COMMITTEE REPORT

May 24, 2012

**S. 1137**

Introduced by Senator Shoopman

S. Printed 5/24/12--H.

Read the first time April 25, 2012.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 1137) to amend the Code of Laws of South Carolina, 1976, by adding Sections 40‑3‑325 and 40‑22‑295 so as to enact the “Architects’ and Engineers’ Volunteer Act”, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. This act may be cited as the “Architects’ and Engineers’ Volunteer Act”.

SECTION 2. Chapter 3, Title 40 of the 1976 Code is amended by adding:

“Section 40‑3‑325. A licensed architect under the provisions of this chapter is immune from liability for volunteer architectural services provided during an emergency in the same manner as a licensed engineer is immune for volunteer engineering services as provided in Section 40‑22‑295. This section does not provide immunity from liability for persons merely registered in this state pursuant to Section 40‑3‑260.”

SECTION 3. Chapter 22, Title 40 of the 1976 Code is amended by adding:

“Section 40‑22‑295. (A) A licensed engineer who voluntarily, without compensation, provides structural, electrical, mechanical, or other engineering services at the scene of a declared national or state emergency, at the request of the Governor, is not liable for any personal injury, wrongful death, property damage, or other loss caused by the licensed engineer’s acts, errors, or omissions in performing the engineering services for a structure, building, piping, or other engineered system, either publicly or privately owned. Immunity from liability under this section is only effective as to services rendered during the thirty days following the event that gave rise to the declared state of emergency.

(B)(1) Any licensed engineer appointed pursuant to this section must not be held liable for any civil damages as a result of the providing of requested engineering services unless the damages result from providing, or failing to provide engineering services if the consequences of the services provided are proven by a preponderance of the evidence to be the result of gross negligence or recklessness.

(2) This section applies if the engineer does not receive payment other than as allowed in Section 8‑25‑40 for the appointed services and prescribed duties. However, if the engineer is an employee of the State, the engineer may continue to receive compensation from his employer.

(C) This section does not provide immunity from liability to persons providing services pursuant to Section 40‑22‑75.”

SECTION 4. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

WILLIAM E. SANDIFER for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 40‑3‑325 AND 40‑22‑295 SO AS TO ENACT THE “ARCHITECTS’ AND ENGINEERS’ VOLUNTEER ACT” WHICH PROVIDES IMMUNITY FOR A REGISTERED ARCHITECT OR ENGINEER WHO PROVIDES CERTAIN ARCHITECTURAL OR ENGINEERING SERVICES AT THE SCENE OF A DECLARED EMERGENCY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Architects’ and Engineers’ Volunteer Act”.

SECTION 2. Chapter 3, Title 40 of the 1976 Code is amended by adding:

“Section 40‑3‑325. A licensed architect under the provisions of this chapter, or a licensed contractor or subcontractor as defined by Section 40-11-20, is immune from liability for volunteer architectural or volunteer construction services during an emergency in the same manner as a licensed engineer is immune for volunteer engineering services as provided in Section 40‑22‑295.”

SECTION 3. Chapter 22, Title 40 of the 1976 Code is amended by adding:

“Section 40‑22‑295.(A) As used in this section:

(1) ‘Public official’ means a federal, state, or locally elected official with overall executive responsibility in the jurisdiction in which the emergency or event has occurred.

(2) ‘Public safety official’ means an appointed or elected federal, state, or local official with overall executive responsibility to coordinate public safety in the jurisdiction in which the emergency or event has occurred.

(3) ‘Law enforcement official’ means an appointed or elected federal, state, or local official with overall executive responsibility to coordinate law enforcement in the jurisdiction in which the emergency or event has occurred.

(4) ‘Building inspection official’ means an appointed or elected federal, state, or local official with overall executive responsibility to coordinate building inspection in the jurisdiction in which the emergency or event has occurred.

(B) A licensed engineer, architect, contractor, or subcontractor who voluntarily, without compensation, provides structural, electrical, mechanical, or other engineering, architectural, or construction services at the scene of a declared national, state, or local emergency at the request of a public official, law enforcement official, public safety official, or building inspection official acting in an official capacity, is not liable for any personal injury, wrongful death, property damage, or other loss caused by the licensed engineer’s, architect’s, contractor’s, or subcontractor’s acts, errors, or omissions in performing the engineering or architectural services for a structure, building, piping, or other engineered system, either publicly or privately owned.

(C)(1) Any licensed architect, engineer, contractor, or subcontractor appointed pursuant to this section must not be held liable for any civil damages as a result of the providing of requested architectural, engineering, or construction services unless the damages result from providing, or failing to provide, architectural, engineering, or construction services in reckless disregard for the consequences of the services provided.

(2) This section applies if the architect, engineer, contractor, or subcontractor does not receive payment from the State other than as allowed in Section 8-25-40 for the appointed services and prescribed duties. However, if the architect or engineer is an employee of the State, the architect or engineer may continue to receive compensation from his employer.”

SECTION 4. This act takes effect upon approval by the Governor.

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