

Editorial | So, Do We Need A Structural Engineering License Law?

By John Mercer, P.E., SECB



One of the most distressing issues that I see coming down the pike is the much acclaimed Structural Engineer or SE license requirement currently being promoted by our associations. (I expect that this will cause a flurry of comments from readers, but read on, you may find other merits in this editorial).

In my state, regulation and enforcement of this requirement will have to be taken down to the local level of Building Officials in every jurisdiction. We have a “home-rule” law here that allows the local officials to adopt or modify anything that state law mandates. In other words, the state cannot enforce state law on local jurisdictions. Perhaps your state may have a similar situation.

One challenge that I see, at least in the jurisdiction in which I conduct business, is that most localities already have policies in place requiring Design Professionals to design buildings and other structures. Enforcement of that policy has been diluted through political pressures brought on by related industries, like the real estate and contracting communities. Pre-existing policies by local enforcement entities aren't likely to change in the short term. On the other hand, I also realize that there are cities that have such a high regulation requirement that it can take years to get a simple building permit.

Another issue that could be of concern is that of “restraint of trade.” The question is, do you support an SE licensing act to ace out your competition, or do you travel on a higher road; do you want to improve the practice of the structural engineering community as a whole? Perception can be reality. A better job of advertising the purpose and benefits of a licensing law needs to be initiated so it reaches the eyes and ears of key stakeholders, not just engineers offering structural services.

How much time in the recent past have you and your firm personally spent educating your local Building Officials and politicians on the merits of structural engineering services on projects? Are you willing to spend more time in the future to educate your local officials on the reasons and benefits of a Structural Engineering License?

Who is demanding the licensing requirement? I realize that there are structural engineers who support this. Where does the real power lie? Let's take a moment and see if it makes any sense for the structural engineering community to lead this effort.

What if the insurance industry were to get involved? Our Professional Liability carriers are happy to quote us and sell us policies. They also take a business approach to selling us down the river if it makes financial sense for them to not defend us in a claims action, but to settle out of court. (Ouch!) However, what if the insurance industry were to go to the state legislatures and lobby them to stand behind a law requiring SE's to design structures?

Would it then make sense that the state insurance commissioners might pass this information along to the local jurisdictions' Building Officials and politicians, regardless of “home-rule” status, and suggest to them their “local insurance ratings” might be negatively impacted

Foundations for Risk Management

- 1) **Culture:** create a culture of managing risk and preventing claims.
- 2) **Prevention and Proactivity:** act with preventative techniques, don't just react.
- 3) **Planning:** plan to be claims free.
- 4) **Communication:** communicate to match expectations with perceptions.
- 5) **Education:** educate all of the players.
- 6) **Scope:** develop and manage a clearly defined scope of services.
- 7) **Compensation:** prepare and negotiate fee that allow for quality and profit.
- 8) **Contracts:** negotiate clear and fair agreements.
- 9) **Contract Documents:** produce quality contract documents.
- 10) **Construction Phase:** provide services to complete the risk management process.

by not requiring SE's to conduct the work on public (and private) projects? I think that might be an attention getter.

Another question begs asking at this point. Will insurance claims decrease when SE licensing laws are in place? The insurance industry will probably be asking that one. How would you answer it? The CASE Risk Management Program (RMP) could be one part of the answer. If your firm doesn't have an active Risk Management Culture, then the first foundation of Risk Management for your firm needs to be addressed. Structural Engineers don't get up in the morning and say, “I'm going to make a big mistake today that is going to get our company sued.” Most firms find themselves involved in litigation because of: in-attention to details, attitudes of others, and lack of communications.

Every structural engineer needs to have a Risk Management Program in place in their firm. I encourage you to keep reading CASE editorials and CASE In Point to stay informed about CASE and their Risk Management Program. I invite you to attend future CASE Convocations to educate yourself on the many ways CASE-Hardened Risk Managers manage their risk every day.

I would be curious to hear your thoughts on whether an SE license will reduce your risk, or just make you a better practitioner. ■

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