

45:48-1 to 14

LEGISLATIVE HISTORY CHECKLIST

NJSA: 45:48-1 to 14

('Building Design Services Act')

LAWS OF: 1989

CHAPTER: 277

Bill No: A5049

Sponsor(s): Penn

Date Introduced: November 27, 1989

Committee: Assembly: Higher Education & Regulated Professions

Senate: -----

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: December 18, 1989

Senate: December 21, 1989

Date of Approval: January 8, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: No

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

1 professional misconduct. Any professional engineer who, or
 2 business association authorized to offer engineering services
 3 which, violates this act shall be disciplined by the Board of
 4 Professional Engineers and Land Surveyors. Such a violation shall
 5 be deemed professional misconduct.

6 b. Any violation of this act by an unlicensed individual or
 7 unauthorized business association shall be disciplined by the
 8 Board of Architects, consistent with the Uniform Enforcement
 9 Act, P.L.1978, c.73 (C.45:1-15 et seq.). Such a violation shall be
 10 deemed the unlicensed practice of architecture. However, the
 11 design of an engineering work by an unlicensed individual or
 12 unauthorized business association shall be disciplined by the
 13 Board of Engineers and Land Surveyors, consistent with the
 14 Uniform Enforcement Act, P.L.1978, c.73 (C.45:1-15 et seq.).
 15 Such a violation shall be deemed the unlicensed practice of
 16 engineering.

17 15. This act shall take effect immediately but shall remain
 18 inoperative until 120 days following the enactment into law of
 19 P.L.....c.....(C.....)(now pending before the Legislature as
 20 Assembly Bill No.....of 1989) and P.L. c (C.)(now
 21 pending before the Legislature as Assembly Bill No. of 1989).

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24 STATEMENT

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26 This bill established a Joint Committee of Architects and
 27 Engineers to resolve disputes between Engineers and Architects
 28 in those areas where thier respective practices converge. The
 29 joint committee will receive referrals from the Board of
 30 Architects and the Board of Professional Engineers and Land
 31 Surveyors; conduct investigations to determine violations of this
 32 act; conduct, at its discretion, hearings; communicate in writing,
 33 its findings; and issue declaratory rulings on the use group
 34 classifications established by this act.

35 The joint committee will consist of five members, two of whom
 36 shall be licensed architect members of the State Board of
 37 Architects, two of whom shall be professional engineer members
 38 of the State Board of Professional Engineers and Land Surveyors
 39 and one of whom shall be appointed by the Governor. The

1 professional members will be appointed by their respective board
2 presidents with the advice and consent of a majority of their
3 respective boards. The gubernatorial appointment must be a
4 resident of this State with experience as an arbitrator and cannot
5 be a licensed architect, professional engineer, certified landscape
6 architect, or a closely allied professional.

7 The bill also sets forth the areas of practice which may be
8 designed, prepared, signed and sealed by licensed architects and
9 professional engineers, or both, and establishes the conditions
10 under which contracts to provide both engineering and
11 architectural services can be made.

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14 REGULATED PROFESSIONS

15 Building and Construction

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17 Regulates the practice of engineering and architecture and
18 establishes the Joint Committee of Architects and Engineers.

ASSEMBLY HIGHER EDUCATION AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5049

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 4, 1989

The Assembly Higher Education and Regulated Professions Committee favorably reports Assembly Bill No. 5049 with amendments.

As amended by committee, this bill establishes a Joint Committee of Architects and Engineers to resolve disputes between engineers and architects in those areas where their respective practices converge. The joint committee will receive referrals from the New Jersey State Board of Architects and the State Board of Professional Engineers and Land Surveyors; conduct investigations to determine violations of this act; conduct, at its discretion, hearings; communicate in writing its findings; and issue declaratory rulings on the use group classifications established by this act.

The joint committee shall consist of five members, two of whom shall be licensed architect members of the New Jersey State Board of Architects, two of whom shall be professional engineer members of the State Board of Professional Engineers and Land Surveyors and one of whom shall be appointed by the Governor. The professional members shall be appointed by their respective board presidents with the advice and consent of a majority of their respective boards. The gubernatorial appointment must be a resident of this State with experience as an arbitrator and cannot be a licensed architect, professional engineer, certified landscape architect, or a closely allied professional.

The bill also sets forth the areas of practice which may be designed, prepared, signed and sealed by licensed architects and professional engineers, or both, and establishes the conditions under which contracts to provide both engineering and architectural services can be made.

The committee amended the bill to delete the requirement that a licensed architect, who is rendering architectural services on behalf of a sole proprietor or business association authorized to render engineering services, must have right of access to the project's owner at all times. The committee amendments also delete the requirement that a licensed engineer, who is rendering engineering services on behalf of a sole proprietor or business association authorized to render architectural services, must have right of access to the project's owner at all times. The committee also made a variety of technical amendments to the bill.

P.L.1989, CHAPTER 277, *approved January 8, 1990*
1989 Assembly No. 5049 (*First Reprint*)

1 **AN ACT** regulating the practice of engineering and architecture,
2 creating the Joint Committee of Architects and Engineers and
3 supplementing Title 45 of the Revised Statutes.

4

5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. This act shall be known and may be cited as the "Building
8 Design Services Act."

9 2. The Legislature finds and declares that there is an area of
10 concurrent practice between the practice of architecture and the
11 practice of engineering, specifically in the area of building
12 design. In order to eliminate uncertainty and provide for the
13 resolution of future disputes in the area of concurrence, the
14 Legislature declares that it is in the public interest to create a
15 Joint Committee of Architects and Engineers to receive referrals
16 from the ¹New Jersey State¹ Board of Architects and the ¹State¹
17 Board of Professional Engineers and Land Surveyors; conduct
18 investigations to determine violations of this act; conduct, at its
19 discretion, hearings; communicate its findings in writing; and
20 issue declaratory rulings on the use group classifications
21 contained in section 7 of this act.

22 Nothing herein, except as provided in section 5 of this act,
23 shall be deemed to preempt the ultimate decision making
24 authority of the boards.

25 It is also the Legislature's intent to provide for contracting
26 between architects and engineers without compromising the
27 integrity of either profession.

28 This act is declared remedial except that the powers and duties
29 of the committee shall be limited ¹to¹ those contained in
30 ¹[Section] section¹ 5 of this act.

31 3. For the purposes of this act:

32 a. "Architectural project" means any building or structure the

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
¹ Assembly AHE committee amendments adopted December 7, 1989.

1 any service or creative work the adequate performance of which
2 requires engineering education, training, and experience and the
3 application of special knowledge of the mathematical, physical
4 and engineering sciences to such services or creative work as
5 consultation, investigation, evaluation, planning and design of
6 engineering works and systems, planning the use of land and
7 water, engineering studies, and the administration of construction
8 for the purpose of determining compliance with drawings and
9 specifications; any of which embraces such services or work,
10 either public or private, in connection with any engineering
11 project including: utilities, structures, buildings, machines,
12 equipment, processes, work systems, projects,
13 telecommunications, and industrial or consumer products or
14 equipment of a mechanical, electrical, hydraulic, pneumatic or
15 thermal nature, insofar as they involve safeguarding life, health
16 or property, and including such other professional services as may
17 be necessary to the planning progress and completion of any
18 engineering services. The design of buildings by professional
19 engineers shall be consistent with section 7 of this act. The
20 practice of professional engineering shall not include the work
21 ordinarily performed by persons who operate or maintain
22 machinery or equipment.

23 j. "Responsible charge" means the rendering of regular and
24 effective supervision by a competent licensed architect or
25 professional engineer as appropriate to those individuals
26 performing services which directly and materially affect the
27 quality and competence of professional work rendered by the
28 licensee. A licensee engaged in any of the following acts or
29 practices shall be deemed not to have rendered regular and
30 effective supervision.

31 (1) The regular and continuous absence from principal office
32 premises from which professional services are rendered, except
33 for the performance of field work or presence in a field office
34 maintained exclusively for a specific project;

35 (2) The failure to personally inspect or review the work of
36 subordinates where necessary and appropriate;

37 (3) The rendering of a limited, cursory or perfunctory review
38 of plans for a building or structure in lieu of an appropriate
39 detailed review; and

1 The cost of operation of the joint committee shall be borne
2 equally by the boards which shall adopt such fees by regulation as
3 are necessary to fund such operation.

4 5. The joint committee shall have the following powers and
5 duties:

6 a. To investigate, within a reasonable period of time, any
7 alleged violation of this act referred by the boards.

8 b. To conduct, at its discretion, investigative hearings on any
9 alleged violation of this act referred by the boards.

10 c. To notify the boards, in writing, if in a particular matter, it
11 finds that no violation of this act has occurred. In the event such
12 a finding is made, no further action shall be taken with respect to
13 that particular matter by either board or the joint committee.

14 d. To notify the boards, in writing, if in a particular matter, it
15 finds that a violation of this act has occurred. In the event of
16 such a finding the board possessing authority to discipline the
17 licensee or other regulated entity found to have violated this act
18 shall either initiate disciplinary action, or where in its
19 determination the basis for the joint committee's finding is
20 insufficient, refer the matter back to the joint committee for
21 further investigation and evaluation.

22 e. To determine, by regulation, the assignment of use group
23 classification established pursuant to section 7 of this act for any
24 building or structure not contemplated within the use groups or
25 whose classification is not reasonably ascertainable.

26 f. To issue declaratory rulings with regard to determining a
27 building or ¹[structure] structure's¹ primary use group
28 classification for the purpose of determining if such building or
29 ¹[structure's] structure¹ is an architectural or engineering
30 project, or both. Requests for declaratory rulings shall be
31 submitted to the joint committee by either of the boards. The
32 joint committee may issue a declaratory ruling which shall bind
33 the boards and all parties to the proceeding on the state of the
34 facts alleged. That ruling shall be deemed a final decision or
35 action subject to review in the Appellate Division of the Superior
36 Court.

37 g. To promulgate rules and regulations pursuant to the
38 "Administrative Procedures Act," P.L.1968, c.410 ¹[(C.52:14B-1)]
39 (C.52:14B-1 et seq.)¹ to carry out the purposes of this ¹[Act] act¹.

1	H-High Hazard	All	All
2			
3	I-Institutional	All	None except for an
4			incidental use.
5	M-Mercantile	All	None except for an
6			incidental use.
7			
8	R-Residential	All	None except for an
9			incidental use.
10			
11	S-Storage	All	All
12			
13	U-Utility	All	All
14		Except an	
15		Engineering Work	
16			

17 Note 1. Professional engineers may design the following projects
18 within the B Use group:

19 (a) Car wash facilities;

20 (b) Materials testing laboratories; and,

21 (c) Telephone exchanges and data processing relay or
22 equipment facilities.

23 b. An engineering work such as a sewage or water treatment
24 plant, power plant, or transportation system, shall be prepared,
25 designed, signed, and sealed by a professional engineer only.

26 c. Professional engineers may prepare, design, sign and seal
27 buildings or portions of buildings in a non-permitted use group
28 classification only as an incidental use.

29 A portion of a building shall be deemed to be an incidental use
30 where the portion is an ancillary part of an engineering project
31 and the building or portion is of a building design category
32 prohibited to engineers. The area of the incidental use shall not
33 constitute more than 10% of the building's total floor area or
34 2000 square feet whichever is greater.

35 In the design of traditional engineering works projects such as
36 sewage or water treatment plants, power plants or transportation
37 systems, the area of the incidental use shall not constitute more
38 than 10% of the total square footage of all structures in the
39 project, or 2000 square feet, whichever is greater. Where public

1 render or offer to render architectural services, shall enter into a
2 contract with an owner to provide architectural and engineering
3 services under the following conditions:

4 a. The contract with the owner is in writing and provides for a
5 coordinated rendering of architectural and engineering services.

6 b. Engineering services shall be provided pursuant to a
7 separate, written, independent subcontract which clearly
8 delineates the responsibility of the professional engineer or
9 business association and the contracting entity.

10 c. Any subcontract for the providing of engineering services
11 pursuant to this act shall provide that:

12 (1) The professional engineer or business association shall
13 render services contracted for as an independent professional and
14 not as an employee of a sole proprietor or business association
15 which may by law provide or offer to provide architectural
16 services.

17 (2) The professional engineer shall exercise independent
18 professional judgment consistent with accepted standards of the
19 practice of engineering with regard to the project as its
20 circumstances may dictate.

21 ¹[(3) The professional engineer's right of access to the owner
22 shall at all times be available except in those instances where the
23 owner has expressly delegated, in writing, decision making
24 authority with regard to project design to another individual or
25 entity.]¹

26 d. A licensed architect may design any architectural additions
27 to an ¹[Engineering Work] engineering work¹.

28 10. A licensed architect shall provide the design of engineering
29 systems in connection with an architectural project under either
30 of the following conditions:

31 a. The engineering systems are designed within the architect's
32 office and the work is done under the responsible charge of a
33 licensed architect or a professional engineer. Where such work is
34 done under the responsible charge of a licensed architect, the
35 architect shall sign and seal all plans and specifications. If the
36 architect designates a professional engineer to be in responsible
37 charge of all or a portion of the design of the engineering
38 systems, the professional engineer shall sign and seal all such
39 engineering design; or

1 services" or its substantial equivalent.

2 14. a. Consistent with section 5 of this act, any licensed
3 architect who, or business association authorized to offer
4 architectural services which, violates this act shall be disciplined
5 by the ¹New Jersey State¹ Board of Architects. Such a violation
6 shall be deemed professional misconduct. Any professional
7 engineer who, or business association authorized to offer
8 engineering services which, violates this act shall be disciplined
9 by the ¹State¹ Board of Professional Engineers and Land
10 Surveyors. Such a violation shall be deemed professional
11 misconduct.

12 b. Any violation of this act by an unlicensed individual or
13 unauthorized business association shall be disciplined by the ¹New
14 Jersey State¹ Board of Architects ¹[, consistent with the Uniform
15 Enforcement Act, P.L.1978, c.73 (C.45:1-15 et seq.)] pursuant to
16 the provisions of P.L.1978, c.73 (C.45:1-14 et seq.)¹. Such a
17 violation shall be deemed the unlicensed practice of
18 architecture. However, the design of an engineering work by an
19 unlicensed individual or unauthorized business association shall be
20 disciplined by the ¹State¹ Board of Engineers and Land Surveyors
21 ¹[, consistent with the Uniform Enforcement Act, P.L.1978, c.73
22 (C.45:1-15 et seq.)] pursuant to the provisions of P.L.1978, c.73
23 (C.45:1-14 et seq.)¹ . Such a violation shall be deemed the
24 unlicensed practice of engineering.

25 15. This act shall take effect immediately but shall remain
26 inoperative until 120 days following the enactment into law of
27 P.L.....c.....(C.....)(now pending before the Legislature as
28 Assembly Bill No. ¹5047¹ of 1989) and P.L. c (C.) (now
29 pending before the Legislature as Assembly Bill No. ¹5048¹ of
30 1989).

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REGULATED PROFESSIONS

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37 establishes the Joint Committee of Architects and Engineers.