

## **Regulatory Board Evaluation**

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### **Board of Professional Surveyors**

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**Licensure of the Practice of Land Surveying  
Is Needed to Protect Public Interest**

**The Board Complies With the General  
Provisions of Chapter 30**

**The Legislature Should Consider Adding  
An Age Requirement for Licensees Seeking  
Retired Status**



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John Sylvia  
Director

August 7, 2005

The Honorable Edwin J. Bowman  
State Senate  
129 West Circle Drive  
Weirton, West Virginia 26062

The Honorable J.D. Beane  
House of Delegates  
Building 1, Room E-213  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Regulatory Board Evaluation of the Board of Professional Surveyors, which will be presented to the Joint Committee on Government Operations on Sunday, August 7, 2005, at the Radisson Hotel in Morgantown, West Virginia. The issues covered herein are "Licensure of the Practice of Land Surveying Is Needed to Protect Public Interest;" "The Board Complies With the General Provisions of Chapter 30;" and "The Legislature Should Consider Adding An Age Requirement for Licensees Seeking Retired Status."

We transmitted a draft copy of the report to the Board of Professional Surveyors on July 19, 2005. The Board of Professional Surveyors opted not to have an exit conference. We received the agency response on July 27, 2005.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

JS/wsc

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*Joint Committee on Government and Finance*



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# Executive Summary

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## Issue 1: The Board of Professional Surveyors Is Needed to Protect Public Interest

*Inaccurate surveys could have significant impacts on various construction projects and could have significant monetary damages.*

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The Board of Professional Surveyors was created through legislation in 1969. The Board's primary duties include examining applicants for competency as land surveyors in the State of West Virginia; issuing licenses to those applicants meeting the requirements set forth in §30-13A-5 of the Code; issuing regulations to control the practice of land surveying in West Virginia; receiving complaints against land surveyors; determining the merits of the complaints; and issuing orders as necessary. Potential harm to the public could occur without the regulation of the profession. Inaccurate surveys could have significant impacts on various construction projects and could have significant monetary damages. **Therefore, it is the opinion of the Legislative Auditor that it is necessary to continue licensing this profession to provide protection of the public interest.**

## Issue 2: The Board Complies With the General Provisions of Chapter 30

*Since PERD's September 2003 report, the Board has complied with the Open Governmental Proceedings Act and the register requirement.*

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The Board of Professional Surveyors is in compliance with most of the provisions of Chapter 30. Since PERD's September 2003 report, the Board has complied with the Open Governmental Proceedings Act and the register requirement. Additionally, the Board is in compliance with continuing education requirements, and is financially self-sufficient.

*The Board continues to pursue the development of a web site as a way to become more accessible to the public.*

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The Board has improved on its complaint resolution time since the September 2003 review. However, the Board needs to focus on closing a greater percentage of its caseload. The Legislative Auditor determined that the Board has reduced its complaint resolution time by approximately six and one-half months per complaint since the 2003 review, but had only closed 48% of the total number of complaints. The Legislative Auditor recommends that the Board should focus on closing a greater percentage of complaints, while continuing to improve its complaint resolution time.

Finally, the Board continues to pursue the development of a web site as a way to become more accessible to the public. The Board has been delayed by the unavailability of high-speed internet service in the Flatwoods area. When an option for high-speed internet becomes available, the State Treasurer's office will develop the web site for the Board.

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### **Issue 3: The Legislature Should Consider Adding An Age Requirement for Licensees Seeking Retired Status**

*It was the Board's intention that surveyors who received retired status would not continue to actively practice, operate a business or supervise any employees, and would be exempt from the annual renewal fee.*

The Board of Professional Surveyors proposed a rule granting special retired status to surveyors as a means of recognizing contributions some of the senior licensees made to the profession over their careers. It was the Board's intention that surveyors who received this status would not continue to actively practice, operate a business or supervise any employees, and would be exempt from the annual renewal fee. The Board's proposal included an age requirement of 62 years old to apply for and gain retired status. During the 2005 legislative session, H.B. 2669 passed allowing licensees to apply for retired status. However, the bill passed without the Board's age requirement.

Without the age requirement, the Legislative Auditor is concerned that there may be an increase in applications by licensees who want to simply maintain their license and currently do not practice in West Virginia. Additionally, they would be able to maintain their license without paying the annual renewal fee until they want to return to active status. The Chairman of the Board offered the following scenario:

*Without the age requirement, the Legislative Auditor is concerned that there may be an increase in applications by licensees who want to simply maintain their license and currently do not practice in West Virginia. Additionally, they would be able to maintain their license without paying the annual renewal fee until they want to return to active status.*

*A person in retired status could work for the state or industry out of state and put their license in retired status at age 30 and then 25 years later come back to an active status by simply paying one-year's fee and reporting 16 PDHs (for 2 years) of continuing education. With the new trends in technology and the pace of expansion of the surveying field nationally, the type of scenario described above would be a detriment to the profession thus leaving the consumer to bear the brunt.*

The Legislative Auditor recommends that the Legislature should consider inserting an age requirement for land surveyors wishing to obtain retired status.

### **Recommendations**

1. *The Legislative Auditor recommends that the Board of Professional Surveyors be continued.*
2. *The Legislative Auditor recommends that the Board should focus on closing a greater percentage of complaints, while continuing to*



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*improve its complaint resolution time.*

3. *The Legislative Auditor recommends that the Legislature should consider inserting an age requirement for those surveyors wishing to obtain retired status.*



# Review Objective, Scope and Methodology

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A Chapter 30 board review of the Board of Professional Surveyors is required and authorized by the West Virginia Sunset Law, Chapter 4, Article 10 of the West Virginia Code, as amended.

## Objective

The objective of a regulatory board evaluation is to determine whether the Board is: 1) necessary for the protection of public health and safety; 2) operating in compliance with general provisions of Chapter 30 and applicable laws and rules; and 3) has a disciplinary procedure that observes the due process rights of licensees.

## Scope

This regulatory board evaluation covers the period from fiscal year 2003 through 2005. Data and recommendations from PERD's September 2003 published report were updated in this report. Some of the data used were prior to fiscal year 2003.

## Methodology

Information for this report was compiled from annual reports, complaint files, board minutes, budget items, licensure qualifications, and continuing education information. All aspects of the audit comply with Generally Accepted Government Auditing Standards (GAGAS).



# Issue 1

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## **Licensure of the Practice of Land Surveying Is Needed to Protect Public Interest.**

The Board of Professional Surveyors was created through legislation in 1969. The Board's primary duties include examining applicants for competency as land surveyors in the State of West Virginia; issuing licenses to those applicants meeting the requirements set forth in §30-13A-5 of the West Virginia Code; issuing regulations to control the practice of land surveying in West Virginia; receiving complaints against land surveyors; determining the merits of the complaints; and issuing orders as necessary. **The Legislative Auditor has determined that licensing land surveyors is necessary for protecting the interests of the citizens of West Virginia.**

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*As of May 19, 2005, the Board of Professional Surveyors had 1,514 professional surveyors in license status.*

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## **Licensure of Land Surveyors**

As of May 19, 2005, the Board of Professional Surveyors had 1,514 professional surveyors in license status. Of these, 1,055 were in active status, 118 were in inactive status, 131 were in retired status, and 210 had expired, but not lapsed, licenses. Licensees have a period of 36 months after their license expires before it is given lapsed status. According to the National Council of Examiners for Engineering and Surveying, the practice of land surveying can include the following:

- Determining the configuration or contour of the earth's surface.
- Performing geodetic surveying, which includes surveying for determination of the size and shape of the earth.
- Determining the position for any survey monument or reference point; or setting, resetting, or replacing any such monument or reference point.
- Creating, preparing, or modifying electronic or computerized data, including land information systems, and geographic information systems, relative to the performance of the activities in the above described items.
- Determining the location or create the establishment of any property line or boundary of any tract of land or any road, right of way, easement, alignment, or elevation of any of the fixed works embraced within the practice of engineering.

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- Making any survey for the subdivision of any tract of land.
  - Creating, preparing, or modifying electronic or computerized data, including land information systems, and geographic information systems, relative to the performance of the activities in the above described items.

Prior to June 30, 1996, West Virginia Code allowed professional engineers to practice land surveying without taking the land surveying examination. However, professional engineers must now sit for the licensing examination and submit an application, with proof of surveying experience, before a license from the Board will be granted. West Virginia Code §30-13a-36 allows exemptions from licensing and regulation for the following:

Currently, all states have a licensure board to regulate the practice of land surveying.

*(1) Any employee or agent of a person, firm, association or corporation, when such employee or agent is engaged in the practice of land surveying exclusively for the person, firm, association or corporation by which employed, or if a corporation, its parents, affiliates or subsidiaries, and such person, firm, association or corporation does not hold himself, herself or itself out to the public as being engaged in the business of land surveying;*

*(2) Any employee or officer of the United States, this state or any political subdivision thereof, or their agents when such employee is engaged in the practice of land surveying exclusively for such governmental unit.*

In determining if there is a need for licensure of land surveyors, a primary consideration is whether the unregulated practice of the profession would jeopardize the public interest. Inaccurate surveys could have significant impacts on various construction projects and could have significant monetary damages. The Legislative Auditor finds that regulation is essential to protecting the public interest. **Currently, all states have a licensure board to regulate the practice of land surveying.**

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## Conclusion

West Virginians need a regulated standard of practice provided by qualified professional surveyors. Inaccurate surveys could have significant impacts on various construction projects and could have significant monetary damages. With regulation, the State is protecting citizens from unqualified surveyors. The Legislative Auditor concludes that licensure of land surveyors is necessary to protect the interest of the public.

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*The Legislative Auditor concludes that licensure of land surveyors is necessary to protect the interest of the public.*

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## Recommendation

1. *The Legislative Auditor recommends that the Board of Professional Surveyors be continued.*





# Issue 2

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## **The Board Complies With the General Provisions of Chapter 30.**

The Board of Professional Surveyors complies with the general provisions of Chapter 30 of the West Virginia Code. However, not all provisions have been completely met by the Board. The Board is in compliance with the following Chapter 30 provisions:

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*The Board of Professional Surveyors complies with the general provisions of Chapter 30 of the West Virginia Code.*

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1. An official seal has been adopted (§30-1-4);
2. The Board meets annually (§30-1-5a);
3. The Board maintains a record of its proceedings (§30-1-12a);
4. The Board maintains a roster of licensees (§30-1-13);
5. The Board submits annual reports to the Governor and the Legislature (§30-1-12b);
6. A representative of the Board has attended the orientation session provided by the State Auditor's Office (§30-1-2a(b));
7. The Board's address and telephone number are listed in the State Government listing of the Charleston area telephone book (§30-1-12c);
8. The Board has promulgated Legislative Rules specifying a procedure for the investigation and resolution of complaints against persons licensed (§30-1-8(h)).
9. The Board is in compliance with the Open Governmental Proceedings Act (§6-9a-4).<sup>1</sup>

## **Continuing Education Requirements Are Being Met**

In the general provisions applicable to all boards, boards are to establish continuing education requirements that include course content, course approval, hours required, and reporting periods (§30-1-7a). Continuing education requirements did not go into effect for land surveyors until fiscal year

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<sup>1</sup>The Board was not in compliance with the Open Governmental Proceedings Act when reviewed in September 2003.

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2002. For the first year of the rule's existence, land surveyors were obligated only to complete half of the Professional Development Hours (PDH) required. After June 30, 2002, all requirements, as stated in Legislative Rule §23-2-3, were to be met in full. These requirements are as follows:

1. Every licensee is required to obtain eight PDH units for each renewal period year;
2. Every four years, 32 PDH units are required, which should include the following:
  - a. A minimum of two PDH units on minimum technical standards, in courses or activities sponsored or approved by the Board; and
  - b. A minimum of two PDH units on professional ethics for land surveyors at a seminar sponsored or approved by the Board.

*To ensure applicants are meeting the continuing education requirements, the Board conducts a random audit of licensees.*

To ensure applicants are meeting the continuing education requirements, the Board conducts a random audit of licensees. The Board's computer database randomly selects five percent of licensees. Once licensees are selected, the Board reviews all Professional Development Hours submitted by the selected licensees. The Board then mails each licensee a letter of compliance or noncompliance. If licensees do not meet the minimum of eight PDH units for the license renewal period, their license is placed in inactive status, and therefore they are not permitted to practice until they come into compliance.

The most recent audit was conducted in March 2005 and involved 46 licensees. Of the 46 randomly selected licensees, only one licensee was denied PDHs because the Board found that the claimed courses were not reasonably related to the practice of land surveying. All other licensees were found to be in compliance.

With the establishment of continuing education requirements in fiscal year 2002, the Board also began offering a continuing education seminar that specifically addresses the ethics and minimum technical standards required by West Virginia Code.

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## The Board Is In Compliance With The Register Requirements

When last reviewed by the Legislative Auditor in September 2003, the Board submitted a register to the Legislative Auditor. However, the register only contained the applicants for the last four examinations administered, instead of all applicants as required by Code. Within the general provisions for Chapter 30 are the following requirements as written in §30-1-12a:

*The secretary of every board shall keep a record of its proceedings and **a register of all applicants for license or registration**, showing for each the date of his or her application, his or her name, age, educational and other qualifications, place of residence, whether an examination was required, whether the applicant was rejected or a certificate of license or registration granted, the date of this action, the license or registration number, all renewals of the license or registration, if required, and any suspension or revocation thereof. [Emphasis added]*

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*The Board is now in the process of programming the register to make it more comprehensive, so that an applicant's complete examination history will be part of the database.*

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At the time, the Board's administrator explained that, "*the register segment of the database was suspended temporarily due to budget considerations.*" Since then, the Board has filed all applicants into its computer database. The Board is now in the process of programming the register to make it more comprehensive, so that an applicant's complete examination history will be part of the database. Currently, the database only shows the examination most recently taken by the applicant. According to the Board administrator:

*"Because of the number of times that an applicant can take the exams, and because they don't have to take them consecutively, I have asked the programmer to modify this segment so that in addition to simply reporting a roster [register] of anyone who has ever applied for licensure, it will also be able to generate a report showing who has requested to sit for a particular exam on either of the semi-annual exam dates, as well as exam fee payments, etc."*

## Complaint Resolution Time Has Improved, But Complaints Could Still Be Resolved More Timely

As required by West Virginia Code §30-1-8(h)), the Board has promulgated rules for the investigation and resolution of all complaints against licensees. Past actions taken by the Board against licensees have included license suspension and revocation, as well as imposing fines. The Board, as required by §30-1-10a, has deposited the revenue collected from fines in the State general revenue fund. The complaint log is shown in Table 1 below.

<b>CY</b>	<b>Total # of Complaints</b>	<b>Open</b>	<b>Closed</b>	<b>Revocation</b>	<b>Fined</b>	<b>Disciplinary</b>
<b>2003</b>	24	7	17	0	1	0
<b>2004</b>	35	18	17	0	0	0
<b>2005*</b>	16	14	2	0	0	0
<b>Total</b>	<b>75</b>	<b>39</b>	<b>36</b>	<b>0</b>	<b>1</b>	<b>0</b>
<i>*The 2005 data are of July 14, 2005.</i>						
<i>Source: West Virginia Board of Professional Surveyors</i>						

*The Legislative Auditor recognizes the improvement by the Board in reducing its complaint resolution time. The Board should now focus on closing a greater percentage of complaints received, while continuing to reduce the resolution time.*

In the September 2003 report, the Legislative Auditor found that complaints were taking approximately eighteen months to be resolved. This was attributed to a rise in complaints, multiple complaints filed against the same surveyor, a backlog of complaints stemming from 1997, and the lack of steady legal assistance from the Attorney General's Office. Since 2003 to the present, the Board has averaged approximately eleven and one-half months in closing only 48 percent of the complaints it has received. Thus, 52 percent of complaints are still pending action. The Legislative Auditor recognizes the improvement by the Board in reducing its complaint resolution time. The Board should now focus on closing a greater percentage of complaints received, while continuing to reduce the resolution time.

In addition, possibly due to the length of time it is taking the Board to resolve a complaint, almost one-third of complaints were secondary complaints against the same licensee (11 surveyors each had multiple complaints filed against them, with 10 of 11 surveyors having a second complaint filed against them before the first complaint was resolved. These secondary complaints equal 22 of the 75 complaints). Thus, the Legislative Auditor is concerned that since the status of a licensee remains active while under investigation, licensees can potentially continue to perform improper land surveys. **A timely complaint resolution by the Board reduces the number of citizens that could be**

**potentially harmed by the licensee.** The Legislative Auditor recommends that the Board should focus on closing a greater percentage of complaints, while continuing to improve on its complaint resolution time in an effort to protect the citizens of West Virginia.

### **The Board is Financially Self-Sufficient**

*During the past three fiscal years, the Board has maintained an average end-of-year cash balance of \$53,648.*

The Board is financially self-sufficient, as required by West Virginia Code §30-1-6(c). During the past three fiscal years, the Board has maintained an average end-of-year cash balance of \$53,648. As can be seen in Table 2 below, the cash balance from FY 2004 to FY 2005 increased \$35,505. This can be attributed to an increase in the annual license renewal fee from \$80 to \$100. The fee increase took effect for the July 1, 2005 to June 30, 2006 period, with the first renewals at the increased level coming to the Board in early June 2005.

<b>Table 2</b>				
<b>Actual Revenues and Expenditures FY 2003-FY 2005</b>				
<b>Fiscal Year</b>	<b>Revenues</b>	<b>Expenditures</b>	<b>Increase/(Decrease) in Cash Balance</b>	<b>EOY Cash Balances</b>
<b>2003</b>	\$180,240	\$172,768	\$7,472	\$43,374
<b>2004</b>	\$151,097	\$153,538	(\$2,341)	\$41,033
<b>2005</b>	\$206,265	\$157,721	\$35,505	\$76,538

*Source: West Virginia Board of Professional Surveyors and the Department of Administration Fiscal Division*

*West Virginia Code §30-1-12(c) stipulates that boards shall regularly evaluate the feasibility of adopting additional methods of providing public access through means including computerized communication. However, it does not require boards to actually adopt such additional methods.*

### **Licensing Boards Should Be Required to Have a Web Site**

West Virginia Code §30-1-12(c) stipulates that boards shall regularly evaluate the feasibility of adopting additional methods of providing public access through means including computerized communication. However, it does not require boards to actually adopt such additional methods. The Board of Professional Surveyors has been in the process of developing a web site. According to the Board administrator:

*The Board has been delayed in establishing its web site due to the unavailability of high-speed internet service in the Flatwoods area. Dial-up service would significantly increase the time needed for searching or reporting data from our existing database. I've contacted several providers including Fibernet, Verizon DSL, and Charter Communica-*

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*tions, but none were available in this area. We recently heard about WV Broadband and we are attempting to get additional information on its service.*

Furthermore, the Board administrator informed the Legislative Auditor that the State Treasurer's office has agreed to develop the Board's web site.

## **Conclusion**

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*Furthermore, the Board administrator informed the Legislative Auditor that the State Treasurer's office has agreed to develop the Board's web site.*

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The Board of Professional Surveyors is in compliance with the general provisions of Chapter 30. Since the September 2003 review, the Board is now in compliance with the register requirements and the Open Governmental Proceedings Act. Additionally, the Board is financially self-sufficient, and has also improved its complaint resolution time. However, the Board could still show further improvement in closing complaints. Although not required by Code, the Board is also in the process of constructing a web site as a means of becoming more accessible to the public.

## **Recommendations**

2. *The Legislative Auditor recommends that the Board should focus on closing a greater percentage of complaints, while continuing to improve its complaint resolution time.*

# Issue 3

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## The Legislature Should Consider Adding An Age Requirement for Licensees Seeking Retired Status.

In 2001, the Board discussed the possibility of granting special retired status to surveyors as a means of recognizing the significant contributions that some of the senior licensees made to the profession over their careers. It was the Board's intention that surveyors who received this status would not continue to actively practice, operate a business or supervise any employees, and would be exempt from the annual renewal fee.

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*It was the Board's intention that surveyors who received this status would not continue to actively practice, operate a business or supervise any employees, and would be exempt from the annual renewal fee.*

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While reviewing revisions to the Board rule, 23 CSR 1, Counsel for the Legislative Rule- Making Review Committee asked the Board to provide specifics on "retired" status for inclusion in the modified rule that was pending. The Board submitted the following:

*5.3.1. Licensees who apply for "retired" status must be in active or inactive license status, at least 62 years of age, and must certify that they are no longer practicing surveying or supervising any employees who perform surveying activities in West Virginia; they are not permitted to affix their P.S. seal to any surveying documents. Annual license renewal fees are not required while in retired status. The Board will issue a certificate noting the honorific title of "Professional Surveyor, Retired." Licensees who elect to return to the active practice of surveying shall acquire delinquent Professional Development Hours (PDHs) for each year retired, up to a maximum of 16 PDHs, and shall pay the current license renewal fee.*

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*There is concern that there may be an increase in applications by licensees who want to simply maintain their license and currently do not practice in West Virginia. Without the age limitation, licensees may request retired status simply because they are not practicing in West Virginia.*

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During the 2005 legislative session, H.B. 2669 passed without the age requirement. The Board was unaware that the age requirement was not in the bill. It is not known why the bill did not have the age requirement.

There is concern that there may be an increase in applications by licensees who want to simply maintain their license and currently do not practice in West Virginia. Without the age limitation, licensees may request retired status simply because they are not practicing in West Virginia. Retired status would also allow them to maintain their license while not paying any renewal fees until they want to return to active status. According to the Chairman of the Board:

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*A person in retired status could work for the state or industry out of state and put their license in retired status at age 30 and then 25 years later come back to an active status by simply paying one-year's fee and reporting 16 PDHs (for 2 years) of continuing education. With the new trends in technology and the pace of expansion of the surveying field nationally, the type of scenario described above would be a detriment to the profession thus leaving the consumer to bear the brunt.*

The Legislative Auditor recommends that the Legislature should consider inserting an age requirement for land surveyors wishing to obtain retired status.

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*“A person in retired status could work for the state or industry out of state and put their license in retired status at age 30 and then 25 years later come back to an active status by simply paying one-year's fee and reporting 16 PDHs (for 2 years) of continuing education.”*

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### **Recommendation**

3. *The Legislative Auditor recommends that the Legislature should consider inserting an age requirement for those surveyors wishing to obtain retired status.*



# Appendix A: Transmittal Letter

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## WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

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John Sylvia  
Director

July 19, 2005

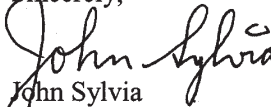
Gregory A. Smith, Chairman  
WV Board of Professional Surveyors  
2298 Sutton Lane  
P.O. Box 390  
Flatwoods, WV 26621-0316

Dear Chairman Smith:

This is to transmit a draft copy of the Regulatory Board Evaluation of the Board of Professional Surveyors. This report is scheduled to be presented during the August 7-9, 2005, interim meeting of the Joint Committee on Government Operations. The meeting will be held in Morgantown, WV. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have.

If you would like to schedule an exit conference to discuss any concerns you may have with the report, please notify us between July 20 and July 26, 2005. We need your written response by noon on July 27, 2005, in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, July 28, 2005, to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,  
  
John Sylvia

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*Joint Committee on Government and Finance*

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# Appendix B: Agency Response

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**CHAIRMAN**  
*Gregory A. Smith*

**SECRETARY**  
*Leon K. Spencer*

**MEMBER**  
*Marshall W. Robinson*

**STATE OF WEST VIRGINIA**  
**BOARD OF PROFESSIONAL SURVEYORS**  
Mailing address: P. O. Box 390, Flatwoods, West Virginia 26621-0390  
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July 27, 2005

Mr. John Sylvia, Director  
Performance Evaluation and Research Division  
West Virginia Legislature  
Building 1, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, WV 25305-0610

**R E C E I V E D**  
JUL 27 2005

PERFORMANCE EVALUATION AND  
RESEARCH DIVISION

Dear Mr. Sylvia:

This Board appreciates the opportunity to review your Division's Regulatory Board Evaluation of the Board of Professional Surveyors and offers the following comments.

The report references the exemptions from licensing and regulation contained in West Virginia Code §30-13A-36. While the text of S. B. 460 did not contain these exemptions, it was amended to add the exemptions during the waning hours of the 2004 legislative session. This Board believes it is not in the best interest of the public that government entities do not have to comply with the same regulations that the private sector is required to comply with. The National Council of Examiners for Engineering and Surveying has determined that if any public funds are used or if any portion of the product or by-product of a survey or an engineering project is utilized by the public, then it should be done under the direct supervision of a licensed professional. Most states have eliminated similar exemptions; therefore, this Board respectfully requests that the government exemption be reviewed for elimination in the State of West Virginia.

The Board continues to strive to improve its complaint processing procedures. The Board would like to acknowledge that improved cooperation with the Attorney General's office over the last few months is allowing the Board to dispense with the backlog of complaints that involve disciplinary actions. Adding a part-time investigator to the staff, as well as establishment of the Complaint Review Committee, also has improved the process. Complaint Review Committee meetings are scheduled shortly before Board meetings to allow for the timely review and disposition of pending complaints. For instance, at the Committee's meeting on July 18, the Committee reviewed 9 complaints that were received in 2005. Of these 5 were closed in the Board's meeting on July 26,

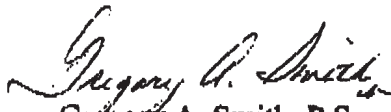
2005. Also during the Board's meeting yesterday, a total of ten complaints were closed (including 2 – 2004 and 7 – 2005). Of note, 2 additional 2005 complaints will require plats to be corrected for deficiencies prior to closure, another will require an informal hearing with the surveyor, and another requires a field investigation. The Board also considered the following 2004 complaints: one will require additional information from the surveyor based on a site investigation while the other will require an informal hearing with the surveyor to address several questions that arose during the technical review. The Board also reviewed several drafts of disciplinary actions with its AG counsel.

With regard to the report, Tables 1 and 2 show the source of the information under the Board's former name; both should read "West Virginia Board of Professional Surveyors."

The Board continues to believe it has made great strides in its efforts to provide a higher level of protection of the public through its investigatory and examination processes. The impending addition of two Board Members will further enhance those efforts.

The Board looks forward to meeting with the members of the Joint Committee on Government Operations at its August interim meeting.

Sincerely,

  
Gregory A. Smith, P.S.  
Chairman

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