

# 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覆審委員會業務。

### 壹、法規委員會業務

一、本會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13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95年度計召開委員會議10次；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。

(二) 本年度完成審查之法案或法規適用疑義案舉其要者：

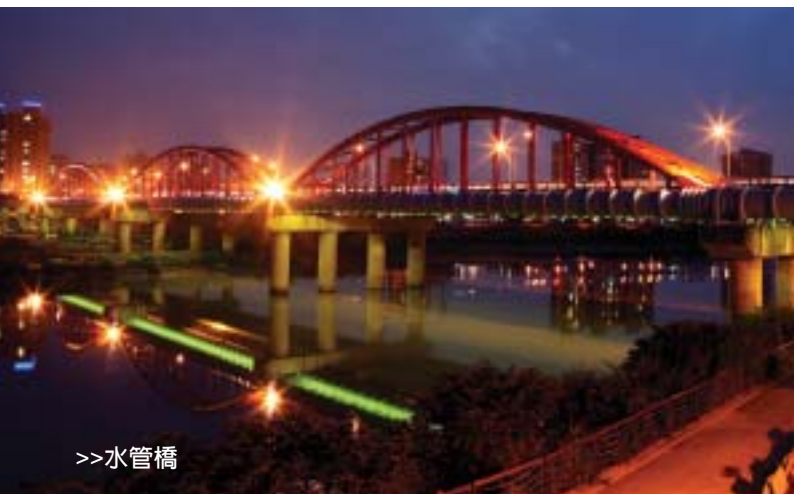
1. 政府採購法規，計「政府採購法第70條、第101條、第103條修正案」、「政府採購法第70條、70條之1、第103條之1修正草案」、「採購履約爭議調解收費辦法第10條、第14條、第15條修正案」、「採購申訴審議收費辦法第6條修正案」等4案，除政府採購法修正草案外，餘均已發布施行。另法律適用疑義案計2案。
2. 促進民間參與公共建設法規，計「民間參與公共建設申請及審核程序爭議處理規則第2條、第26條、第34條修正案」、「民間參與公共建設甄審委員會組織及評審辦法修正案」等2案，均已發布施行。法律適用疑義案1案。
3. 技師法規，計「技師懲戒委員會及技師懲戒覆審委員會組織規程修正草案」，亦已發布施行。

### 三、法制業務辦理情形

除前述委員會議審議之案件外，並由法規會工作人員經常性辦理政府採購法、促進民間參與公共建設法、技師法、工程技術顧問公司管理條例及其子法、行政規則等之制(訂)定、修正、解釋等法制業務，使本會主管法規之適用體系，乃至公共工程之施工查核、工程品管、經費審議等之法令規範，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，審議本會訴願案件。本年度共受理訴願案2案，均已於三個月內結案。



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

## I. Operations of Legal Affairs Committee

**1. The Legal Affairs Committee is comprised of experts with engineering, procurement, and legal backgrounds, together with high-ranking PCC personnel, and has a total of 13 members. It handles review and other matters related to acts, regulations, administrative rules, and legal interpretations that come under the jurisdiction of the PCC.**

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

- (1) The Legal Affairs Committee held 10 meetings in 2006 to review the enactment and revision of laws, regulations, and administrative rules under the PCC's jurisdiction, and to examine points of uncertainty about the application of laws and regulations under the PCC's jurisdiction.
- (2) The following major reviews of laws, regulations, and points of uncertainty about application were completed in 2006:
  - a. The review of four revisions of government procurement-related laws was carried out: Articles 70, 101, and 103 of the Government Procurement Act; Articles 70, 70-1, and 103-1 of the Government Procurement Act; Articles 10, 14, and 15 of the Regulations Governing Fees for the Mediation for Dispute Regarding the Performance of the Contract for Government Procurement; and Article 6 of the Regulations Governing Fees for the Complaint Review for Government Procurement. With the exception of those concerning the Government Procurement Act, these revisions have been implemented. Two cases involving the uncertainty about the application of the law were also completed.
  - b. Two cases of revision concerning private participation in infrastructure projects were completed: Articles 2, 26, and 34 of the Regulations for Dispute Resolutions in the Application and Evaluation Procedures for Private Participation in Infrastructure Projects, and Article 2 of the Regulation for the Organization of the Selection Committee and the Evaluation for the Private Participation in Infrastructure Projects, both of which



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have been implemented. One case of uncertainty about the application of law was carried out.

- c. In the area of laws and regulations regarding professional engineers, a revision of the Organizational Regulations for the Professional Engineer Discipline Committee and the Professional Engineer Discipline Retrial Committee has been promulgated and implemented.

### 3. Status of Legal Affairs Operations

In addition to the reviews of bills as described above, the regular operations of the members of the Legal Affairs Committee in the enactment, revision, and interpretation of the Government Procurement Act, Law for Promotion of Private Participation in Infrastructure Projects, the Professional Engineers Act, Act Governing the Administration of Professional Engineering Consulting Firms and its subsidiary laws, and administrative regulations help to make the application system for laws and regulations under the jurisdiction of the PCC, as well as for the rules for the monitoring of public construction, construction quality, and the review of spending, more complete and comprehensive.

## II. Operation of Appeals Review

Members of the PCC's Legal Affairs Committee serve concurrently as members of the Appeals Review Committee, which handles the review of petitions submitted to the PCC. Two petitions were handled during this year, and both were brought to a conclusion within three months.

### 參、技師懲戒覆審業務

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。95年度共召開技師懲戒覆審委員會議3次，技師懲戒覆審委員會辦理案件統計及處理情形表列如下（89.10.01－95.12.31）：

### III. Discipline of Engineers

The PCC has established a Professional Engineers Disciplinary Committee, in accordance with the provisions of Article 44 of the Professional Engineers Act and Article 1-1 of the Organizational Regulations for the Professional Engineers Disciplinary Committee and the Professional Engineer Discipline Retrial Committee, to handle the disciplining of engineers who violate the stipulations of the Professional Engineers Act. 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.

The Professional Engineers Disciplinary Retrial Committee held three meetings in 2006. The number of disciplinary cases handled (Oct. 1, 2000-Dec. 31, 2006) and the status of their disposition are shown in the following chart:

 <b>工程技術顧問公司登記家數統計表－執業技師人數</b> <b>Cases Handled by the Professional Engineers Disciplinary Retrial Committees</b> <b>(Oct. 1, 2000 — Dec. 31, 2006)</b>			
實體終結 Substantially Completed	懲戒 Disciplined	廢止（含修法前之撤銷執照） Revocation of License	5
		停止執業 Cessation of Practice	57
		申誡 Reprimand	0
	警告 Warning	0	
	不予懲戒 Not Disciplined		3
程序終結 Procedurally Completed		1	
處理中 In Process	原有案件 Original Cases		0
	新增案件 New Cases		0
懲戒覆審案件總數 Total Amount of rehearing Cases		66	