



Office of the Attorney General  
State of Texas

December 8, 1992

DAN MORALES  
ATTORNEY GENERAL

Mr. Charles E. Nemir, P.E.  
Executive Director  
Texas State Board of Registration  
for Professional Engineers  
P. O. Drawer 18329  
Austin, Texas 78760

Letter Opinion No. 92-83

Re: Whether certain applicants for registration as professional engineers pursuant to article 3271a, V.T.C.S., must pay the \$200 increase in registration fees imposed by section 13B(a)(1) of that article (RQ-216)

Dear Mr. Nemir:

Your question concerns the application of the Texas Engineering Practice Act (the "act"), V.T.C.S. article 3271a. In particular, you ask whether an individual who qualifies for an exemption from the registration requirements of the act pursuant to section 20(g) or (h) must pay the \$200 increase in the registration fee imposed by section 13B(a)(1) of article 3271a if he seeks registration as a professional engineer although not required to do so. We conclude that such an individual must pay the \$200 increase in the registration fee.

Section 13B was added to article 3271a by House Bill 11 during the first called session of the 72d Legislature. Acts 1991, 72d Leg., ch. 5, at 180-81; *see also* Attorney General DM-92 (1991) (addressing application of section 13B fee increases to certain older engineers). Section 13B provides in pertinent part:

(a) Each of the following fees imposed by or under another section of this Act is increased by \$200:

- (1) registration fee;
- (2) annual renewal fee; and
- (3) reciprocal registration fee.

....

(c) Subsection (a) does not apply to a *registered professional engineer* who meets the qualifications for an exemption from

registration under Section 20(g) or (h) of this Act but who does not claim that exemption. [Emphasis added.]

In general, section 20(g) exempts from the act's registration requirements a regular full-time employee of a private corporation or other private business entity who is engaged "solely and exclusively in performing services" for that corporation or entity. Section 20(h) contains a similar exemption for a regular full-time employee of a privately owned public utility or cooperative utility who is engaged "solely and exclusively in performing services" for that privately owned or cooperative utility. We understand that individuals who qualify for exemption from the act's registration requirements pursuant to either section 20(g) or 20(h) frequently seek registration as professional engineers although not required to do so.

You explain that an individual exempt under either section must pay the initial registration fee to become a registered engineer and that, thereafter, he must pay the annual renewal fee to maintain his registration. You also explain that the reference in section 13B(c) to subsection (a), which mentions both the initial registration fee and the annual renewal fee, suggests that section 13B(c) exempts from the \$200 increase in the registration fee an applicant for registration who satisfies the qualification requirements of section 20(g) or 20(h).

To ascertain the legislature's intent in enacting section 13B(c), this office must examine the statutory provision as a whole. *Sandy Internat'l, Inc. v. Hansel & Gretel Children's Shop, Inc.*, 775 S.W.2d 802, 804 (Tex. App--Dallas 1989, no writ); Attorney General Opinion JM-1171 (1990). Read as a whole, subsection (c) applies only to "registered professional engineers" who qualify for exemption from the act's registration requirements under either section 20(g) or 20(h). We found no indication in the legislative history of House Bill 11 that the legislature intended a different or more expansive construction of section 13B(c).<sup>1</sup> See, e.g., Bill File to H.B. 11, Acts 1991, 72d Leg., 1st C.S. We therefore conclude that the reference to subsection (a) in sections 13B(c) refers only to the \$200 increase in the annual

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<sup>1</sup>You do not ask, nor do we address, whether the classifications established by the legislature in section 13B(c) for purposes of receiving an exemption from the \$200 fee increases satisfy the rational basis test used to evaluate federal equal protection challenges to statutory classifications made in regulating various occupations. Furthermore, the resolution of such an issue would require findings of fact, which we are unable to make in an attorney general opinion. See, e.g., Attorney General Opinion DM-42 (1991) (also stating general rule that such regulatory classifications are invalid only if "no grounds can be conceived to justify them").

renewal fees paid by registered professional engineers who satisfy the qualification requirements of sections 20(g) or 20(h) and not also to the \$200 increase in the initial registration fees paid by applicants who satisfy the qualification requirements of those sections.

S U M M A R Y

Section 13B(c) of the Texas Engineering Practice Act, article 3271a, V.T.C.S., does not exempt from the \$200 increase in initial registration fees imposed by section 13B(a)(1) an applicant for registration who qualifies for exemption from the act's registration requirements under section 20(g) or 20(h). Section 13B(c) exempts only an individual already registered as a professional engineer from the \$200 increase in annual renewal fees imposed by section 13B(a)(2) of the act if he satisfies the qualification requirements of section 20(g) or 20(h) of the act.

Very truly yours,



Celeste A. Baker  
Assistant Attorney General  
Opinion Committee