

# 法制業務

## Legal Affairs

法規委員會除辦理本會法規委員會法制業務外，並兼辦訴願審議委員會及技師懲戒委員會業務。

### 壹 法規委員會業務

#### 一、組織

法規委員會委員由具有工程、採購、法律等背景之專家及本會高級人員組成，共計12人，辦理本會主管法規、行政規則、解釋函令之審議及相關法制事項。

#### 二、委員會議審議情形

(一) 法規會94年度計召開委員會議8次。

(二) 委員會議審議本會主管法規及行政規則之制(訂)定修正案，並審查本會主管法規適用疑義。本年度完成審查之法案舉其要者：

1. 政府採購法規，提付審查計「採購評選委員會審議規則第六條之一條文修正案」、「最有利標評選辦法第二十條條文修正案」、「採購評選委員會組織準則第八條」、「採購評選委員會審議規則部分條文修正案」及「押標金保證金暨其他擔保作業辦法第三十三條之五修正案」等5案，均已發布施行(生效)。
2. 促進民間參與公共建設法規，提付審查計「促進民間參與公共建設法施行細則修正案」(2月23日之修正案)及「民間參與公共建設甄審委員會組織及評審辦法修正案」等2案，均已發布施行(生效)。又「促進民間參與公共建設法施行細則」本年度第2次修正案，已審議完畢提送行政院審查。另有關本法第五十五條第二項、第五條第二項規定等適用疑義案，亦提委員會討論，使促進民間參與公共建設法之適用更周延完整。

In addition to handling its own legal affairs, the PCC's Legal Affairs Committee also handles legal matters for Appeals Review Committee and Professional Engineers Discipline Committee.

### I. Operations of Legal Affairs Committee

#### 1. Organization

Legal Affairs Committee is comprised of experts with engineering, procurement, and legal backgrounds, together with high-ranking PCC personnel, and has a total of 12 members. It handles review and other matters related to laws, regulations, administrative rules, and legal interpretations that come under the jurisdiction of the PCC.

#### 2. Status of the Committee's Review Operations

- (1) The Committee held eight meetings during fiscal year 2005.
- (2) The Committee reviews the enactment and revision and laws and administrative rules under PCC jurisdiction, and also examines points of uncertainty about the application of laws and regulations under PCC jurisdiction. Major bills reviewed in 2005 include the following:
  - a. Five government procurement laws and regulations were submitted for review: Revision of Article 6-1 of the Rules for Review by Procurement Evaluation Committee, Revision of Article 20 of the Rules for Selection of the Most Advantageous Tender, Article 8 of the Rules Governing the Organization of the Procurement Evaluation Committee, Partial Revision of the Rules for Review by the Procurement Evaluation Committee, and Revision of Article 33-5 of the Rules for Bid Bonds, Guarantee Bonds and Other Guarantees. All have been promulgated and implemented.
  - b. The following two bills related to the promotion of private participation in infrastructure projects were submitted for review, and both have been promulgated and implemented: the Feb. 23 Revision of the Enforcement Rules of Law for Promotion of Private Participation in Infrastructure Projects, and Revision of the Regulations Governing the Organization of the Evaluation Committee for Private Participation in Infrastructure Projects, and Review Methods. In addition, the year's second revision of the Enforcement Rules of Law for Promotion of Private Participation in Infrastructure Projects has completed the review process and has been sent to the Executive Yuan for screening. Furthermore, a bill regarding dissenting opinions about the application of paragraph 2, Article 55 and paragraph 2, Article 5 of the Law for Promotion of Private Participation in Infrastructure Projects have been submitted to the committee for discussion with the aim of making the application of the Law more encompassing.
  - c. In regard to laws and regulations governing professional engineers, two bills concerning uncertainties about

3. 技師法規，法規適用疑義案計提付審查「本會依工程技術顧問公司管理條例第4條增列工程技術顧問公司營業範圍科別之認定原則」及「有關技師於申領之執業執照效期屆滿後仍繼續執行技師業務時，得否適用技師法相關規定予以處罰」等2案，使技師法規適用更妥適。

### 三、法制業務辦理情形

會辦「公共工程規劃設計服務廠商評選作業注意事項修正案」「採購評選委員會委員須知修正案」；「技師執業執照申請核發（變更、換發、補發、註銷）應繳送申請書表之執表一、執表二及執表三 修正案」；「行政院促進民間參與公共建設推動委員會設置要點修正案」、「促進民間參與公共建設法之重大公共建設範圍訂定及認定原則第三點、第四點、第五點及附件一修正案」、「主辦機關審核民間自行規劃申請參與公共建設案件注意事項第三點及第七點條文修正案」、「擴大鼓勵地方政府辦理促進民間參與公共建設案件獎勵作業要點訂定案」、「機關辦理促進民間參與公共建設案件簽訂投資契約獎勵作業要點第三點修正案」、「行政院鼓勵各機關積極辦理民間參與公共建設方案修正案」、「促進民間參與公共建設案件列管及考核作業要點第二點、第三點及第十點修正案」、「工程施工查核

application about have been submitted for examination: Determination Principles for the Addition by the PCC of Items to the Business Scope of Engineering Consulting Companies in Accordance with Article 4 of the Law Governing the Administration of Professional Engineering Consulting Firms, and Whether the Provisions of The Law for Professional Engineers Can Be Used to Discipline Professional Engineers Who Continue Providing Engineer Services After the Expiration of Their Licenses to Practice.

### 3. Status of Legal Operations

The PCC is handling 18 bills designed to make the application of regulations in the Government Procurement Law, Law for Promotion of Private Participation in Infrastructure Projects, and The Law for Professional Engineers, as well as the surveillance of public construction and the control of construction quality, more complete: Revision of the Items for Attention in the Selection of Public Construction Planning and Design Service Companies, Revision of the Instructions for Procurement Evaluation Committees, Revision of the Requirement for Professional Engineers to Submit Forms 1, 2, and 3 when Applying for the Issuance (Alteration, Replacement, or Re-issuance) of Professional Engineer Licenses, Revision of the Guidelines for the Establishment of the Executive Yuan Committee for the Promotion of Private Participation in Infrastructure Projects, Revision of Points 3, 4, and 5, and Attachment 1, of the Principles for the Establishment and Determination of the Scope of Important Infrastructure Projects Under the Law for Promotion of Private Participation in Infrastructure Projects,

94年度共召開技師懲戒委員會議4次，案件統計及處理情形（89.10.01—94.12.31）表列如下：

The Professional Engineers Disciplinary Committee held four meetings in 2005. The number of disciplinary cases handled (Oct. 1, 2000 — Dec. 31, 2005) and the status of their disposition are shown in the following chart:

技師懲戒委員會案件數量及處理情形 89年10月至94年12月31日止

Cases Handled by the Professional Engineers Disciplinary Committees (First Grade) (Oct. 1, 2000 — Dec. 31, 2005)

實體終結 Substantially Completed	懲戒 Disciplined	廢止（含修法前之撤銷）執照 Revocation of License	9
		停止執業 Cessation of Practice	133
		申誡 Reprimand	5
		警告 Warning	0
	不予懲戒 Not Disciplined		59
程序終結 Procedurally Completed			5
涉及營造業法移送內政部案 Cases Involving the Construction Business Law; Submitted to the Ministry of the Interior			18
併案辦理 Combined Cases			6
處理中 In Process	原有案件 Original Cases		3
	新增案件 New Cases		0
懲戒案件總數 Total Amount of Cases			238

小組績效考核作業要點第三點第二項之附表一至附表四 修正案」、「工程告示牌及竣工銘牌設置要點修正案」、「全民監督公共工程實施方案修正案」、「全民監督公共工程實施方案考核作業規定修正案」、「公共工程金質獎頒發作業要點修正案」、「工程施工查核小組不預先通知查核作業補充規定訂定案」、「工程施工查核小組處理查核缺失改善逾期案件補充規定訂定案」及「行政院公共工程委員會刊登行政院公報作業要點訂定案」等計18案，使政府採購法、促進民間參與公共建設法及技師法等之適用體系，乃至公共工程之施工查核、工程品管等之法令規範，更臻完整周延。

## 貳 訴願審議委員會業務

本會訴願審議委員會委員由法規會委員兼任之，辦理本會訴願審議案件。

本年度共受理訴願案4案，其中3案業已結案，另1案刻正審理中。

## 參 技師懲戒業務

本會依技師法第四十四條、技師懲戒及技師懲戒覆審委員會組織規程第一條之一之規定，設置技師懲戒委員會，辦理技師違反技師法相關法規之技師懲戒事宜。委員由具有工程、採購、法律等背景之專家、學者、機關代表及本會高級人員組成。

Revision of Points 3 and 7 of the Items for Attention in the Evaluation by the Agencies in Charge of Applications for Self-Planned Infrastructure Projects by Private Enterprises, Establishment of Incentive Guidelines for the Expanded Encouragement of Local Governments to Carry Out Private Participation in Infrastructure Projects, Revision of Point 3 in of the Guidelines for Incentives for Government Agencies Carrying Out the Signing of Contracts for Private Investment in Infrastructure Projects, Revision of the Executive Yuan Encouragement of Government Agencies to Actively Carry Out Private Participation in Infrastructure Projects, Revision of Points 2, 3, and 10 of the Operating Guidelines for the Monitoring and Auditing of Private Participation in Infrastructure Projects, Revision of Tables 1 through 4 Attached to Point 2 of the Operating Guidelines for the Performance Evaluation of Construction Surveillance Committees, Revision of the Rules for the Installation of Construction Signage and Completion Plaques, Revision of the Implementation Program for the Supervision of Public Construction by All the People, Revision of the Rules for Evaluation of the Program for Supervision of Public Construction by All the People, Revision of the Operating Guidelines for the Public Construction Golden Quality Awards, Establishment of Supplementary Rules for Inspection Without Prior Notification by Construction Surveillance Units, Establishment of Supplementary Rules for the Handling of Cases of Overdue Improvement of Deficiencies Uncovered by Construction Surveillance Units, and Establishment of Operating Guidelines for the Publication of Executive Yuan Bulletins by the PCC.

## II. Operations of Appeals Review

itting members of the Legal Affairs Committee serve concurrently as members of the Appeals Review Committee, which handles the review of petitions for the PCC. A total of four petitions were accepted during this year; three have been concluded, and the remaining one is under review.

## III. Operations of Professional Engineer Discipline

The PCC has established a Professional Engineers Disciplinary Committee (First Grade), in accordance with the provisions of Article 44 of The Law for Professional Engineers and Article 1-1 of the Organizational Regulations of the Professional Engineers Disciplinary Committees (First and Second Grades), to handle the disciplining of engineers who violate the stipulations of The Law for Professional Engineers. The membership of the committee is made up of experts, scholars, representatives of government agencies, and high-ranking PCC personnel with backgrounds in engineering, procurement, and law.



>花蓮化仁國中水璣分校校舍