WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1975

ENROLLED

HOUSE BILL No. 938

(By Mr. Speaker, Mr. McManners and
Mr. Leibert)

PASSED March 8, 1975

In Effect ninety days from Passage

C 641
AN ACT to amend and reenact article thirteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to the practice of professional engineering and the registration of persons engaging in the practice of professional engineering; providing legislative findings, intent and declaration of public policy; defining terms; requiring registration of persons engaging in the practice of professional engineering; providing prohibitions and restrictions on certain activities; continuing the West Virginia state board of registration for professional engineers; providing for the appointment, qualifications, terms of office, oath, removal and payment of compensation and expenses of members of the board; relating to the election of officers, meetings and quorum of the board; specifying powers and duties of the board; relating to the receipt and disbursement of funds by the board; establishing qualifications of applicants for registration; providing for reciprocal registration of certain professional engineers; providing for applications and fees for examinations and certificates of registration; providing for the issuance of certificates of registration, renewal thereof and fees in connection therewith; relating to the certificate of registration and the requirement and use of a seal for professional engineers; providing for various exemptions from said article thirteen; relating to partnerships, corporations and other business entities and the practice of professional engineering; authorizing board to suspend or revoke certificate of registration and establishing the
grounds therefor; relating to resignation of registrant; authorizing said board to hold hearings; providing a time and place for such hearings; specifying that provisions of chapter twenty-nine-a of the code shall govern the hearings; authorizing the board to issue subpoenas and subpoenas duces tecum in connection with such hearings; providing automatic stay or suspension of certain orders of board pending such hearing; relating to the cost of such hearing; providing for judicial review of decisions of the board entered following such hearing; providing for appeals to the supreme court of appeals; providing legal representation for the board; providing for injunctive relief; and providing criminal offenses and penalties.

Be it enacted by the Legislature of West Virginia:

That article thirteen, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13. ENGINEERS.

§30-13-1. Legislative findings; intent.

1 The Legislature of the state of West Virginia hereby deter-
2 mines and finds that the advancing state of knowledge in
3 mathematical, physical, and engineering sciences as applied in
4 the practice of professional engineering has a critical impact on
5 the lives, property, economy, security and the general health
6 and welfare of our state and our citizens. Therefore, the Legis-
7 lature declares that in order to protect public health, safety,
8 welfare, property and the general public interest, the practice
9 of professional engineering must be regulated and controlled
10 in accordance with this article in order to insure that the
11 privilege of practicing professional engineering shall only be
12 entrusted to persons with necessary qualifications, good char-
13 acter, education, training, and experience. In furtherance of
14 such intent and purpose of the Legislature, the practice of en-
15 gineering is hereby declared a learned profession to be pract-
16 ticed and regulated as such and its practitioners in this state
17 shall be held accountable to the state and members of the pub-
18 lic by high professional standards in keeping with the ethics
19 and practices of other learned professions in this state.

(a) Unless the context in which used clearly requires a different meaning as used in this article:

1. “Applicant” means any person making application for registration, whether original or renewal, under the provisions of this article.

2. “Board” means the West Virginia state board of registration for professional engineers as provided for in this article.

3. “Certificate of registration” means a license issued by the state granting its licensee the privilege of practicing professional engineering in accordance with the provisions of this article.

4. “Current certificate of registration” means a certificate of registration issued pursuant to the provisions of this article or under the prior provisions of this article which certificate is and remains unexpired, unsuspended or unrevoked.

5. “Practice of professional engineering” means performing or doing, or offering or attempting to do or perform any professional service or creative work such as consultation, investigation, evaluation, planning, design or inspection of construction for the purpose of assuring compliance with drawings and specifications, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, work or projects, wherein the public welfare, or the safeguarding of life, health or property is concerned or involved, when such professional service requires engineering education, training and experience in the application of special knowledge of the mathematical, physical, or engineering sciences to such services or creative work.

6. “Professional engineer” means any person who by reason of his knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in the practice of professional engineering and holds a current certificate of registration.
(7) "Registrant" means any person registered under the provisions of this article.

§30-13-3. Registration required to practice professional engineering; prohibitions and restrictions.

(a) From and after the effective date of this article, no person in this state who does not hold a current certificate of registration shall:

(1) Practice, continue to practice, offer or attempt to practice professional engineering or any branch or part thereof;

(2) Directly or indirectly, employ, use, cause to be used or make use of any of the following terms or any combinations, variations or abbreviations thereof as a professional, business or commercial identification, title, name, representation, claim, asset or means of advantage or benefit: "professional engineer," "licensed engineer," "registered professional engineer," "licensed professional engineer";

(3) Directly or indirectly, employ, use, cause to be used or make use of any letter, abbreviation, word, symbol, slogan, sign or any combinations or variations thereof, which in any manner whatsoever tends or is likely to create any impression with the public or any member thereof that any person is qualified or authorized to practice professional engineering; or

(4) Receive any fee or compensation or the promise of any fee or compensation for performing, offering or attempting to perform any service, work, act or thing which is any part of the practice of professional engineering as defined by this article.

(b) Nothing contained in this article shall under any circumstances whatever be construed as in any way affecting the laws relating to the practicing, licensing, certification or registration of architects, landscape architects and land surveyors.

§30-13-4. Continuation of board of registration for professional engineers; members, terms, meetings, officers, oath and expenses; general provisions.

There is hereby continued the West Virginia state board of registration for professional engineers created under prior
provisions of this article. The board shall be composed of five professional engineers appointed by the governor by and with the advice and consent of the Senate. The members of the board as constituted under prior provisions of this article shall continue in office until the expiration of the term for which each was appointed, and as the terms of the present members shall expire appointments shall be made for terms of five years so as to have the term of one member expire each year. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been duly appointed and shall have qualified. No person may serve on the board for more than three consecutive full terms. Before entering upon the performance of his duty, each member shall take and subscribe to the oath prescribed by section five, article four of the constitution of this state. Vacancies shall be filled by appointment by the governor for the unexpired term of the member whose office shall be vacant and such appointment shall be made within sixty days of the occurrence of such vacancy. Any member may be removed by the governor in case of incompetency, neglect of duty, gross immorality or malfeasance in office.

Each member of the board shall be a citizen of the United States and a resident of this state, and shall have been engaged in the practice of professional engineering for at least ten years, and shall have been in responsible charge of engineering work for at least five years. Each member of the board shall hold a current certificate of registration.

The board shall elect from its membership a president and a secretary who shall serve at the will and pleasure of the board. A majority of the board shall constitute a quorum and meetings shall be held at the call of the president or upon request of two members at such time and place as designated in such call or request. In any event, the board shall meet at least once annually to conduct the examination hereinafter provided for and to transact such other business as may come before it. Members may be paid such reasonable compensation as the board may from time to time determine, and in addition may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties,
which compensation and expenses shall be paid in accordance
with the provisions of subsection (b), section five of this
article.

§30-13-5. Powers and duties of board; funds of board.

(a) The board shall:

(1) Examine applicants and determine their eligibility to
be registered as a professional engineer;

(2) Prepare or approve, administer, and grade appropriate
written or written and oral examinations for applicants to as-
certain whether an applicant is qualified as to the theory and
practice of professional engineering;

(3) Determine the time and place for any examination and
the passing score of such examination;

(4) Promulgate reasonable rules and regulations imple-
menting the provisions of this article and the powers and dut-
ies conferred upon the board hereby, all of which reasonable
rules and regulations shall be promulgated in accordance with
the provisions of article three, chapter twenty-nine-a of this
code;

(5) Establish and promulgate, as a part of the rules and
regulations, reasonable standards of conduct and ethics for
professional engineers in keeping with the purposes and intent
of this article;

(6) Issue, renew, deny, suspend or revoke a certificate of
registration in accordance with the provisions of this article
and, in accordance with the administrative procedures herein-
after provided, may review, affirm, reverse or modify its order
with respect to any such issuance, renewal, denial, suspension
or revocation;

(7) Investigate alleged violations of the provisions of this
article, reasonable rules and regulations promulgated here-
under and final decisions of the board and take appropriate
disciplinary action, including a written public or private reprim-
and, against any registrant for the violation thereof or insti-
tute appropriate legal action for the enforcement of the pro-
visions of this article, reasonable rules and regulations promul-
gated hereunder and orders and final decisions of the board
or take such disciplinary action and institute such legal action;

(8) Purchase or rent necessary office space, equipment and
supplies and employ, direct, discharge and define the duties
of full-time or part-time professional, clerical or other per-
sonnel as may be necessary to effectuate the provisions of this
article;

(9) Keep accurate and complete records of its proceedings,
certify the same as may be appropriate, prepare from time to
time, a list showing the names and addresses of all registrants,
and submit to the governor a report on the transactions of the
board, including an accounting of all moneys received and
disbursed;

(10) Take such other action as may be reasonably neces-
sary or appropriate to effectuate the provisions of this article.

(b) All moneys paid to the board shall be accepted by a
person designated by the board and deposited by him with the
treasurer of the state and credited to an account to be known
as the "board of professional engineers." The compensation of
and the reimbursement of all reasonable and necessary expens-
es actually incurred by the members of the board and all
other costs and expenses incurred by the board in the ad-
ministration of this article shall be paid from such fund, and
no part of the state's general revenue fund shall be expended
for this purpose.

§30-13-6. Qualifications of applicants; reciprocity; applications;
fees.

(a) To be eligible for registration as a professional engineer,
the applicant must:

(1) Be at least eighteen years of age;

(2) Be of good moral character;

(3) Not have been convicted of a felony in any court in this
state or any federal court in this or any other state within ten
years preceding the date of application for registration, which
conviction remains unversed; and not have been convicted of
a felony in any court in this state or any federal court in this
or any other state at any time if the offense for which he was convicted related to the practice of professional engineering, which conviction remains unreversed;

(4) Either (i) be a graduate of a school or college in an engineering curriculum approved by the board and have a specific record of an additional four years or more of experience in engineering work of a character satisfactory to the board indicating that the applicant is competent to practice engineering; or (ii) be a graduate of a school or college in a science curriculum approved by the board and have a specific record of an additional six years or more of experience in engineering work of a character satisfactory to the board indicating that the applicant is competent to practice engineering; or (iii) have a record of at least ten years of education and experience in engineering which in the opinion of the board is substantially equivalent to (i) or (ii) as set forth hereinabove; and

(5) Have passed the examination prescribed and administered by the board in accordance with the provisions of this article.

(b) The board may issue a certificate of registration as a professional engineer to any person who holds an unrevoked license or a certificate of registration issued to him by any state, territory, or possession of the United States: Provided, That the applicant's qualifications are in the opinion of the board equal to or greater than the requirements of this article and the rules and regulations established by the board.

(c) Any applicant for registration under the provisions of subsection (a) or (b) of this section shall submit an application therefor at such time, in such manner, on such forms and containing such information as the board may from time to time by reasonable rule and regulation prescribe. The registration fee for professional engineers shall be fifty dollars, twenty-five dollars of which shall accompany the application, the remaining twenty-five dollars to be paid upon issuance of certificate. Should the board deny the issuance of a certificate to any applicant, the initial fee deposited shall be retained. Applicants failing any portion of the examinations will be re-
required to pay a fee not to exceed twenty-five dollars for each subsequent examination period for which he must appear.

§30-13-7. Registration; certificate of registration; renewal; renewal fee; expiration; seal.

Whenever the board finds that an applicant is eligible for registration under the requirements of this article, it shall forthwith issue to him a certificate of registration; and otherwise the board shall deny the same. The board shall prescribe the form of the certificate of registration. Certificates of registration shall expire on the thirtieth day of June of each year, but shall be renewable each year without examination upon application for renewal on a form prescribed by and filed with the board and payment to the board of an annual renewal fee in such amount as may be prescribed by the board not to exceed thirty dollars. The secretary of the board shall notify every registrant of the expiration date and the amount of the renewal fee for one year.

All certificates of registration not renewed are null and void but may be renewed within two years after expiration date for a maximum fee of fifty dollars. Any person who does not renew his certificate of registration during the two years after its expiration date shall not be eligible for renewal as provided in this section but may submit an original application to the board as provided in this article.

Each registrant shall obtain a seal or stamp of a design authorized by the board, bearing his name and the legend "registered professional engineer, state of West Virginia," and such other words or figures as the board may prescribe. Plans, specifications, plats and reports issued by a registrant shall be stamped or sealed. It shall be unlawful for anyone to stamp or seal any document unless the registrant named thereon holds a current certificate of registration.


(a) The following persons shall be exempt from registration under the provisions of this article:

(1) Any employee of a person, partnership, corporation or other business entity which is engaged in the practice of pro-
fessional engineering in conformity with the provisions of this article and any employee of a person exempted from registration by subsection (b) of this section: Provided, That such employee does not have final authority for the approval of, and the ultimate responsibility for, engineering designs, plans or specifications.

(2) Any regular full-time employee of a person, partnership, corporation or other business entity who is engaged solely and exclusively in performing services for such person, partnership, corporation, or other business entity, who is not required by any provision of law other than this article thirteen to be a registered professional engineer and whose services are performed on, or in connection with, property owned or leased by such person, partnership, corporation or other business entity, or in which such person, partnership, corporation or other business entity has an interest, estate or possessory right, and are not offered or made available to the public. This exemption includes the use of job title and personnel classifications by such persons, but no name, title or words may be used which tend to convey the impression that an unlicensed person is offering professional engineering services to the public.

(3) Officers and employees of the government of the United States while engaged within this state in the practice of professional engineering for such government.

(4) Any regular full-time employee of any investor-owned public utility, its affiliates or associated companies, while engaged solely in performing services which are not offered directly to the public, and which are performed in connection with or incidental to the products, systems or services of such investor-owned public utility, its affiliates or associated companies.

(b) A person who is not a resident of this state or who does not have an established place of business in this state and is currently registered or licensed as a professional engineer in his state of residency or in the state of his principal place of practice, may, without registration in this state, be granted permission by the board to practice professional
engineering in this state on a specific project for the dura-
tion of such specific project. Such person seeking per-
mission shall apply to the board in writing and pay a
fee of fifty dollars: Provided, That such privilege to practice
professional engineering in this state shall be confined to
the terms of the written permit granted by the board and no
other practice of professional engineering shall be allowed.

§30-13-9. Application of article to partnerships, corporations and
other business entities.

Partnerships, corporations or other business entities may
engage in the practice of professional engineering in this state
provided such practice is carried on by professional engineers
registered in accordance with this article.

§30-13-10. Suspension or revocation of certificate of registration;
resignation.

(a) The board may at any time upon its own motion, and
shall upon the verified written complaint of any person filed
with the board, conduct an investigation to determine whether
there are any grounds for the suspension or revocation of a
certificate of registration issued under the provisions of this
article or under the prior provisions of this article.

(b) The board may suspend or revoke any certificate of
registration when it finds that the registrant has:

(1) Been convicted of a felony in any court in this state or
any federal court in this or any other state within ten years pre-
ceding the effective date of such suspension or revocation,
which conviction remains unreversed; or been convicted of a
felony in any court in this state or any federal court in this or
any other state at any time if the offense for which he was con-
victed related to the practice of professional engineering, which
conviction remains unreversed;

(2) Obtained such certificate of registration by means of
fraud or deceit;

(3) Been incompetent, grossly negligent or guilty of other
malpractice or misconduct as defined by the board by reason-
able rules and regulations;
(4) Failed or refused to comply with any provision of this article or any reasonable rule or regulation promulgated by the board hereunder or any order or final decision of the board; or

(5) Affixed his seal or stamp to any plans, plats, drawings, specifications, reports or other instruments of service which were not prepared by him or under his immediate and responsible supervision, or permitted his name to be used for the purpose of assisting any person to evade the provisions of this article.

(c) The board may also suspend or revoke any certificate of registration if it finds the existence of any grounds which would have justified the denial of the application for such certificate of registration at the time the original certificate of registration was granted.

(d) Any such suspension or revocation of a certificate of registration shall be for the period prescribed by the board in a written order of suspension or revocation.

(e) A person holding a certificate of registration issued by the board may voluntarily resign his registration by filing a verified petition with the board stating his desire to do so, and by surrendering therewith his certificate of registration; whereupon his name shall be deleted from the official roster.


(a) Whenever the board shall deny an application for any original or renewal certificate of registration or shall suspend or revoke any such certificate of registration, it shall make and enter an order to that effect and serve a copy thereof on the applicant or registrant, as the case may be, by certified mail, return receipt requested. Such order shall state the grounds for the action taken and shall require that any certificate of registration suspended or revoked thereby shall be returned to the board by the holder thereof within twenty days after receipt of said copy of said order.

(b) Any person adversely affected by any such order shall be entitled to a hearing thereon (as to all issues not excluded from the definition of a “contested case” as set forth in article
one, chapter twenty-nine-a of this code) if, within twenty days after receipt of a copy thereof, he files with the board a written demand for such hearing. A demand for hearing shall operate automatically to stay or suspend the execution of any order suspending or revoking a certificate of registration or denying an application for a renewal certificate of registration. The board may require the person demanding such hearing to give reasonable security for the costs thereof and if such person does not substantially prevail at such hearing such costs shall be assessed against him and may be collected by a civil action or other proper remedy.

(c) Upon receipt of a written demand for such hearing, the board shall set a time and place therefor not less than ten and not more than thirty days thereafter. Any scheduled hearing may be continued by the board upon its own motion or for good cause shown by the person demanding the hearing.

(d) All of the pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern the hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of said article five were set forth in this subsection.

(e) Any such hearing shall be conducted by a quorum of the board. For the purpose of conducting any such hearing, any member of the board shall have the power and authority to issue subpoenas and subpoenas duces tecum which shall be issued and served within the time, for the fees and shall be enforced, as specified in section one, article five of said chapter twenty-nine-a, and all of the said section one provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder.

(f) At any such hearing the person who demanded the same may represent himself or be represented by an attorney at law admitted to practice before any circuit court of this state. Upon request by the board, it shall be represented at any such hearing by the attorney general or his assistants without additional compensation.

(g) After any such hearing and consideration of all of the
testimony, evidence and record in the case, the board shall render its decision in writing. The written decision of the board shall be accompanied by findings of fact and conclusions of law as specified in section three, article five, chapter twenty-nine-a of this code, and a copy of such decision and accompanying findings and conclusions shall be served by certified mail, return receipt requested, upon the person demanding such hearing, and his attorney of record, if any.

(h) The decision of the board shall be final unless reversed, vacated or modified upon judicial review thereof in accordance with the provisions of section twelve of this article.


Any person adversely affected by a decision of the board rendered after a hearing held in accordance with the provisions of section eleven of this article shall be entitled to judicial review thereof. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of this code shall apply to and govern such judicial review with like effect as if the provisions of said section four were set forth in this section.

The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals in accordance with the provisions of section one, article six, chapter twenty-nine-a of this code.

Legal counsel and services for the board in all appeal proceedings in any circuit court and the supreme court of appeals shall be provided by the attorney general or his assistants and in any circuit court by the prosecuting attorney of the county as well, all without additional compensation.


Whenever it appears to the board that any person has been or is violating or is about to violate any provision of this article, any reasonable rule and regulation promulgated hereunder or any order or final decision of the board, the board may apply in the name of the state to the circuit
court of the county in which the violation or violations or any part thereof has occurred, is occurring or is about to occur, or the judge thereof in vacation, for an injunction against such person and any other persons who have been, are or are about to be, involved in any practices, acts or omissions, so in violation, enjoining such person or persons from any such violation or violations. Such application may be made and prosecuted to conclusion whether or not any such violation or violations have resulted or shall result in prosecution or conviction under the provisions of section fourteen of this article.

Upon application by the board, the circuit courts of this state may by mandatory or prohibitory injunction compel compliance with the provisions of this article, the reasonable rules and regulations promulgated hereunder and all orders and final decisions of the board. The court may issue a preliminary injunction in any case pending a decision on the merits of any application filed.

The judgment of the circuit court upon any application permitted by the provisions of this section shall be final unless reversed, vacated or modified on appeal to the supreme court of appeals. Any such appeal shall be sought in the manner and within the time provided by law for appeals from circuit courts in other civil actions.

The board shall be represented in all such proceedings by the attorney general or his assistants and in such proceedings in the circuit court by the prosecuting attorneys of the several counties as well, all without additional compensation.

§30-13-14. Offenses and penalties.

Any person who violates any provision of this article, any of the reasonable rules and regulations promulgated hereunder or any order or any final decision of the board shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars, or imprisoned in the county jail not more than three months, or both fined and imprisoned.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.
Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 25th day of March, 1975.

Governor
PRESENTED TO THE
GOVERNOR

Date  3/19/75
Time  4:10 p.m.