

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 317

FISCAL
NOTE

BY SENATOR CLINE

[Introduced January 13, 2020; referred
to the Committee on Government Organization; and
then to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §30-13B-1, §30-13B-2, §30-13B-3, §30-13B-4, §30-13B-5, §30-13B-6, §30-
 3 13B-7, §30-13B-8, §30-13B-9, §30-13B-10, §30-13B-11, and §30-13B-12, all relating to
 4 creating the Board for Professional Geologists; setting standards; setting forth powers and
 5 duties of the board; setting forth minimum qualifications; defining terms; and requiring
 6 rulemaking.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13B. GEOLOGISTS.

§30-13B-1. Definitions.

1 As used in this article, unless the context requires a different meaning:

2 “Board” means the Board for Professional Geologists.

3 “Geologist” means a person engaged in the public practice of geology.

4 “Geology” means the science dealing with: (A) The earth and its history in general; (B) the
 5 investigation, prediction, evaluation, and location of materials and structures which compose the
 6 earth; (C) the natural processes that cause changes in the earth; and (D) the application of
 7 knowledge of the earth, its processes, and its constituent rocks, minerals, liquids, gases, and
 8 other natural materials.

9 “Practice of geology” means the performance of any service or work for the general public
 10 wherein the principles and methods of geology are applied.

11 “Qualified geologist” means an uncertified person who possesses all the qualifications
 12 specified in this chapter for certification.

13 “West Virginia certified professional geologist” means a person who possesses all
 14 qualifications specified in this chapter for certification and whose competence has been attested
 15 by the board through certification.

§30-13B-2. Board for Professional Geologists; membership; quorum; bylaws.

1 (a) The Board for Professional Geologists shall be composed of five members as follows:

2 four geologists, and one citizen member. The geologist members shall be of varied backgrounds.

3 Terms of the members shall be for four years.

4 (b) The board shall annually elect a chairperson from its membership. Three board
5 members, consisting of two geologists, and one citizen, constitutes a quorum.

6 (c) The Governor shall select the professional geologist members from a list of at least
7 three names for each vacancy submitted by companies or organizations within the state that
8 regularly employ geologists, and the one citizen member.

9 (d) The full board may adopt and amend bylaws not inconsistent with the constitution and
10 laws of this state.

§30-13B-3. Compensation and expenses.

11 Each member of the board shall receive compensation for time spent, and reimbursement
12 for reasonable and necessary expenses incurred, in the performance of board-related duties
13 pursuant to §30-1-11 of this code.

§30-13B-4. Removal of members and vacancies.

1 The Governor may remove any member of the board for misconduct, incompetency,
2 neglect of duty or for any reason prescribed by law for removal of state officials. Vacancies in the
3 membership of the board shall be filled for the unexpired term.

§30-13B-5. Organization and meetings.

1 The board shall hold at least one regular meeting each year. Special meetings may be
2 held as the bylaws of the board provide. Each year the board shall elect the following officers: A
3 president, a vice president and a secretary, who shall serve at the will and pleasure of the board.

§30-13B-6. Records and reports.

1 (a) The board shall keep a record of its proceedings and of all applications for registration.
2 The record shall show: (1) The name, age and last known address of each applicant; (2) the date
3 of application; (3) place of business of such applicant; (4) education, experience and other
4 qualifications; (5) type of examination required; (6) whether or not the applicant was rejected; (7)

5 whether or not a certificate of registration was granted; (8) the date of the action by the board;
6 and (9) other information as may be deemed necessary by the board.

7 (b) The record of the board is prima facie evidence of the proceedings of the board and a
8 transcript duly certified by the secretary shall be admissible as evidence with the same force and
9 effect as if the original were produced.

10 (c) On July 1, of each year, the board shall submit to the Governor a report of its
11 transactions of the preceding year and shall transmit to the Governor a complete statement of the
12 receipts and expenditures of the board, attested to by affidavits of its chairman and secretary.

13 (d) Board records and papers of the following class are of a confidential nature and are
14 not public records: Examination material for examinations not yet given, file records of
15 examination problem solutions, letters of inquiry and reference concerning applicants, board
16 inquiry forms concerning applicants, investigation files where any investigation is still pending and
17 all other materials of like confidential nature.

§30-13B-7. Roster.

1 A complete roster with the names and the last known addresses of all registered
2 professional geologists shall be published by the secretary of the board at intervals established
3 by the board. Copies of this roster may be mailed to each person registered and shall be placed
4 on file with the Secretary of State and may be distributed or sold to county and city officials and
5 to the public.

§30-13B-8. Exemptions.

1 (a) The certification program set forth in this article is voluntary and may not be construed
2 to prevent or affect the practice of geology by uncertified geologists. However, no person may
3 represent himself or herself as a West Virginia certified professional geologist unless so certified
4 by the board.

5 (b) This article does not prevent or affect the practice of any profession or trade for which
6 licensing, certification, or registration is required under any other West Virginia law, including the

7 practice of licensed professional engineers lawfully practicing engineering in its various
8 specialized branches.

§30-13B-9. Certification; minimum qualifications.

1 (a) Any person practicing or offering to practice as a geologist or in a geological specialty
2 in West Virginia may submit reasonable evidence to the board that he or she is qualified to
3 practice and to be certified as provided in this article. The board shall approve the application for
4 certification of any person who, in the opinion of the board, has satisfactorily met the requirements
5 of this article and who has paid any applicable fees fixed by the board. Certifications expire at
6 intervals as designated by the board. A certification may be renewed by the board upon receipt
7 of a formal request accompanied by any applicable fees.

8 (b) To be eligible for certification as a professional geologist, an applicant shall meet each
9 of the following minimum qualifications:

10 (1) Be of ethical character;

11 (2) Have a baccalaureate or higher degree from an accredited institution of higher
12 education with either a major in geology, engineering geology, geological engineering, or related
13 geological sciences; or have completed at least 30 semester hours or the equivalent in geological
14 science courses leading to a major in geology;

15 (3) Have at least seven years of geological work that shall include either a minimum of
16 three years of geological work under the supervision of a qualified or certified professional
17 geologist or a minimum of three years of experience in responsible charge of geological work.
18 The adequacy of the position and the required supervision and experience shall be determined
19 by the board in accordance with standards set forth in its regulations. The following criteria of
20 education and experience qualify toward the required seven years of geological work:

21 (A) Each year of full-time undergraduate study in the geological sciences shall count as
22 one-half year of experience up to a maximum of two years, and each year of full-time graduate
23 study shall count as a year of experience up to a maximum of three years. Credit for

24 undergraduate and graduate study shall in no case exceed a total of four years toward meeting
25 the requirements for at least seven years of geological work; and

26 (B) The board may consider, in lieu of the above-described geological work, the
27 cumulative total of geological work or geological research of persons occupying research or post-
28 graduate positions as well as those teaching geology courses at an institution of higher education,
29 provided such work or research can be demonstrated to be of a sufficiently responsible nature to
30 be equivalent to the geological work required in this section; and

31 (4) Have successfully passed an appropriate examination approved by the board and
32 designed to demonstrate that the applicant has the necessary knowledge and skill to exercise the
33 responsibilities of the public practice of geology.

34 At the discretion of the board, separate examinations may be prepared for various sub-
35 specialities of geology; however, there will be no specialty certification, only certification as a
36 professional geologist.

§30-13B-10. Waiver of examination.

1 The board may waive the examination requirement for certification as a professional
2 geologist for an applicant who otherwise meets the requirements of this article and who also
3 meets any of the following conditions:

4 (1) Makes written application to the board and has at least 12 years of geological work
5 that includes the geological work as specified in §30-13B-4(b) of this code.

6 (2) Makes written application to the board and holds an unexpired certificate of
7 registration, certification, or license to engage in the practice of geology issued to him or her on
8 the basis of comparable requirements by a proper authority of a state, territory, or possession of
9 the United States or the District of Columbia.

§30-13B-11. Professional ethics and conduct.

1 (a) The board, in coordination with an ad hoc panel of certified professional geologists
2 convened by the board and representing various geological interests in West Virginia, shall have

3 prepared and adopted a Code of Professional Ethics and Conduct that shall be published and
 4 made known in writing to every West Virginia certified professional geologist and applicant for
 5 certification under this article. The board may revise and amend this code as needed and shall
 6 forthwith notify each certified professional geologist in writing of such revisions or amendments.

7 (b) The full board, by majority vote, shall have the power to suspend, revoke, or refuse to
 8 renew the certification of any professional geologist who, after an appropriate formal hearing, is
 9 found to have been involved in:

10 (1) Any fraud or deceit in obtaining certification;

11 (2) Any violation of the Code of Professional Ethics and Conduct or other regulations of
 12 the board;

13 (3) Demonstrated gross negligence, incompetence, or misconduct in the practice of
 14 geology as a professional geologist; or

15 (4) Any conviction of a felony which, in the opinion of the board, would adversely affect
 16 the practice of geology.

17 (c) The board, by majority vote of the quorum, may reinstate a revoked or suspended
 18 certification to any professional geologist who makes written application to the board showing
 19 good cause for such action.

§30-13B-12. Rule-making.

1 The board shall propose rules for legislative approval in accordance with §29A-3-1 et seq.
 2 of this code to implement this article.

NOTE: The purpose of this bill is to create the Board for Professional Geologists. The bill sets standards, powers and duties of the board, and sets forth minimum qualifications. The bill defines terms and requires rule-making.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.