

Nebraska Board of Engineers and Architects
Public Rulemaking Hearing Minutes
May 24, 2017

The Board of Engineers and Architects held this hearing to consider revisions and receive public comment on proposed changes to Title 110, Nebraska Administrative Code, Rules and Regulations, Chapters 1-4 and 6-10.

PUBLIC HEARING CONVENED

The public hearing was held at 215 Centennial Mall South, 5th Floor Large Conference Room, Lincoln, Nebraska. Chair Kester opened the hearing at 8:32 a.m. and noted the location of the Public Meeting Statutes. Notice of the hearing was published in the Lincoln Journal Star and a copy of the affidavit of publication was provided.

Member Roll Call: Krista Kester, Chair; Jennifer Klein, Vice-Chair; Lenora Isom, Secretary; Jan Bostelman; Mark Champion; Michael Conzett; Tom Laging; Randy Peters.

Staff Present: Jon Wilbeck, Executive Director (ED); Lindy Rauscher, Compliance Officer (CO); Sandra Weaver, Business Manager; Jean Lais, Administrative Assistant; Molly Mayhew, Public Information Officer (PIO).

NO COMMENT

Matt Shimerdla, Brian Chaffin, American Council of Engineering Companies of Nebraska (ACEC-N)
Katherine S. Ankerson, AIA, FIDEC, IIDA, NCARB, Dean, UN-L College of Architecture
Karen Stelling, Professor, UN-L College of Engineering
Sara Kay, Executive Director, AIA - Nebraska
Nick Pischel, AIA - Nebraska

PUBLIC COMMENT

Marc Rosso commented on behalf of himself and the American Council of Engineering Companies of Nebraska (ACEC-N) as part of the Lincoln Engineering Partnership Committee. Mr. Rosso expressed opposition to the proposed revision of Rule 10.5.9 as follows:

- Design competition is clearly the practice of engineering and the requirement for a Nebraska licensee should not be removed;
- The revised rule may cause an increase in out-of-state firms seeking work in Nebraska;
- Purchasing entities may select professional services based on lowest fee, and this would not contribute to protection of public health and safety if design competition was broadened;
- The revised rule could have a negative impact on Qualifications-Based Selection (QBS) processes.

Chair Kester thanked Mr. Rosso for his comments. Disappointment was expressed that concerns were not conveyed to the Board earlier in the promulgation process. Notice of the May hearing and links to the proposed rule changes was provided to eighteen partner organizations including ACEC-N in early March.

Written Comments Received

On March 10, 2017, an email was received from Harrison French & Associates (HFA) expressing support and appreciation to the Board for the addition of interactive webinars for continuing education under proposed Rule 9.2.3.1. The email stated the revision would allow licensees to better serve clients and concentrate more fully on their responsibilities, both to their employment and to the safety of the public.

On May 22, 2017, a letter was received from ACEC-N identifying comments members made when reviewing the proposed rules and regulations.

- Rule 2.7 Reimbursement of Educational Debt - Recommendation to also reimburse those taking the Principles and Practice of Engineering (PE) exam costs.

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- Rule 10.5.9 Participation in a Conceptual Design Competition - The ACEC-N Board would not be in favor of the proposed changes. A recommendation was made to add a definition of a "conceptual design competition" to this section.
- 10.5.12 Expert Witness - ACEC-N Board suggested adding mediation to the situations where expert witness testimony may be required and adding the word mediation after arbitration.

On May 23, 2017, the Board received written comments from AIA-Nebraska. Concern was expressed with proposed revisions to Rule 10.5.9. It is believed significant confusion could occur on what constitutes conceptual design and design since conceptual design is not defined in the Nebraska statutes. Design is defined in N.R.S. § 81-3409.

The Board of Engineers and Architects believes requiring licensed architects or professional engineers or temporary permit holders for a design competition unduly restricts free trade and economic liberty. Involvement in a conceptual design competition does not jeopardize health, safety or welfare because an individual or organization selected to move forward with the design of a project regulated under the Engineers and Architects Regulation Act would be required to obtain a license or a certificate of authorization.

Further discussion of the comments and a decision to adopt or reject the proposed rules and regulations will be made at the regular Board meeting scheduled to begin at 8:45 a.m. or after the public rulemaking hearing concludes, whichever is later.

Adjournment

The public rulemaking hearing ended at 8:41 a.m.



Lenora A. Isom, Secretary