



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: John Greenhalge, Board of Registration for Professional Engineers and Surveyors

FROM: Joseph Baker, Business Advocate

DATE: December 10, 2021

RE: CSI Review – Five-year rule review (OAC 4733-1-01, 4733-1-03, 4733-1-04, 4733-3-01, 4733-3-02, 4733-3-03, 4733-3-04, 4733-3-05, 4733-9-02, 4733-9-05, 4733-9-06, 4733-9-07, 4733-9-08, 4733-17-01, 4733-19-01, 4733-21-01, 4733-23-01, 4733-31-01, 4733-35-01, 4733-35-02, 4733-35-03, 4733-35-04, 4733-35-05, 4733-35-06, 4733-35-07, 4733-35-08, 4733-35-09, 4733-37-02, 4733-37-06, 4733-37-07, 4733-38-01, 4733-38-02, 4733-38-03, 4733-38-04, 4733-38-05, 4733-39-01, 4733-39-02, 4733-39-06, 4733-39-07, 4733-40-01, 4733-40-02, 4733-40-03, 4733-40-04, and 4733-40-05)

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Board as provided for in ORC 107.54.

Analysis

This rule package consists of 46 no change rules proposed by the Ohio State Board of Registration for Professional Engineers and Surveyors. This rule package was submitted to the CSI Office on October 13, 2021, and the public comment period was held open through November 13, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on October 13, 2021.

Ohio Administrative Code (OAC) 4733-1-01, 4733-1-03, and 4733-1-04 specify the procedures for the Board to adopt rule changes, the title of the Board, its headquarters location, and the technical details of the Board's seal. OAC 4733-3-01, 4733-3-02, 4733-3-03, 4733-3-04, and 4733-3-05 set forth the responsibilities of the chair, vice-chair, secretary, and executive director of the Board, as well as how vacancies are to be filled. OAC 4733-9-02, 4733-9-05, 4733-9-06, 4733-9-07, and

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4733-9-08 define satisfactory engineering experience to qualify for registration, registrants' responsibility to comply with published examination policies and procedures, the dismissal and consequences for academic dishonesty regarding the examination, and state that an examination taken in another state will not qualify an applicant if the individual was currently barred from taking the examination in Ohio.

OAC 4733-17-01 specifies that applications for registration must be made only on a Board-provided form as well as various components of the form, such as a photograph of the applicant. OAC 4733-19-01 requires the Board to establish a fee schedule for applicants and registrants and specifies payment policies. OAC 4733-20-01 states that applicants who meet examination requirements may participate in a certificate presentation ceremony. OAC 4733-21-01 requires professional engineers and surveyors to conspicuously post their certificates of registration. OAC 4733-23-01 states that each registrant may obtain the Board's seal after registering and is responsible for safeguarding the individual's seal.

OAC 4733-31-01 defines the practice of surveying. OAC 4733-35-01, 4733-35-02, 4733-35-03, 4733-35-04, 4733-35-05, 4733-35-06, 4733-35-07, 4733-35-08, and 4733-35-09 establish general standards regarding the practice of engineering and surveying, including requirements to act with integrity, to protect the safety, health, and welfare of the public, to issue no statements on engineering matters connected with public policy inspired by a or paid for by an interested party without disclosing the business relationship, to comply with conflict of interest standards, to ethically solicit employment, and to engage in proper conduct. The rules also state that felony convictions or the revocation, surrender, or suspension of a license constitutes a violation of the rules and that registrants are responsible for maintaining a record of all business transactions relevant to enforcement and to make them available for inspection by the Board upon request.

OAC 4733-37-02 and 4733-37-06 require surveyors to consult records to assemble the best possible set of written evidence for property limits and to provide specifications regarding the property boundaries as components of a request to provide a property description. OAC 4733-37-07 establishes special requirements for surveyors dividing properties into subdivisions. OAC 4733-38-01, 4733-38-02, 4733-38-03, 4733-38-04, and 4733-38-05 outline specific requirements for surveyors engaged in mortgage location surveys. OAC 4733-39-01, 4733-39-02, 4733-39-06, and 4733-39-07 specify definitions, fees, filing requirements, and exemptions for firms or other entities seeking to obtain a certificate of authorization to practice professional engineering and surveying in Ohio. Finally, OAC 4733-40-01, 4733-40-02, 4733-40-03, 4733-40-04, and 4733-40-05 outline definitions and responsibilities relating to securing and protecting personal information maintained by the Board. The rules also outline lawful justifications for accessing personal information, special documents subject to additional confidentiality protections, and require the Board to restrict

and maintain records annotating when (and by whom) individually identifiable information is accessed.

During early stakeholder outreach, the Board invited public comments from approximately 30,000 individual engineers and surveyors as well as 3,200 firms. Additionally, the Board states in the BIA that it performed 70 public presentations on the rules. No comments were received during the early stakeholder outreach period or during the CSI public comment period.

The business community impacted by the rules includes members of the public, licensees, students, educators, and firms licensed to offer and provide engineering and surveying services. The adverse impacts created by the rules include the costs and time necessary to complete experiential requirements prior to licensure, costs of completing and passing required examinations (\$25 for Fundamentals of Engineering or Fundamentals of Surveying examinations and \$75 for the Principles and Practice of Engineering or Principles and Practice of Surveying examinations), costs of submitting a registration application to the Board (\$50), a reciprocal licensure fee of \$415-\$455, and a licensure renewal fee of \$40. The adverse impacts also include potential disciplinary action taken by the Board for failure to comply with the rules, registration fees for firms that provide engineering or surveying professional services (\$50 initial and renewal fee), and other associated expenses. The Board states in the BIA that the adverse impacts to business are necessary to ensure that the work performed by professional engineers and surveyors does not negatively impact the safety and well-being of the public, and that qualified individuals and firms provide engineering and surveying services.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio State Board of Registration for Professional Engineers and Surveyors should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.