

## A-Engrossed Senate Bill 55

Ordered by the Senate April 6  
Including Senate Amendments dated April 6

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for State Board of Examiners for Engineering and Land Surveying)

### SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

**Establishes registration and certification requirements for persons practicing photogrammetric mapping. Defines "photogrammetric mapping."**

Allows State Board of Examiners for Engineering and Land Surveying to establish branches of land surveying for issuance of certificate of registration. Allows board to issue certificate of registration in newly established branch of land surveying without examination under certain circumstances.

Redefines "practice of land surveying." [*Makes new definition applicable to services rendered on or after effective date of Act.*]

[*Adjusts wording of provision allowing engineer or professional engineer to make certain survey measurements and moves provision to separate section.*]

**Exempts certain data transcribers and other professionals qualified to document maps from board regulation.**

Revises language to expressly state that board has authority to establish fees by rule.

### A BILL FOR AN ACT

Relating to professions regulated by State Board of Examiners for Engineering and Land Surveying; creating new provisions; and amending ORS 105.718, 279C.100, 672.002, 672.005, 672.060, 672.155 and 672.255.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. Sections 2 to 5 of this 2005 Act are added to and made a part of ORS 672.002 to 672.325.**

**SECTION 2. (1) A person may not practice photogrammetric mapping in this state unless the person is registered and has a valid certificate to practice land surveying, engineering or photogrammetric mapping issued under ORS 672.002 to 672.325.**

**(2) A photogrammetrist may perform services defined as photogrammetric mapping under ORS 672.002. A photogrammetrist may not engage or offer to engage in an act constituting the practice of land surveying other than photogrammetric mapping.**

**SECTION 3. To qualify for a certificate of registration as a photogrammetrist, a person must:**

**(1) Pass the fundamentals of land surveying examination;**

**(2) Pass a professional photogrammetric mapping examination administered by the State Board of Examiners for Engineering and Land Surveying; and**

**(3) Have four or more years of experience acceptable to the board as an active practitioner of photogrammetric mapping.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

**SECTION 4.** Notwithstanding the qualifications required under section 3 of this 2005 Act, the State Board of Examiners for Engineering and Land Surveying may issue a certificate of registration as a photogrammetrist to an applicant without an examination if the applicant:

(1) Has eight or more years of experience as a practitioner of photogrammetric mapping acquired before the application date;

(2) Has eight or more years of experience in responsible charge of photogrammetric mapping projects meeting:

(a) The Federal Geographic Data Committee positioning accuracy and metadata standards in effect on the effective date of this 2005 Act;

(b) A later version of the standards described in paragraph (a) of this subsection, recognized by the board by rule; or

(c) Other standards of the committee, recognized by the board by rule;

(3) Meets any additional professional qualifications established by the board by rule;

(4) Pays a fee established by the board by rule for the issuance of a photogrammetrist certificate without examination; and

(5) Submits the application no later than January 1, 2008.

**SECTION 5.** If the State Board of Examiners for Engineering and Land Surveying specifies a new branch of engineering or land surveying for examination and registration under ORS 672.002 to 672.325, the board may issue a certificate to an individual in the new branch without examination if the individual:

(1) Is a registered professional engineer, if the new branch is a branch of engineering;

(2) Is a registered engineer or land surveyor if the new branch is a branch of land surveying;

(3) Establishes to the satisfaction of the board that the person has four years' experience in the new branch specified by the board;

(4) Pays the fee established under ORS 672.155 for certification in a newly established branch, without examination, based on experience; and

(5) Submits an application to the board for issuance of the certificate in the new branch within one year after the date the board first gives an examination in the new branch.

**SECTION 6.** ORS 672.002 is amended to read:

672.002. As used in ORS 672.002 to 672.325, unless the context requires otherwise:

(1) "Board" means the State Board of Examiners for Engineering and Land Surveying provided by ORS 672.240.

(2) "Engineer," "licensed engineer," "professional engineer," "registered engineer" or "registered professional engineer" means a person who is registered in this state and holds a valid certificate to practice engineering in this state as provided under ORS 672.002 to 672.325.

(3) "Engineering intern" means a person enrolled by the board as having passed an examination in the fundamental engineering subjects.

(4) "Geodetic survey" means a determination of the size and shape of the earth or the position of any point on the earth.

[(4)] (5) "Land surveyor," "surveyor," "licensed surveyor," "professional surveyor," "professional land surveyor," "registered land surveyor" or "registered professional land surveyor" means a person who is registered in this state and holds a valid certificate to practice surveying in this state as provided by ORS 672.002 to 672.325.

1        [(5)] (6) “Land surveying intern” means a person enrolled by the board as having passed an ex-  
 2        amination in the fundamental land surveying subjects.

3        (7) “**Photogrammetric mapping**” means an evaluating and measuring of land that is lim-  
 4        ited to the determination of the topography, area, contours and location of planimetric fea-  
 5        tures, by using photogrammetric methods or similar remote sensing technology, including  
 6        but not limited to using existing ground control points incidental to the photogrammetric  
 7        or remote sensing mapping process.

8        (8) “**Photogrammetrist**” means a person registered with the board and holding a valid  
 9        certificate to practice photogrammetric mapping.

10       [(6)] (9) “Responsible charge” means to have supervision and control of:

11       (a) The engineering design of works with responsibility for design decisions; or

12       (b) Land surveying work for the purpose of ensuring conformance to the relevant requirements  
 13       of law and sound surveying practice.

14       [(7)] (10) “Supervision and control” means establishing the nature of, directing and guiding the  
 15       preparation of, and approving the work product and accepting responsibility that the work product  
 16       is in conformance with standards of professional practice.

17       **SECTION 7.** ORS 672.005 is amended to read:

18       672.005. As used in ORS 672.002 to 672.325, unless the context requires otherwise:

19       (1)[(a)] “Practice of engineering” or “practice of professional engineering” means **doing any of**  
 20       **the following:**

21       [(A)] (a) **Performing** any professional service or creative work requiring engineering education,  
 22       training and experience.[: and]

23       [(B)] (b) [*The application of*] **Applying** special knowledge of the mathematical, physical and en-  
 24       gineering sciences to such professional services or creative work as consultation, investigation,  
 25       testimony, evaluation, planning, design and services during construction, manufacture or fabrication  
 26       for the purpose of ensuring compliance with specifications and design, in connection with any public  
 27       or private utilities, structures, buildings, machines, equipment, processes, works or projects.

28       [(b) “Practice of engineering” or “practice of professional engineering” may include:]

29       [(A)] (c) Surveying to determine area or topography.[:]

30       [(B)] (d) Surveying to establish lines, grades or elevations, or to determine or estimate quantities  
 31       of materials required, removed or in place.[: or]

32       [(C)] (e) Surveying required for design and construction layout of engineering and architectural  
 33       infrastructure.

34       (f) **Performing photogrammetric mapping.**

35       (2) “Practice of land surveying” means [*that branch of the practice of engineering in which:*]

36       [(a) *Surveys are made to determine area or topography, to establish or reestablish land boundaries,*  
 37       *corners or monuments or to subdivide or plat land;*]

38       [(b) *Surveys are made to establish lines, grades or elevations, or to determine or estimate quantities*  
 39       *of materials required, removed or in place;*]

40       [(c) *Surveys are made for horizontal or vertical mapping control or geodetic control;* or]

41       [(d) *Consultation, investigation, evaluation or planning relating to land surveying matters is re-*  
 42       *quired.*] **doing any of the following:**

43       (a) **Providing or offering to provide professional services that apply mathematics, geodesy**  
 44       **and other sciences and involve:**

45       (A) **The making of geometric measurements and gathering of related information per-**

taining to:

(i) The physical or legal features of the earth;

(ii) Improvements on the earth; or

(iii) The space above or below the earth; or

(B) The development of measurements and information described in subparagraph (A) of this paragraph into graphics, data, maps, plans, reports, descriptions, projects or other survey products.

(b) Performing geodetic surveys.

(c) Establishing, reestablishing or replacing boundaries or geodetic control monuments or reference points.

(d) Locating, relocating, establishing, reestablishing or retracing any property lines or boundaries for any tract of land, road right-of-way or easement.

(e) Making any survey for the division or subdivision of a tract of land or for the consolidation of tracts of land.

(f) Locating and laying out alignments, positions or elevations for the construction of fixed works.

(g) Performing or offering to perform any investigation, interpretation or evaluation of, or any consultation or testimony about, any of the services described in paragraphs (a) to (f) of this subsection.

(h) Collecting, preparing, manipulating or modifying data related to activities described in paragraphs (a) to (f) of this subsection, other than acting as a scrivener.

(i) Performing photogrammetric mapping.

(j) Making surveys that involve horizontal or vertical mapping control or geodetic control.

**SECTION 8.** ORS 672.060 is amended to read:

672.060. ORS 672.002 to 672.325 do not apply to:

(1) A registered architect practicing architecture.

(2) A registered environmental health specialist or registered environmental health specialist trainee working under the supervision of a registered environmental health specialist practicing environmental sanitation, or a registered waste water specialist or registered waste water specialist trainee working under the supervision of a registered waste water specialist practicing waste water sanitation.

(3) A person working as an employee or a subordinate of a registered professional engineer if:

(a) The work of the person does not include final engineering designs or decisions;

(b) The work of the person is done under the supervision and control of and is verified by a registered professional engineer; and

(c) The person does not purport to be an engineer or registered professional engineer by any verbal claim, sign, advertisement, letterhead, card or title.

(4) A person practicing land surveying under the supervision of a registered professional land surveyor or registered professional engineer. The exemption in this subsection does not allow an engineer to supervise a land surveying activity the engineer could not personally perform under ORS 672.025.

(5) An individual, firm, partnership or corporation practicing engineering or land surveying:

(a) On property owned or leased by the individual, firm, partnership or corporation, or on property in which the individual, firm, partnership or corporation has an interest, estate or

1 possessory right; and

2 (b) That affects exclusively the property or interests of the individual, firm, partnership or cor-  
3 poration, unless the safety or health of the public, including employees and visitors, is involved.

4 (6) The performance of engineering work by a person, firm or corporation, or by full-time em-  
5 ployees thereof, provided:

6 (a) The work is in connection with or incidental to the operations of the persons, firms or cor-  
7 porations; and

8 (b) The engineering work is not offered directly to the public.

9 (7) A person executing engineering work designed by a professional engineer or supervising the  
10 construction of engineering work as a foreman or superintendent.

11 (8) A landowner performing land surveying within the boundaries of the landowner's land or the  
12 landowner's regular employee performing land surveying services as part of the employee's official  
13 duties within the boundaries of the land of the employer.

14 (9) An individual, firm, partnership or corporation offering to practice engineering or land sur-  
15 veying if:

16 (a) The individual, firm, partnership or corporation holds a certificate of registration to engage  
17 in the practice of professional engineering or land surveying issued by the proper authority of any  
18 other state, a territory or possession of the United States, or a foreign country; and

19 (b) The offer includes a written statement that the offeror is not registered to practice engi-  
20 neering or land surveying in the State of Oregon, but will comply with ORS 672.002 to 672.325 by  
21 having a person holding a valid certificate of registration in this state in responsible charge of the  
22 work prior to performing any engineering or land surveying work within this state.

23 (10) A person making plans or specifications for, or supervising the erection, enlargement or  
24 alteration of, a building, or an appurtenance thereto, if the building is to be used for a single family  
25 residential dwelling or farm building or is a structure used in connection with or auxiliary to a  
26 single family residential dwelling or farm building, including but not limited to a three-car garage,  
27 barn or shed or a shelter used for the housing of domestic animals or livestock. ORS 672.002 to  
28 672.325 do not prevent a person from making plans or specifications for, or supervising the erection,  
29 enlargement or alteration of, a building, or an appurtenance thereto, if the building has a ground  
30 area of 4,000 square feet or less and is not more than 20 feet in height from the top surface of lowest  
31 flooring to the highest interior overhead finish of the structure.

32 (11) A construction contractor licensed under ORS chapter 701 that offers services constituting  
33 the practice of engineering if:

34 (a) The services are appurtenant to construction services to be provided by the contractor;

35 (b) The services constituting the practice of engineering are performed by an engineer or engi-  
36 neers registered under ORS 672.002 to 672.325; and

37 (c) The offer by the construction contractor discloses in writing that the contractor is not an  
38 engineer and identifies the registered engineer or engineers that will perform the services consti-  
39 tuting the practice of engineering.

40 **(12) A person transcribing existing georeferenced data into a Geographic Information**  
41 **System or Land Information System format by manual or electronic means, and the main-**  
42 **tenance of that data, if the data are clearly not intended to indicate the authoritative lo-**  
43 **cation of property boundaries, the precise shape or contour of the earth or the precise**  
44 **location of fixed works of humans.**

45 **(13) A person carrying out activities under ORS 306.125 or 308.245. This exemption applies**

to the transcription of tax maps, zoning maps and other public data records into Geographic Information System or Land Information System formatted cadastre and the maintenance of those cadastre, if:

(a) The data are not modified for other than graphical purposes; and

(b) The data are clearly not intended to authoritatively represent property boundaries.

(14) Foresters, geologists, soil scientists, geophysicists, biologists, archeologists, historians or other persons qualified to document maps and databases depicting the distribution of natural resources or phenomena.

**SECTION 9.** ORS 672.155 is amended to read:

672.155. *[In addition to any fees established by rule, fees required to be paid to]* The State Board of Examiners for Engineering and Land Surveying shall *[be]* **establish fees by rule, including but not limited to fees** for the following:

(1) Examination in the fundamentals of engineering.

(2) Examination for registration as a registered professional engineer.

(3) Examination in the fundamentals of land surveying.

(4) Reexamination *[of]* **in** any portion of the land surveyor's examination, if required.

(5) Examination for registration as registered professional land surveyor.

(6) *[Initial]* **Issuance or renewal of a** registered professional land surveyor certificate *[and renewal]*.

(7) *[Initial]* **Issuance or renewal of a** registered professional engineer certificate *[and renewal]*.

**(8) Issuance or renewal of a registered photogrammetrist certificate.**

*[(8)]* **(9)** Registration of nonresident engineer without examination under ORS 672.125.

*[(9)]* **(10)** Registration of a nonresident land surveyor under ORS 672.125.

*[(10)]* **(11) Issuance of a** temporary permit *[issued]* under ORS 672.135.

*[(11)]* **(12)** Reissuance of a lost or mutilated certificate.

*[(12)]* **(13)** Issuance of a certificate **of registration**, without examination, based on experience in a branch of engineering **or land surveying** newly established by the board under ORS 672.255.

**SECTION 10.** ORS 672.255 is amended to read:

672.255. (1) The State Board of Examiners for Engineering and Land Surveying shall adopt rules:

(a) Establishing fees as provided in ORS 672.155 *[for certificates, enrollments and permits issued by the board]*.

(b) Providing a procedure for the issuance, denial, suspension or revocation of certificates, enrollments and permits.

(c) Prescribing standards of professional conduct for professional engineers, professional land surveyors, **photogrammetrists**, engineering interns and land surveying interns.

(d) Specifying branches **of engineering and land surveying** in which examinations are offered *[and for registration of individuals and for issuance of certificates]*.

**(e) For registering individuals and issuing certificates of registration** and temporary permits to individuals under ORS 672.002 to 672.325. *[If the board specifies a new branch for examination and registration under this paragraph, the board may issue a certificate to an individual in the new branch without examination if the individual:]*

*[(A) Is a registered professional engineer;]*

*[(B) Establishes to the satisfaction of the board that the person has four years' experience in the new branch of engineering specified by the board;]*

1       [(C) Pays the fee established under ORS 672.155 for certification in a newly established branch of  
2       engineering, without examination, based on experience; and]

3       [(D) Submits an application to the board for issuance of the certificate in the new branch within  
4       one year after the date the board first gives an examination in the new branch.]

5       [(e)] (f) Prescribing standards and intellectual, educational and technical qualifications for ex-  
6       amination and certificate renewal in addition to [those] **the qualifications and conditions** pre-  
7       scribed in ORS 672.097, 672.099 and 672.170 **and section 3 of this 2005 Act.**

8       [(f)] (g) Prescribing standards and guidelines for retired or inactive status of registrants, in-  
9       cluding provisions to allow the return to active status.

10       **(h) Defining the scope of practice for persons holding a certificate issued by the board**  
11       **to practice land surveying or a certificate or temporary permit issued by the board to per-**  
12       **form photogrammetric mapping.**

13       **(i) Clarifying the application of any exemption listed in ORS 672.060 and creating addi-**  
14       **tional exemptions, as the board determines appropriate, for activities that clearly are not**  
15       **intended to provide an authoritative application of engineering, land surveying or**  
16       **photogrammetric services or creative work.**

17       (2) In adopting rules under subsection (1)(c) [and (d)] **to (i)** of this section, the board shall give  
18       consideration to national practices as well as local practices. Adoption of rules shall be in accord-  
19       ance with ORS chapter 183.

20       **SECTION 11.** ORS 105.718 is amended to read:

21       105.718. If the proceeding in a boundary action involves the location of a public land survey  
22       corner as defined by ORS 209.250 (3), the court shall determine the location of the public land sur-  
23       vey corner by the following method:

24       (1) The court shall appoint three disinterested commissioners who are registered professional  
25       land surveyors, one of whom shall be the county surveyor of the county in which the action is  
26       brought, and shall direct the commissioners to go upon the land of the parties and establish and  
27       mark out upon the ground the true and correct location of the corner in accordance with ORS  
28       209.070. If the county surveyor of the county in which the action is brought is interested in any  
29       tract of land, the title of which is in dispute before the court, the court shall appoint the county  
30       surveyor of an adjacent county to serve in lieu of the interested county surveyor.

31       (2) The three commissioners shall establish and monument the true location of the corner in  
32       accordance with the current United States Manual of Surveying Instructions. The monument set  
33       shall be in accordance with the standards of the county surveyor of the county in which the corner  
34       is located. For the purposes of ORS 672.002 [(6)(b)] **(9)(b)**, the county surveyor shall be the person  
35       in "responsible charge" and shall affix a seal and signature to any plat or report prepared.

36       (3) The county surveyor shall be responsible for the preparation and filing of the survey in ac-  
37       cordance with ORS 209.250.

38       (4) The corner, when properly established by the commission, shall be recognized by the court  
39       as the legal and permanent corner. The decision of the commission is not subject to appeal.

40       (5) The costs for the services of the three commissioners shall be paid by either the plaintiff or  
41       the defendant, or both, as determined by the court.

42       **SECTION 12.** ORS 279C.100 is amended to read:

43       279C.100. As used in ORS 279C.100 to 279C.125:

44       (1) "Architect" means a person who is registered and holds a valid certificate in the practice  
45       of architecture in the State of Oregon, as provided under ORS 671.010 to 671.220, and includes

1 without limitation the terms “architect,” “licensed architect” and “registered architect.”

2 (2) “Architectural, engineering and land surveying services” means professional services that  
3 are required to be performed by an architect, engineer or land surveyor.

4 (3) “Engineer” means a person who is registered and holds a valid certificate in the practice  
5 of engineering in the State of Oregon, as provided under ORS 672.002 to 672.325, and includes all  
6 terms listed in ORS 672.002 (2).

7 (4) “Land surveyor” means a person who is registered and holds a valid certificate in the prac-  
8 tice of land surveying in the State of Oregon, as provided under ORS 672.002 to 672.325, and includes  
9 all terms listed in ORS 672.002 [(4)] (5).

10 (5) “Personal services” mean the services of a person or persons that are designated by the  
11 Oregon Department of Administrative Services or a local contract review board as personal services  
12 under ORS 279A.055. “Personal services” includes architectural, engineering and land surveying  
13 services procured under ORS 279C.105 or 279C.110 and related services procured under ORS  
14 279C.120.

15 (6) “Related services” means personal services, other than architectural, engineering and land  
16 surveying services, that are related to the planning, design, engineering or oversight of public im-  
17 provement projects or components thereof, including but not limited to landscape architectural ser-  
18 vices, facilities planning services, energy planning services, space planning services, environmental  
19 impact studies, hazardous substances or hazardous waste or toxic substances testing services,  
20 wetland delineation studies, wetland mitigation studies, Native American studies, historical research  
21 services, endangered species studies, rare plant studies, biological services, archaeological services,  
22 cost estimating services, appraising services, material testing services, mechanical system balancing  
23 services, commissioning services, project management services, construction management services  
24 and owner’s representative services or land-use planning services.