

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 401

(By Senators Snyder and Chafin)

[Originating in the Committee on Government Organization;
reported March 28, 2013.]

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; and to amend said code by adding thereto a new section, designated §30-13-13a, all relating to the Board of Registration for Professional Engineers and the requirements for registration and certification of engineers, engineer interns and engineering businesses; providing for compensation of, and reimbursement for, members of the board at same rate as legislative interim pay; providing for registration of engineers generally; adding additional classifications of registration; setting forth

qualifications for engineer interns; establishing designations for engineers ineligible to practice; updating examination provisions to comport with changes at the national level; providing emergency rule-making authority to comply with changes in standardized tests; and clarifying the certificate of authorization requirements.

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

ARTICLE 13. ENGINEERS.

§30-13-6. Compensation and expenses.

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

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

1 (a) *General requirements.* – Every person who desires to
2 be certified as an engineer intern or to be registered as a
3 professional engineer in this state must comply with the
4 following requirements:

5 (1) Submission of a completed application specified by
6 the board and payment of the application fee specified by
7 rule of the board;

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

9 (3) Be of good moral character;

10 (4) Submit statements of reference as specified by rule of
11 the board;

12 (5) Graduate from a four-year engineering curriculum
13 accredited by the Engineering Accreditation Commission of
14 the Accreditation Board for Engineering and Technology
15 (EAC/ABET), or an equivalent as approved by the board as
16 being of satisfactory standing; and

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

19 (b) *Certification of an engineer intern.* – In addition to
20 the foregoing general requirements, an applicant must meet
21 the following requirements to be certified as an engineer
22 intern in this state:

23 (1) Satisfactorily complete the required examination on
24 the fundamentals of engineering; and

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

27 (c) *Registration of a professional engineer.* – In addition
28 to the general requirements specified in subsection (a) of this
29 section, an applicant must meet the following requirements
30 to be certified as a professional engineer in this state:

31 (1) Meet all the requirements for certification as an
32 engineer intern;

33 (2) Submit a record of four years or more of progressive
34 experience in engineering work of a grade and a character
35 that indicates to the board that the applicant may be
36 competent to practice engineering;

37 (3) Satisfactorily complete the required examination on
38 the principles and practice of engineering;

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

41 (d) *Registration of a professional engineer through comity*
42 *or reciprocal registration.* – Notwithstanding the
43 requirements of the forgoing subsection of this section, the
44 board may issue a license to an applicant who holds a valid
45 license or other authorization to practice engineering from
46 another state, if the applicant satisfies the general
47 requirements of subsection (a) of this section, satisfies the
48 additional requirements specified by rule of the board and
49 meets one of the following requirements:

50 (1) Holds a license or other authorization to engage in the
51 practice of engineering issued by a proper authority of any
52 jurisdiction, based on requirements that do not conflict with
53 the provisions of this article and possessing credentials that
54 are, in the judgment of the board, of a standard equivalent to
55 or not lower than that specified in the applicable licensure act

56 and rules in effect in this state at the time such license was
57 issued, upon application, which may include a council record
58 with NCEES; or

59 (2) Holds an active council record with NCEES, meaning
60 the compilation of documents maintained by NCEES of a
61 person's qualifications as a professional engineer, including
62 official transcripts, engineering examination results,
63 employment verifications and references, whose
64 qualifications as evidenced by the council record meet the
65 requirements of this article.

66 (e) *Certification or registration of qualified applicants.* –

67 The board shall issue a certification to a qualified applicant
68 who meets the requirements for certification as an engineer
69 intern and shall issue a professional engineer registration to
70 a qualified applicant who meets the requirements for
71 registration as a professional engineer,

72 (f) *Continuation of existing registrations and certificates.*

73 – A registration or certificate issued by the board prior to
74 July 1, 2013, shall for all purposes be considered a

75 registration or certificate issued under this article: *Provided*,
76 That a person registered or certified prior to July 1, 2013,
77 must renew the registration or certification pursuant to the
78 provisions of this article and the rules of the board.

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

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

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

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

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

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

§30-13-15. Examinations.

1 (a) The board has the power to establish, by legislative
2 rule, the requirements for examination for registration as a
3 professional engineer and certification as an engineer intern
4 including, but not limited to, the following criteria: subject
5 matter, prerequisites for testing, passing score, examination
6 sites and schedules, entities authorized to administer
7 examinations, prerequisites for testing and form of testing,
8 including examination by electronic or other means.

9 (b) The board’s rules for examination shall include the
10 following minimum requirements:

11 (1) An examination to qualify to be an engineer intern, to
12 test the applicant’s knowledge and understanding of the
13 fundamentals of engineering; and

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

17 (c) If the board determines that the safe and ethical
18 practice of engineering in this state requires examination of
19 matters specific to the law and practice in this state, the board
20 may also establish criteria, by legislative rule, for an
21 examination of the applicant's knowledge and understanding
22 of this state's statutes, rules, professional ethics and design
23 requirements.

24 (d) A candidate for registration as a professional engineer
25 who fails the examination of the principles and practice of
26 engineering may retake the examination one time upon
27 payment of the fee established by the board. In the event of
28 a second failure, the candidate may not repeat the
29 examination unless the examinee demonstrates to the board
30 that he or she has pursued additional instruction or training
31 to correct the candidate's deficit areas of knowledge.

32 (e) In the event that examination requirements, test
33 administration procedures, scoring or testing methods are
34 modified by a board-approved testing entity providing
35 standard tests for use by the board, the board has the
36 authority to promulgate emergency rules to adopt and reflect
37 those changes.

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

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

11 firm has been issued a certificate of authorization by the
12 board.

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

29 authorization to an applicant who has met all the
30 requirements and paid the fees set forth in board rules.

31 (c) No ~~firm shall be~~ person or firm is relieved of
32 responsibility for the conduct or acts of its agents, employees,
33 officers or partners ~~by reason of its~~ due to compliance with
34 the provisions of this article. No individual practicing
35 engineering under the provisions of this article ~~shall be is~~
36 relieved of responsibility for engineering services performed
37 ~~by reason of~~ due to his or her employment or other
38 relationship with a person or firm holding ~~an authorization~~
39 ~~certificate:~~ a certificate of authorization.

40 (d) An engineer who renders occasional, part-time or
41 ~~consulting~~ contract engineering services to or for a firm may
42 ~~not for the purposes of this article,~~ be designated as being
43 ~~responsible~~ in responsible charge for the professional
44 activities of the firm unless that engineer is an owner or
45 principal of the firm.

46 (e) ~~Effective one year from the effective date of this~~
47 ~~article, the Secretary of State shall stop issuing a certificate~~

48 ~~of incorporation to an applicant or a registrant as a foreign~~
49 ~~firm to a firm which includes;~~ The Secretary of State shall not
50 issue a certificate of authority or business registration or
51 license to an applicant whose business includes, among the
52 objectives for which it is established, the words engineer,
53 engineering or any modification or derivation thereof unless
54 the board of registration for this profession has issued to the
55 applicant ~~or registrant~~ a certificate of authorization or a letter
56 indicating eligibility to receive the certificate. The certificate
57 or letter from the board shall be filed with the firm's
58 ~~application for incorporation or registration;~~ application filed
59 with the Secretary of State to do business in West Virginia.

60 (f) ~~Effective one year after the effective date of this~~
61 ~~article;~~ The Secretary of State shall decline to register any a
62 trade name or service mark which includes the words
63 engineer, engineering or modifications or derivatives thereof
64 in its firm business name or logotype except those firms
65 ~~holding authorization certificates~~ businesses holding a

66 certificate of authorization issued under the provisions of this
67 article.

68 (g) The certificate of authorization may be renewed in
69 accordance with board rule upon payment of the required
70 renewal fee.

71 (h) Every holder of a certificate of authorization has a
72 duty to notify the board promptly of any change in
73 information previously submitted to the board in an
74 application for a 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.)