

CHAPTER 162
FORMERLY
SENATE BILL NO. 123
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PROFESSIONAL ENGINEERS.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 2806 (d), Title 24 of the Delaware Code by deleting the phrase “(11)” in the first sentence of the subsection and substituting in lieu thereof the number “(13).”

Section 2. Amend § 2813, Title 24 of the Delaware Code by striking the section in its entirety and substituting in lieu thereof the following:

“§2813. Immunity of Council and committees.

(a) The Council and the members of any committees appointed by the Council are immune from any claim, suit, liability, damages, or any other recourse, civil or criminal, arising from any act, omission, proceeding, decision, or determination undertaken or performed, or from any recommendation made, so long as the Council or committee member acted in good faith and without gross negligence in carrying out the responsibilities, authority, duties, powers, and privileges conferred by law upon them, with good faith being presumed.

(b) The Attorney General’s office shall represent the Council, Council members, council officials, any committee created by Council or committee member, and at the express request of the Council, any person appointed or employed by the Council, in a civil action for damages arising from duties and services performed, or powers to be exercised, for the state of Delaware. If the Attorney General’s office determines it would be improper or unlawful to undertake such representation, then representation of such parties should proceed in accordance with 10 Del.C. §3925.”

Section 3. Amend § 2817 (7) (g), Title 24 of the Delaware Code by adding a new subdesignation to read:

“3. On the fifth and all subsequent attempts, applicants must reapply and meet the requirement stipulated in paragraphs (1) and (2) above.”

Section 4. Amend §2823(a), Title 24 of the Delaware Code by adding a new paragraph (6) to read as follows:

“(6) The failure to report instances of out-of-state discipline, as set forth in the immediately preceding subsection, to the Executive Director of the Delaware Association of Professional Engineers within 60 days of the final order imposing discipline.”

Section 5. Amend § 2824(a), Title 24 of the Delaware Code by deleting that subsection in its entirety and substituting in lieu thereof the following:

“(a) Whether prompted by receipt of an accusation of wrongdoing by a third party or upon its own initiative, the Council may review the actions and representations of applicants, adjunct and affiliate members, and any person licensed as a professional engineer under this chapter for alleged violations of §2823 or for unlicensed practice pursuant to §2825 of this Title.”

Section 6. Amend § 2824(b) (1), Title 24 of the Delaware Code by deleting the introductory paragraph only, and not the subparts thereunder, in its entirety and substituting in lieu thereof the following:

“(1) Upon receipt of a written accusation alleging a violation of §2823 of this title or alleging the unlicensed practice of professional engineering in violation of §2825 of this title, the Council may assign the matter to its investigating committee for possible prosecution. The investigating committee may also initiate the prosecution process based upon firsthand knowledge acquired by a member or upon a member’s information and belief whether the accusation of wrongdoing is written or oral. Members of the investigating committee shall maintain strict confidentiality of the facts of its investigations and shall not discuss any issues of fact or law relating to an investigation with anyone except other investigating committee members, potential witnesses, the target of the investigation, or the target’s legal representative.”

Section 7. Amend § 2828(a), Title 24 of the Delaware Code by deleting the subsection in its entirety and substituting in lieu thereof the following:

“(a) The Association, the Council, and its committees shall each be deemed a “public body” as that term is used in the Freedom of Information Act, Chapter 100 of Title 29, and for purposes of this section only, all references to “the Council” shall be understood as referring to the Association and committees as well.”

Section 8. Amend § 2828(b), Title 24 of the Delaware Code by striking paragraphs (1) and (2) in their entirety and substituting in lieu thereof the following:

“(1) The application of any person to practice engineering in the State of Delaware together with all records relating thereto;

(2) Records, reports, correspondence and other documents received by the Council relating to charges against any person that could lead to disciplinary action by the Council; and”.

Approved August 03, 2011