Fees because the exact fees were not set out. Even though the fees that were currently being charged by the ND State Board of Registration for PE/LS were within the fee caps as passed by previous Legislative Assemblies, the Attorney General indicated that a schedule of the fees being actually charged must be specified by rule and included in Chapter 28 of the NDAC. The amended administrative rule now before this Committee, and recently adopted by the State Board of Registration, is in response to the Attorney General's requirement for a schedule of fees to be included in Chapter 28 of the NDAC.**
2. Do the rules relate to any federal statute or regulation? **No, the rules do not relate to any federal statute or regulation.**
3. Describe the rule making procedure followed by the State Board of Registration in adopting these rules. **The original sponsors of SB-2268 (Senators Nodland and Wanzek and Representatives N. Johnson and Kasper) were notified of the Attorney General's opinion and the State Board's plan to amend Section 28-02.1-10-02 of the NDAC to comply with the Attorney General's requirement for a schedule of fees to be set out. Notice of the hearing was published in all of the daily and weekly newspapers in accordance with state law. A copy of the proposed rule change, the notice of the hearing were published at the State Board of Registration web page along with instructions for the dates and instructions for sending in comments or appearing at the hearing. In addition, the Board is aware the proposed rule change was referenced in newsletters of the engineering society and land surveying professional group; and information about the hearing and the proposed change were also discussed during staff appearances before the various professional groups. A hearing was held on September 14, 2010 for testimony and comments on the proposed rule change. The rule was adopted after the hearing on September 28, 2010. The rule was then submitted to, and approved by, the North Dakota Attorney General.**
4. Describe the content of any testimony, complaint, objection that was submitted to the State Board of Registration for consideration by the board members and the response of the State Board of Registration in this regards. **No written or oral testimony was received from the public in regards to the proposed rule. One individual requested a copy of the proposed rule and the notice of hearing prior to the time they were published and he received the requested documents.**

5. Summarize the approximate cost of giving public notice and holding the hearing. **The State Board of Registration expended \$ 1,619.60 for publishing the notice of hearing in the state's newspapers. Legal costs were \$ 635.00. Other costs included \$105.08 for the statutory review by the ND Attorney General's office. The total cost for the process, excluding staff time, was \$ 2,359.68.**
6. Provide an explanation of the subject matter of the rules and the reasons for adopting these rules. **The rule contains a schedule of fees that meets the Attorney General's requirement. All personal registrations expire on December 31<sup>st</sup> of even numbered years and company registrations expire on December 31 of every year. Renewals for the Certificate of Commercial Practice (company registration) will remain the same, and this fee is equal to the fee cap for this category of registration. The State Board encourages registrants to renew before the expiration deadline as failure to renew before the deadline places that registration in a delinquent position. Performing engineering and/or land surveying without a current registration is against the law. Renewing an expired registration costs additional staff time and exposes the delinquent registrant to illegal practice which can result in disciplinary action causing further staff time outlays. If a personal registrant renews after December 31, the renewal fee is equal to the fee cap for this category of registration. The proposed rule allows all personal registrants to renew at a renewal cost that is \$50.00 less than if the renewal is made after December 31<sup>st</sup> of a renewal year. It is hoped that this incentive will encourage registrants to renew on a timely basis.**
7. Was a regulatory analysis required by the North Dakota Century Code, Section 28-32-08 and was a regulatory analysis issued? **No regulatory analysis was required nor filed.**
8. Was a regulatory analysis or economic impact statement of impact on small entities was required by NDCC Section 28-32-08.1 and was that statement filed? **No regulatory analysis or economic impact statement of impact on small entities was required nor filed.**
9. Was a constitutional takings assessment prepared as required by NCEE Section 28-32-09? **A constitutional takings assessment was not required and was not prepared.**
10. Were these rules adopted as emergency rules? **No.**