

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 401**

4 (By Senators Snyder and Chafin)

5 _____
6 [Originating in the Committee on Government Organization;
7 reported March 28, 2013.]
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9
10 A BILL to amend and reenact §30-13-6, §30-13-13, §30-13-15 and
11 §30-13-17 of the Code of West Virginia, 1931, as amended; and
12 to amend said code by adding thereto a new section, designated
13 §30-13-13a, all relating to the Board of Registration for
14 Professional Engineers and the requirements for registration
15 and certification of engineers, engineer interns and
16 engineering businesses; providing for compensation of, and
17 reimbursement for, members of the board at same rate as
18 legislative interim pay; providing for registration of
19 engineers generally; adding additional classifications of
20 registration; setting forth qualifications for engineer
21 interns; establishing designations for engineers ineligible to
22 practice; updating examination provisions to comport with
23 changes at the national level; providing emergency rule-making
24 authority to comply with changes in standardized tests; and
25 clarifying the certificate of authorization requirements.

26 *Be it enacted by the Legislature of West Virginia:*

27 That §30-13-6, §30-13-13, §30-13-15 and §30-13-17 of the Code
28 of West Virginia, 1931, as amended, be amended and reenacted; and

1 that said code be amended by adding thereto a new section,
2 designated §30-13-13a, all to read as follows:

3 **ARTICLE 13. ENGINEERS.**

4 **§30-13-6. Compensation and expenses.**

5 Each member of the board shall receive compensation for time
6 spent, and reimbursement for reasonable and necessary expenses
7 incurred, in the performance of board-related duties pursuant to
8 section eleven, article one of this chapter.

9 **§30-13-13. Requirements for registration of professional
10 engineers and certification of engineer interns.**

11 (a) *General requirements.* - Every person who desires to be
12 certified as an engineer intern or to be registered as a
13 professional engineer in this state must comply with the following
14 requirements:

15 (1) Submission of a completed application specified by the
16 board and payment of the application fee specified by rule of the
17 board;

18 (2) Be at least eighteen years of age;

19 (3) Be of good moral character;

20 (4) Submit statements of reference as specified by rule of the
21 board;

22 (5) Graduate from a four-year engineering curriculum
23 accredited by the Engineering Accreditation Commission of the
24 Accreditation Board for Engineering and Technology (EAC/ABET), or
25 an equivalent as approved by the board as being of satisfactory
26 standing; and

27 (6) Be free of any grounds for disqualification as set forth
28 in subsection of (a) of section twenty-one of this article.

1 (b) *Certification of an engineer intern.* - In addition to the
2 foregoing general requirements, an applicant must meet the
3 following requirements to be certified as an engineer intern in
4 this state:

5 (1) Satisfactorily complete the required examination on the
6 fundamentals of engineering; and

7 (2) Complete each additional requirement that the board may
8 specify by legislative rule.

9 (c) *Registration of a professional engineer.* - In addition to
10 the general requirements specified in subsection (a) of this
11 section, an applicant must meet the following requirements to be
12 certified as a professional engineer in this state:

13 (1) Meet all the requirements for certification as an engineer
14 intern;

15 (2) Submit a record of four years or more of progressive
16 experience in engineering work of a grade and a character that
17 indicates to the board that the applicant may be competent to
18 practice engineering;

19 (3) Satisfactorily complete the required examination on the
20 principles and practice of engineering;

21 (4) Complete each additional requirement that the board may
22 specify by legislative rule.

23 (d) *Registration of a professional engineer through comity or*
24 *reciprocal registration.* - Notwithstanding the requirements of the
25 foregoing subsection of this section, the board may issue a license
26 to an applicant who holds a valid license or other authorization to
27 practice engineering from another state, if the applicant satisfies
28 the general requirements of subsection (a) of this section,

1 satisfies the additional requirements specified by rule of the
2 board and meets one of the following requirements:

3 (1) Holds a license or other authorization to engage in the
4 practice of engineering issued by a proper authority of any
5 jurisdiction, based on requirements that do not conflict with the
6 provisions of this article and possessing credentials that are, in
7 the judgment of the board, of a standard equivalent to or not lower
8 than that specified in the applicable licensure act and rules in
9 effect in this state at the time such license was issued, upon
10 application, which may include a council record with NCEES; or

11 (2) Holds an active council record with NCEES, meaning the
12 compilation of documents maintained by NCEES of a person's
13 qualifications as a professional engineer, including official
14 transcripts, engineering examination results, employment
15 verifications and references, whose qualifications as evidenced by
16 the council record meet the requirements of this article.

17 (e) *Certification or registration of qualified applicants.* -
18 The board shall issue a certification to a qualified applicant who
19 meets the requirements for certification as an engineer intern and
20 shall issue a professional engineer registration to a qualified
21 applicant who meets the requirements for registration as a
22 professional engineer,

23 (f) *Continuation of existing registrations and certificates.*
24 - A registration or certificate issued by the board prior to July
25 1, 2013, shall for all purposes be considered a registration or
26 certificate issued under this article: *Provided,* That a person
27 registered or certified prior to July 1, 2013, must renew the
28 registration or certification pursuant to the provisions of this

1 article and the rules of the board.

2 **§30-13-13a. Designations of nonpracticing status.**

3 The board may designate a professional engineer as ineligible
4 to practice or offer to practice engineering in this state using
5 one of the following terms:

6 (1) *Professional engineer-retired.* - A registrant may apply
7 for retired status upon certification that he or she is no longer
8 practicing or offering to practice engineering in this state for
9 remuneration.

10 (2) *Professional engineer-inactive.* - A registrant may request
11 inactive status upon affirmation that he or she is no longer
12 practicing or offering to practice engineering in this state.

13 (3) *Professional engineer-lapsed.* - A registrant's license is
14 lapsed when the registrant does not respond to renewal notices or
15 pay the required renewal fees.

16 (4) *Professional engineer-invalidated.* - A registrant's
17 license is invalidated when he or she is unable to provide
18 sufficient proof that any condition of renewal set forth in this
19 article or by board rule has been met.

20 **§30-13-15. Examinations.**

21 (a) The board has the power to establish, by legislative rule,
22 the requirements for examination for registration as a professional
23 engineer and certification as an engineer intern including, but not
24 limited to, the following criteria: subject matter, prerequisites
25 for testing, passing score, examination sites and schedules,
26 entities authorized to administer examinations, prerequisites for
27 testing and form of testing, including examination by electronic or
28 other means.

1 (b) The board's rules for examination shall include the
2 following minimum requirements:

3 (1) An examination to qualify to be an engineer intern, to
4 test the applicant's knowledge and understanding of the
5 fundamentals of engineering; and

6 (2) An examination to qualify as a professional engineer, to
7 test the applicant's knowledge and understanding of the principles
8 and practice of engineering.

9 (c) If the board determines that the safe and ethical practice
10 of engineering in this state requires examination of matters
11 specific to the law and practice in this state, the board may also
12 establish criteria, by legislative rule, for an examination of the
13 applicant's knowledge and understanding of this state's statutes,
14 rules, professional ethics and design requirements.

15 (d) A candidate for registration as a professional engineer
16 who fails the examination of the principles and practice of
17 engineering may retake the examination one time upon payment of the
18 fee established by the board. In the event of a second failure,
19 the candidate may not repeat the examination unless the examinee
20 demonstrates to the board that he or she has pursued additional
21 instruction or training to correct the candidate's deficit areas of
22 knowledge.

23 (e) In the event that examination requirements, test
24 administration procedures, scoring or testing methods are modified
25 by a board-approved testing entity providing standard tests for use
26 by the board, the board has the authority to promulgate emergency
27 rules to adopt and reflect those changes.

28 **§30-13-17. Certificates of authorization required; naming of**

1 **engineering firms.**

2 ~~(a) The practice of or offer to practice engineering by~~
3 ~~consulting engineers registered under this article, through a firm,~~
4 ~~corporation, copartnership, joint stock association or private~~
5 ~~practitioner employing others, referred to hereinafter as a firm,~~
6 ~~is permitted: Provided, That the person in direct control or~~
7 ~~having personal supervision of the practice and all personnel who~~
8 ~~act in behalf of the firm in professional matters are registered~~
9 ~~under this article: Provided, however, That the firm~~ No person or
10 firm is authorized to practice or offer to practice engineering in
11 this state until the person or firm has been issued a certificate
12 of authorization by the board.

13 ~~(b) A firm desiring a certificate of authorization must file~~
14 ~~with the board an application using a form provided by the board~~
15 ~~and the firm shall provide all the information required by the~~
16 ~~board. A form as provided by the board is to be filed with the~~
17 ~~board with the renewal fee and within thirty days of the time any~~
18 ~~information contained on the form is changed or differs for any~~
19 ~~reason. If the information contained on the form warrants action,~~
20 ~~the board, in its judgment, may issue a certificate of~~
21 ~~authorization for the firm to practice engineering and to contract~~
22 ~~and collect fees for furnishing this service. A person or firm~~
23 desiring a certificate of authorization must file all the required
24 information with the board on an application form specified by the
25 board. The required information shall include the sworn statement
26 of the engineer in responsible charge who is a professional
27 engineer registered in this state. The board shall issue a
28 certificate of authorization to an applicant who has met all the

1 requirements and paid the fees set forth in board rules.

2 (c) No ~~firm shall be~~ person or firm is relieved of
3 responsibility for the conduct or acts of its agents, employees,
4 officers or partners ~~by reason of its~~ due to compliance with the
5 provisions of this article. No individual practicing engineering
6 under the provisions of this article ~~shall be~~ is relieved of
7 responsibility for engineering services performed ~~by reason of~~ due
8 to his or her employment or other relationship with a person or
9 firm holding ~~an authorization certificate.~~ a certificate of
10 authorization.

11 (d) An engineer who renders occasional, part-time or
12 ~~consulting contract~~ engineering services to or for a firm may not
13 ~~for the purposes of this article,~~ be designated as being
14 ~~responsible in responsible charge~~ for the professional activities
15 of the firm unless that engineer is an owner or principal of the
16 firm.

17 (e) ~~Effective one year from the effective date of this~~
18 ~~article, the Secretary of State shall stop issuing a certificate of~~
19 ~~incorporation to an applicant or a registrant as a foreign firm to~~
20 ~~a firm which includes,~~ The Secretary of State shall not issue a
21 certificate of authority or business registration or license to an
22 applicant whose business includes, among the objectives for which
23 it is established, the words engineer, engineering or any
24 modification or derivation thereof unless the board of registration
25 for this profession has issued to the applicant ~~or registrant~~ a
26 certificate of authorization or a letter indicating eligibility to
27 receive the certificate. The certificate or letter from the board
28 shall be filed with the ~~firm's application for incorporation or~~

1 ~~registration.~~ application filed with the Secretary of State to do
2 business in West Virginia.

3 (f) ~~Effective one year after the effective date of this~~
4 ~~article,~~ The Secretary of State shall decline to register ~~any a~~
5 trade name or service mark which includes the words engineer,
6 engineering or modifications or derivatives thereof in its ~~firm~~
7 business name or logotype except those ~~firms holding authorization~~
8 certificates businesses holding a certificate of authorization
9 issued under the provisions of this article.

10 (g) The certificate of authorization may be renewed in
11 accordance with board rule upon payment of the required renewal
12 fee.

13 (h) Every holder of a certificate of authorization has a duty
14 to notify the board promptly of any change in information
15 previously submitted to the board in an application for a
16 certificate of authorization.

(NOTE: The purpose of this bill is to amend the compensation of board members to comport with interim compensation of legislators, to bring the code into compliance with changes occurring at the national level regarding the examination for engineer interns, to allow for emergency rules, to provide flexibility for future changes in the administration of the professional engineering examination and to clarify the requirement for certificates of authorization.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added. Sections §30-13-6, §30-13-13, and §30-13-15 have been completely rewritten and §30-13-13a is new; therefore, strike-throughs and underscoring has been omitted in these sections.)