

1 HB309
2 127372-1
3 By Representative Williams (J)
4 RFD: Commerce and Small Business
5 First Read: 22-MAR-11

SYNOPSIS: Existing law provides for the licensing of contractors and provides for the State Licensing Board for General Contractors.

This bill would do all of the following:
Further provide that a licensee may apply for an increase in the amount of his or her bid limit, a change in his or her classification, or reciprocate his or her license with a reciprocating state for fees to be set by the board; allow a licensee to apply for inactive status, to be defined by the board, by notifying the board at least 30 days prior to expiration of his or her license and paying a fee; provide that a subcontractor is not required to sit for examinations before being licensed; and would change the time frame for the distribution of certain fees collected and distributed to eligible public institutions of higher education from the end of each fiscal year to 30 days after the certifications of enrollment

1 packages are received from all the eligible public
2 institutions of higher education.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To amend Sections 34-8-2, 34-8-7, and 34-8-28 of the
9 Code of Alabama 1975, relating to licensing of contractors and
10 the State Licensing Board for General Contractors; to
11 authorize the board to set certain fees for a licensee to
12 apply for an increase in the amount of the bid limit of the
13 licensee, to change classification, or to request a reciprocal
14 license with a reciprocating state; to allow a licensee to
15 apply for inactive status, to be defined by the board, by
16 notifying the board within a certain time prior to expiration
17 of his or her license and paying a fee; to provide that a
18 subcontractor is not required to sit for examinations before
19 being licensed; and to change the time frame for the
20 distribution of certain fees collected and distributed to
21 eligible public institutions of higher education.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections 34-8-2, 34-8-7, and 34-8-28 of
24 the Code of Alabama 1975, are amended to read as follows:

25 "§34-8-2.

26 "(a) Any person desiring to be licensed or desiring
27 a renewal of an existing license as a general contractor in

1 this state shall be a citizen of the United States or, if not
2 a citizen of the United States, a person who is legally pres-
3 ent in the United States with appropriate documentation from
4 the federal government, and shall make and file with the
5 board, not less than 30 days prior to any regular meeting
6 thereof, a written application on a form as prescribed for
7 examination by the board and the application shall be accompa-
8 nied by three hundred dollars (\$300) for a new application or
9 two hundred dollars (\$200) in case of a renewal. If a licensee
10 fails to renew his or her license within 90 days following
11 expiration of the previous license, a late penalty of fifty
12 dollars (\$50) shall be collected, upon renewal, in addition to
13 the renewal fee. The applicant shall apply for a license cov-
14 ering the type or types of contracts on which he or she wishes
15 to perform, and shall provide proof of liability insurance.
16 The board shall classify contractors according to the type or
17 types of contracts on which they may perform, within maximum
18 bid limits, on the following basis: The applicant's request,
19 his or her last annual financial statement prepared by a cer-
20 tified public accountant (C.P.A.) or by any independent li-
21 censed public accountant approved by the Licensing Board for
22 General Contractors, his or her previous experience, equip-
23 ment, and the facts in each case. An applicant shall not be so
24 classified as to permit him or her to bid on or to perform a
25 type of work not included in his or her request for a license.
26 If the application is satisfactory to the board, then the ap-
27 plicant may be required to take an examination to determine

1 his or her qualifications. If the result of the examination of
2 the applicant is satisfactory to the board, the board shall
3 then issue to the applicant a certificate to engage in general
4 contracting in the State of Alabama, stipulating in each li-
5 cense issued the type or types of work the contractor is per-
6 mitted to bid on or to perform under his or her license and
7 also setting out a letter symbol indicating the maximum limits
8 on which he or she is permitted to bid or to perform in a sin-
9 gle contract. The maximum bid limits shall be set by the for-
10 mula of not more than 10 times either the net worth or working
11 capital, whichever is the lesser amount, as shown by the ap-
12 plicant's latest financial statement and designated in the
13 classification set out herein that is the closest to this
14 amount. Should the financial statement of the applicant fail
15 to substantiate the limits requested, further consideration
16 may be given to either of the following: (1) the present mar-
17 ket value in lieu of book value of listed assets when properly
18 supported with substantiating evidence, including a combined
19 statement of the applicant that includes other wholly owned or
20 substantially owned interests, or (2) the applicant may fur-
21 nish a bond acceptable to the board equal in the amount of the
22 applicant's negative working capital or net worth plus the
23 amount of such net worth and working capital to satisfy the
24 requested bid limit. When an applicant's statement qualifies
25 for an amount in excess of classification "E", the limits
26 shall then be set as classification Unlimited or "U". The fol-

lowing letter symbols indicate the maximum amount bid limits
allowed a licensee on any one single contract undertaking:

"A - Not to exceed	\$100,000.00
"B - Not to exceed	250,000.00
"C - Not to exceed	500,000.00
"D - Not to exceed	1,000,000.00
"E - Not to exceed	3,000,000.00
"U - Unlimited	

"(b) Any person failing to pass the examination may
be reexamined at any regular or called meeting of the board.
The certificate of authority to engage in the business of
general contracting in the State of Alabama shall expire 12
months following its issuance or renewal and shall become
invalid on that date unless renewed. The board may provide for
a transitional period following May 19, 1999, during which
licenses may be renewed for less than 12 months, or more than
12 months, in order to implement a staggered license renewal
schedule in which licenses would be renewed each month
throughout the year. Once the transitional period is
completed, each license shall be renewed for a 12-month
period. The board may promulgate rules and regulations
relating to the procedures for renewal of licenses. Upon the
renewal of a license, the board shall reclassify or confirm

1 the license both as to the types of work and bid limits as
2 specified in this section. ~~A licensee may apply for and, on~~
3 ~~proof satisfactory to the board, may receive an increase in~~
4 ~~the amount of his or her bid limit or a change in his or her~~
5 ~~classification.~~ A licensee may apply for and, on proof
6 satisfactory to the board, may receive an increase in the
7 amount of his or her bid limit, a change in his or her
8 classification, or reciprocate his or her license with a
9 reciprocating state for fees not greater than seventy-five
10 dollars (\$75) as set by the board. Application for renewal of
11 a license, together with the payment of a fee of two hundred
12 dollars (\$200), received by the board at least 30 days prior
13 to expiration, shall serve to extend the current license until
14 the board either renews the license or denies the application.
15 A licensee may apply for an inactive status by notifying the
16 board in writing at least 30 days prior to expiration of his
17 or her license. The fee for the inactive status shall be two
18 hundred dollars (\$200). The board shall provide rules of
19 activities an inactive status licensee may engage in and for a
20 procedure for the reinstatement as an active license holder.
21 At the discretion of the board, a limited license may be
22 issued for a particular project.

23 "The sum or fee of three hundred dollars (\$300)
24 accompanying original applications and sum or fee of two
25 hundred dollars (\$200) accompanying applications for renewals
26 under this section are for the administration and enforcement
27 of this chapter and shall not be refunded to the applicant.

1 "§34-8-7.

2 (a) The following shall be exempted from this
3 chapter:

4 "(1) The practice of general contracting, as defined
5 in Section 34-8-1, by an authorized representative or
6 representatives of the United States Government, State of
7 Alabama, incorporated town, city, or county in this state,
8 which is under the supervision of a licensed architect or
9 engineer and any work contracted out by the representative
10 shall comply with the provisions of this chapter for "general
11 contractor."

12 "(2) The construction of any residence or private
13 dwelling.

14 "(3) A person, firm, or corporation constructing a
15 building or other improvements on his, her, or its own
16 property provided that any of the work contracted out complies
17 with the definition in this chapter for "general contractor."

18 "(4) The installation, repair, maintenance, or
19 removal of facilities, equipment, or systems used in or
20 substantially related to the generation, transmission, or
21 distribution of electric power, natural gas, or
22 telecommunications in an emergency by a utility regulated by
23 the Public Service Commission, or any entity engaged in the
24 generation, transmission, or distribution of electric power,
25 natural gas, or telecommunications, or any of their respective
26 general contractors or subcontractors, provided the work is
27 performed under the supervision of a licensed architect or

1 engineer. For purposes of this subdivision, the term
2 "emergency" is defined as a situation whereby service to the
3 consumer has been interrupted or may be interrupted if work to
4 remedy the emergency is not performed and completed within 60
5 days, and such other situations that are determined to be an
6 emergency in the discretion of the board.

7 "(5) The repair, maintenance, replacement,
8 reinstallation, or removal of facilities, equipment, or
9 systems used in or substantially related to the generation,
10 transmission, or distribution of electric power, natural gas,
11 or telecommunications on a routine, regular, or recurring
12 basis by a utility regulated by the Public Service Commission
13 or any entity engaged in the generation, transmission, or
14 distribution of electric power, natural gas, or
15 telecommunications or any of their respective general
16 contractors or subcontractors, provided the work is performed
17 under the supervision of a licensed architect or engineer.

18 "(6) Routine or regular maintenance, repair,
19 replacement, reinstallation, or removal of equipment,
20 specialized technological processes, or equipment facility
21 systems as determined by the board with regard to scope,
22 frequency, and speciality of the work to be performed.

23 "(b) The aforementioned exemptions shall exclude a
24 swimming pool contractor. Provided, however, a person, firm,
25 or corporation constructing a swimming pool on his, her, or
26 its own property shall be exempted from this chapter.

1 "(c) A subcontractor, as defined in subsection (c)
2 of Section 34-8-1, is subject to and shall comply with all the
3 provisions of this chapter as specified for general contractor
4 except as follows:

5 "(1) A subcontractor shall pay one-half the fees as
6 required in this chapter for general contractor.

7 "(2) No bid limits shall be established for a
8 subcontractor.

9 "(3) A subcontractor shall submit with license
10 application and renewals a statement of financial condition as
11 prescribed by the board.

12 "(4) A subcontractor shall furnish three references
13 from any combination of the following: Licensed general
14 contractors, registered professional engineers, or registered
15 architects, or qualified person, as declared by the board, for
16 whom they have worked. If a subcontractor has only been
17 employed by one company, the subcontractor shall provide the
18 following: Three or more jobs he or she has worked on, the
19 amounts of the contracts, the time period of the contracts,
20 the location of the contracts, and a statement of experience.

21 "(5) A subcontractor is not required to be licensed
22 at the time a project is bid, but must be licensed with the
23 board prior to beginning work on the project.

24 "(6) A general contractor license and license number
25 issued by the board to subcontractors shall denote
26 subcontractor status.

1 "(7) A subcontractor is not required to sit for
2 examinations before being licensed.

3 "§34-8-28.

4 "(a) An amount of one hundred dollars (\$100) from
5 the fees required for application and renewal for
6 certification and registration of general contractors in
7 Section 34-8-2, and an amount of fifty dollars (\$50) from the
8 fees required for application and renewal of the license of a
9 subcontractor pursuant to Section 34-8-7, shall be distributed
10 by the State Licensing Board for General Contractors at the
11 end of each fiscal year to all accredited public institutions
12 of higher education offering American Council for Construction
13 Education accredited courses in building science, and to all
14 accredited public institutions of higher education offering
15 courses in building science which are in the candidate status
16 of the American Council for Construction Education and to
17 institutions of higher education offering courses leading to a
18 bachelor of civil engineering degree which offers courses in
19 highway engineering and construction at the undergraduate and
20 graduate levels and whose civil engineering program is
21 accredited by the Engineering Accreditation Commission of the
22 Accreditation Board for Engineering and Technology (ABET).
23 Funds identified by the general contractors and subcontractors
24 for building science shall be distributed pro rata among
25 institutions based upon the number of full-time equivalent
26 students enrolled in the department of building science at the
27 institution. Funds identified by the general contractors and

1 subcontractors for civil engineering shall be distributed pro
2 rata among institutions based upon the number of full-time
3 equivalent civil and pre-civil engineering students enrolled
4 at the institution. These funds shall be distributed 30 days
5 after the certifications of enrollment packages have been
6 received from all the eligible public institutions of higher
7 education.

8 "(b) Revenue derived from the additional fees for
9 all licenses shall be distributed for (1) building science
10 (general construction) purposes and (2) civil engineering
11 (highway engineering or construction, or both) purposes.
12 Contractors shall be given an opportunity to select which
13 program they want to support.

14 "(c) Revenues derived from the additional fees for
15 all licenses that are not specifically designated by
16 contractors for one of the purposes above, shall be
17 distributed between the programs defined in subsection (a) in
18 a pro rata manner based on the number of full-time equivalent
19 students enrolled in each program at each institution.

20 "(d) Each institution receiving funds pursuant to
21 this article for building science purposes shall utilize the
22 funds for research projects relating to the construction
23 industry, for faculty development, for program enhancement,
24 and for continuing education programs related to construction.
25 The funds shall be administered by a committee appointed by
26 the dean responsible for the building science program, and
27 shall include the head of the department of building science,

1 or comparable position, faculty representatives, and
2 representatives of the building science industry advisory
3 committee of the institution.

4 "(e) Each institution receiving funds pursuant to
5 this article for civil engineering purposes shall utilize the
6 funds to enhance activities in the highway engineering or
7 construction area, or both. This includes, but is not limited
8 to, scholarships, fellowships, research, faculty development,
9 and continuing education. Funds received pursuant to this
10 article shall be administered by a committee appointed by the
11 dean of engineering. The committee should undertake, as part
12 of its mission, to work with the public and private sectors of
13 the highway industry to encourage student participation in
14 co-op and summer industry employment programs as well as to
15 lead students toward career employment in the highway industry
16 upon graduation.

17 "(f) Each institution receiving funds pursuant to
18 this article shall provide to the board an annual report on or
19 before January 31 for the preceding fiscal year during which
20 the institution received the funds. This report shall disclose
21 the total amount of funds received by the institution pursuant
22 to this article and shall provide an accurate accounting for
23 the utilization of the funds. The report shall disclose
24 sufficient detail to demonstrate compliance with the
25 utilization specifications prescribed in subsections (d) and
26 (e). Responsibility for the reports shall be retained by the

1 administrative committees formed pursuant to subsections (d)
2 and (e) and the dean appointing the committee.

3 "(g) The board shall retain an amount of five
4 percent of the amount to be distributed pursuant to subsection
5 (a) as a fee for administrative expenses associated with the
6 collection and distribution of the funds.

7 "(h) The provisions of this amendatory section are
8 remedial and curative and shall be retroactive to January 1,
9 1998."

10 Section 2. This act shall become effective on the
11 first day of the third month following its passage and
12 approval by the Governor, or its otherwise becoming law.