15.8167.02000

Sixty-fourth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2185

Introduced by

Senators Burckhard, Oehlke

Representatives Bellew, Dockter, Frantsvog, Schatz

A BILL for an Act to amend and reenact sections 43-19.1-25 and 43-19.1-26 of the North Dakota Century Code, relating to disciplinary action procedure for professional engineers and land surveyors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-19.1-25 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-25. Disciplinary action - Revocations, suspensions, or reprimand.

The board may suspend, refuse to renew, or revoke the certificate of registration of and may reprimand any registrant. ~~In an order or decision issued by the board in resolution of a disciplinary proceeding in which disciplinary action is imposed against a registrant, the board may direct a registrant to pay the board a sum not to exceed the reasonable and actual costs, including reasonable attorney's fees, incurred by the board and the board's investigative panels in the investigation and prosecution of the case. Notwithstanding section 28-32-50, if a registrant is the prevailing party in an administrative appeal of a disciplinary action taken by the board under this section, the board shall pay the registrant's reasonable and actual costs, including reasonable attorney's fees.~~ These powers apply to any registrant who is found guilty of any of the following:

1. The practice of any fraud or deceit in obtaining a certificate of registration.
2. Any gross negligence, incompetence, or misconduct in the practice of engineering or land surveying.
3. Any offense determined by the board to have a direct bearing upon an individual's ability to serve the public as a professional engineer and land surveyor; or when the board determines, following conviction of any offense, that an individual is not sufficiently rehabilitated under section 12.1-33-02.1.

4. The violation of the code of ethics adopted by the board.

SECTION 2. AMENDMENT. Section 43-19.1-26 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-26. Disciplinary action - Procedure.

Any person may file charges of fraud, deceit, gross negligence, incompetence, misconduct, or violation of the code of ethics against any individual registrant. Such charges must be in writing ~~and must be sworn to by each person making the charges~~ and must be filed with the secretary of the board. All charges, unless dismissed by the board as unfounded or trivial, must be heard by the board within six months following the filing of charges unless the accused registrant waives this requirement. The matters considered at the hearing must include all charges made in the original filing, together with any related or additional matters or charges that arise in connection with the investigation of the original charges, and which are set forth in a specification of issues for the hearing. The time and place for the hearing must be fixed by the board and a copy of the charges, together with a notice of the time and place of hearing, and a specification of the issues to be considered at the hearing must be served upon the accused registrant either personally or sent by registered mail to the last-known address of the registrant at least thirty days before the date fixed for hearing. At any hearing the accused registrant has the right to appear in person or by counsel, or both; to cross-examine witnesses appearing against the accused; and to produce evidence and witnesses in defense of the accused. If the accused fails or refuses to appear, the board may proceed to hear and determine the validity of the ~~charges~~issues set forth in the specification of issues. Following the hearing, the board members who did not serve on the investigative panel shall deliberate in executive session and if a majority of the board members who did not serve on the investigative panel vote in favor of sustaining ~~the charges~~all or part of the issues set forth in the specification of issues, the board shall make findings of fact and conclusions of law and shall issue the board's order and serve the findings, conclusions, and order upon the accused. In the order the board may reprimand, suspend, refuse to renew, or revoke the accused registrant's certificate of registration. Any registrant who feels aggrieved by any action of the board in denying, suspending, refusing to renew, or revoking that registrant's certificate of registration may appeal the board's action to the district court under the procedures provided by chapter 28-32.