

**Senate Bill No. 401**

(By Senators Snyder and Chafin)

[Introduced February 28, 2013; referred to the Committee on Government Organization; and then to the Committee on Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §30-13-6, §30-13-13, §30-13-15 and §30-13-17 of the Code of West Virginia, 1931, as amended, all relating to compensating members of the Board of Registration for Professional Engineers at same rate as legislative interim pay; providing for registration of engineers generally; adding additional classifications of registration; setting forth qualifications for engineer interns; updating examination provisions to comport with changes at the national level; and clarifying the certificate of authorization requirement.

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

That §30-13-6, §30-13-13, §30-13-15 and §30-13-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 13. ENGINEERS.**

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

1 Members of the board shall be compensated ~~not to exceed \$50~~  
 2 ~~per diem for time~~ at the same rate as is paid to members of the  
 3 Legislature for their interim duties as authorized by law for each  
 4 day or portion thereof spent in actually performing the duties of  
 5 the board and shall be reimbursed for reasonable and necessary  
 6 expenses actually incurred in the performance of board related  
 7 duties.

8 **§30-13-13. General requirements for registration.**

9 (a) To be eligible for admission to examination for  
 10 professional engineer, ~~or engineer intern,~~ an applicant must be of  
 11 good character and reputation and ~~he or she shall~~ submit five  
 12 references along with the application for registration as a  
 13 professional engineer. Three references shall be from professional  
 14 engineers having personal knowledge of the engineering experience  
 15 of the applicant. ~~or in the case of an application for~~  
 16 ~~certification as an engineer intern. The references shall be from~~  
 17 ~~three persons knowledgeable of the applicant's character.~~

18 ~~(a)~~ (b) The following are minimum requirements for  
 19 qualification for registration as a professional engineer ~~are:~~ but  
 20 the board may require, by rule, additional examination to evidence  
 21 the applicant's knowledge of statutes, rules and design  
 22 requirements specific to this state:

23 (1) Registration by comity or endorsement.

24 (A) A person holding a certificate of registration to engage

1 in the practice of engineering, issued by a proper authority of a  
2 state or possession of the United States, the District of Columbia  
3 or ~~any~~ a foreign country, based on requirements that do not  
4 conflict with the provisions of this article and ~~were~~ possessing  
5 credentials that are, in the judgment of the board, of a standard  
6 not lower than that specified in the applicable registration  
7 article in effect in this state at the time such certificate was  
8 issued, may, upon application, be registered ~~without further~~  
9 ~~examination.~~ in accordance with board rule; or

10 (B) A person holding an active council record with the  
11 National Council of Examiners for Engineering and Surveying (NCEES)  
12 whose qualifications, as evidenced by the council record, meet the  
13 requirements of this article may, upon application, be registered  
14 ~~without further examination;~~ in accordance with board rule.

15 (2) ~~Graduation, experience and examination.~~ -- A graduate of  
16 an engineering curriculum of four years or more approved by the  
17 board as being of satisfactory standing and with a specific record  
18 of an additional four years or more of progressive experience on  
19 engineering projects of a grade and a character which indicates to  
20 the board that the applicant may be competent to practice  
21 engineering, shall be admitted to an eight-hour written examination  
22 in the fundamentals of engineering and, if passed, then shall be  
23 admitted to an eight-hour written examination in the principles and  
24 practice of engineering. Registration by examination -- An engineer

1 intern with a specific record of an addition four years or more of  
2 progressive engineering experience as set forth in board rule, if  
3 otherwise qualified shall be admitted to the NCEES examination in  
4 the principles and practice of engineering. Upon passing such  
5 examinations, the applicant shall be granted a certificate of  
6 registration to practice engineering in West Virginia, provided the  
7 applicant is otherwise qualified. ~~and~~

8 ~~(3) *Engineering teaching.* -- Engineering teaching of advanced~~  
9 ~~subjects and the design of engineering research and projects in a~~  
10 ~~college or university offering an approved engineering curriculum~~  
11 ~~of four years or more may be considered as engineering experience.~~

12 ~~(b) The minimum requirements for registration as an engineer~~  
13 ~~intern are:~~

14 ~~(1) Graduation from an engineering curriculum of four years or~~  
15 ~~more approved by the board as being of satisfactory standing; and~~

16 ~~(2) Satisfactorily passing a written exam, eight hours in~~  
17 ~~duration, covering the fundamentals of engineering.~~

18 (c) A professional engineer may be given the following status  
19 which does not allow him or her to practice or offer to practice  
20 engineering in this state until his or her registration is  
21 reinstated in accordance with section eighteen of this article:

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

1 remuneration.

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

6 (3) Professional engineer-lapsed. -- A registrant's license  
7 is lapsed when the registrant does not respond to renewal notices  
8 or pay the required renewal fees.

9 (4) Professional engineer-invalidated. -- A registrant's  
10 license is invalidated when he or she is unable to provide  
11 sufficient proof that any condition of renewal set forth in this  
12 article or by board rule was met such as insufficient proof of the  
13 requisite number of professional development hours required to  
14 demonstrate continuing professional competency.

15 (d) Engineer Intern. -- Passing the fundamentals of  
16 engineering examination and providing proof of graduation from an  
17 engineering program of four years or more accredited by the  
18 Engineering Accreditation Commission of the Accreditation Board for  
19 Engineering and Technology (EAC/ABET), or the equivalent as set  
20 forth in board rule or by board determination, is considered  
21 minimum evidence that the applicant is qualified for certification  
22 as an engineer intern. If meeting this requirement, the applicant  
23 shall be certified or enrolled as an engineer intern, if otherwise  
24 qualified. The applicant must be of good character and reputation

1 and of sound mind and must submit references from three persons  
 2 knowledgeable of the applicant's character, reputation and mental  
 3 fitness with the application.

4 **§30-13-15. Examinations.**

5 (a) The board shall establish examination criteria including  
 6 the acceptable passing grade on examinations.

7 ~~(b) Written examinations shall be given in two sections and~~  
 8 ~~may be taken only after the applicant has met the other minimum~~  
 9 ~~requirements and has been approved by the board for admission to~~  
 10 ~~the examinations which are as follows:~~ The examinations include:

11 (1) ~~Engineering fundamentals.~~ Fundamentals of Engineering. --  
 12 The examination consists of ~~an eight-hour test period on~~ subject  
 13 matters in the fundamentals of engineering. Passing this  
 14 examination qualifies the examinee for an engineer intern  
 15 certificate, provided the examinee has met all other requirements  
 16 for certification required by this article; and

17 (2) Principles and practice of engineering. -- The examination  
 18 consists of ~~an eight-hour test period on~~ subject matters in applied  
 19 engineering. Passing this examination qualifies the examinee for  
 20 registration as a professional engineer, provided the examinee has  
 21 met the other requirements for registration set forth in this  
 22 article.

23 (3) State specific examination. -- The examination consists of  
 24 subject matters specific to this state and the board may require,

1 by rule, the examination to evidence the applicant's knowledge of  
 2 state statutes, rules and design requirements including the rules  
 3 of professional responsibility.

4 (c) A candidate ~~failing one~~ for registration as a professional  
 5 engineer who fails one principles and practice examination may  
 6 apply for reexamination, which may be granted upon payment of a fee  
 7 established by the board. In the event of a second failure, the  
 8 examinee may be required to appear before the board to present  
 9 evidence of having pursued further instruction in deficit areas.

10 (d) The board ~~shall publish in brochure form and shall make~~  
 11 may prepare or adopt specifications for the engineering examination  
 12 by electronic or other means which shall be available to any person  
 13 interested in being registered ~~the requirements and specifications~~  
 14 ~~of the written examination.~~ as a professional engineer.

15 **§30-13-17. Certificates of authorization required; naming of**  
 16 **engineering firms.**

17 (a) ~~The practice of or offer to practice engineering by~~  
 18 ~~consulting engineers registered under this article, through a firm,~~  
 19 ~~corporation, copartnership, joint stock association or private~~  
 20 ~~practitioner employing others, referred to hereinafter as a firm,~~  
 21 ~~is permitted: Provided, That the person in direct control or~~  
 22 ~~having personal supervision of the practice and all personnel who~~  
 23 ~~act in behalf of the firm in professional matters are registered~~  
 24 ~~under this article: Provided, however, That the firm~~ No person or

1 firm is authorized to practice or offer to practice engineering in  
2 this state until the person or firm has been issued a certificate  
3 of authorization by the board.

4 (b) ~~A firm desiring a certificate of authorization must file~~  
5 ~~with the board an application using a form provided by the board~~  
6 ~~and the firm shall provide all the information required by the~~  
7 ~~board. A form as provided by the board is to be filed with the~~  
8 ~~board with the renewal fee and within thirty days of the time any~~  
9 ~~information contained on the form is changed or differs for any~~  
10 ~~reason. If the information contained on the form warrants action,~~  
11 ~~the board, in its judgment, may issue a certificate of~~  
12 ~~authorization for the firm to practice engineering and to contract~~  
13 ~~and collect fees for furnishing this service. A person or firm~~  
14 desiring a certificate of authorization must file with the board  
15 all the information required by the board on an application form  
16 provided by the board. The required information shall include the  
17 sworn statement of the engineer in responsible charge who is a  
18 professional engineer registered in this state. The board shall  
19 issue a certificate of authorization to an applicant who has met  
20 all the requirements and paid the fees set forth in board rules.

21 (c) No ~~firm shall be~~ person or firm is relieved of  
22 responsibility for the conduct or acts of its agents, employees,  
23 officers or partners ~~by reason of its~~ due to compliance with the  
24 provisions of this article. No individual practicing engineering

1 under the provisions of this article ~~shall be~~ is relieved of  
2 responsibility for engineering services performed ~~by reason of~~ due  
3 to his or her employment or other relationship with a person or  
4 firm holding ~~an authorization certificate.~~ a certificate of  
5 authorization.

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

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

1 business in West Virginia.

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

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

12       (h) It is the responsibility of a holder of a certificate of  
13 authorization to notify the board of any change in information  
14 previously submitted to the board.

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.