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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1992



ENROLLED

Committee Substitute for
SENATE BILL NO. 526

(By Senator *Burdette (Mr. President)*)



PASSED March 6, 1992

In Effect 90 days from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 526

(SENATOR BURDETTE, MR. PRESIDENT, *original sponsor*)

[Passed March 6, 1992; in effect ninety days from passage.]

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 to engineering; establishing an engineering board of registration; providing for legislative findings; defining certain terms; providing for registration of professional engineers; providing for the powers, duties and responsibilities of the board; allowing the board to levy fines; promulgate rules; develop certain ethical standards; and providing for certain criminal 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 hereby determines the need to
- 2 regulate the practice of engineering; to provide for the
- 3 registration of qualified persons as professional engi-

4 neers and the certification of engineer interns; define
5 the terms "engineer", "professional engineer",
6 "engineer-intern" and "practice of engineering"; to
7 create a state board of registration for professional
8 engineers and provide for the appointment and com-
9 pensation of its members; to fix the term of members
10 of the board and define its powers and duties; to set
11 forth the minimum qualifications and other require-
12 ments for registration as an engineer and certification
13 as an engineer intern; to establish registration fees
14 with expiration and renewal requirements; to impose
15 certain duties upon the state and political subdivisions
16 thereof in connection with public works; and to
17 provide for the enforcement of this article and penal-
18 ties for its violation.

§30-13-2. General provisions.

1 In order to safeguard life, health and property and
2 to promote the public welfare, the practice of engi-
3 neering in this state is hereby declared to be subject
4 to regulation in the public interest. It is unlawful for
5 any person to practice or to offer to practice engineer-
6 ing in this state, as defined in the provisions of this
7 article, or to use in connection with his or her name
8 or otherwise assume or advertise any title or descrip-
9 tion tending to convey the impression that he or she
10 is a registered or licensed engineer, unless the person
11 has been duly registered or exempted under the
12 provisions of this article. Engineering is hereby
13 declared a learned profession and its practitioners are
14 held accountable to the state and the public by
15 professional standards in keeping with the ethics and
16 practice of other learned professions in this state. The
17 practice of engineering is a privilege granted by the
18 state.

§30-13-3. Definitions.

1 Unless the context in which used clearly requires a
2 different meaning as used in this article:

3 (a) "Board" means the West Virginia state board of
4 registration for professional engineers as provided for
5 in this article.

6 (b) "Consulting engineer" means a professional
7 engineer whose principal occupation is the indepen-
8 dent practice of engineering; whose livelihood is
9 obtained by offering engineering services to the public;
10 who serves clients as an independent fiduciary; who is
11 devoid of public, commercial and product affiliation
12 that might tend to infer a conflict of interest; and who
13 is cognizant of their public and legal responsibilities
14 and is capable of discharging them.

15 (c) "Engineer" means a person who is qualified to
16 practice engineering by reason of special knowledge
17 and use of the mathematical, physical and engineering
18 sciences and the principles and methods of engineer-
19 ing analysis and design, acquired by engineering
20 education and engineering experience.

21 (d) "Engineer intern" means a person who has
22 qualified for, taken and has passed an examination in
23 the fundamental engineering subjects, as provided in
24 this article.

25 (e) "Practice of engineering" means any service or
26 creative work, the adequate performance of which
27 requires engineering education, training and experi-
28 ence in the application of special knowledge of the
29 mathematical, physical and engineering sciences to
30 such services or creative work as consultation, inves-
31 tigation, evaluation, planning and design of engineer-
32 ing works and systems; planning the use of land and
33 water; teaching of advanced engineering subjects,
34 engineering surveys and studies; and the review of
35 construction for the purpose of assuring compliance
36 with drawings and specifications any of which em-
37 braces such services or work, either public or private,
38 in connection with any utilities, structures, buildings,
39 machines, equipment, processes, work systems, pro-
40 jects and industrial or consumer products or equip-
41 ment of a mechanical, electrical, hydraulic, pneumatic
42 or thermal nature, insofar as they involve safeguard-
43 ing life, health or property, and including such other
44 professional services as may be necessary to the
45 planning, progress and completion of any engineering
46 services. Engineering surveys include all survey

47 activities required to support the sound conception,
48 planning, design, construction, maintenance and
49 operation of engineered projects.

50 Any person who practices any branch of the profes-
51 sion of engineering or who, by verbal claim, sign,
52 advertisement, letterhead, card or in any other way
53 represents himself or herself to be a professional
54 engineer, or by using another title implies that he or
55 she is a professional engineer or that he or she is
56 registered under this article or who holds himself or
57 herself out as able to perform, or who performs any
58 engineering service or work or any other service
59 designated by the practitioner which is recognized as
60 engineering, is considered to practice or offer to
61 practice engineering within the meaning and intent of
62 this article.

63 (f) "Professional engineer" means a person who has
64 been duly registered or licensed as a professional
65 engineer by the board. The board may designate a
66 professional engineer, on the basis of education,
67 experience and examination, as being licensed in a
68 specific discipline or branch of engineering signifying
69 the area in which the engineer has demonstrated
70 competence.

71 (g) "Responsible charge" means direct control and
72 personal supervision of engineering work.

73 (h) "Rules of professional responsibility for profes-
74 sional engineers" means those rules, if any, promul-
75 gated by the West Virginia state board of registration
76 for professional engineers as authorized by this article.

**§30-13-4. Board of registration for professional engineers;
appointment and term.**

1 There is hereby created the board of registration for
2 professional engineers which shall hereafter be
3 referred to as the board. The board shall be composed
4 of five members appointed by the governor, by and
5 with the consent of the Senate, preferably from a list
6 of names submitted by the West Virginia society of
7 professional engineers. The members of the board

8 shall be qualified and shall meet the requirements of
9 section five of this article. The governor shall present
10 each board member with a certificate of appointment.
11 Each board member shall make and file an oath or
12 affirmation with the secretary of state to faithfully
13 execute the duties of a member of the board. Members
14 of the board shall serve a term of five years. Of the
15 members first appointed, one shall serve a term of one
16 year, one shall serve a term of two years, one shall
17 serve a term of three years, one shall serve a term of
18 four years and one shall serve a term of five years.
19 Members are eligible for reappointment but no mem-
20 ber may be appointed for more than three full consec-
21 utive terms. Each member shall hold office until the
22 expiration of the term for which appointed or until a
23 successor has been duly appointed and has qualified.
24 In the event of a vacancy on the board due to resig-
25 nation, death or for any cause resulting in an unex-
26 pired term and if not filled within three months by
27 the governor, the board may appoint a member to
28 serve in the vacancy until the governor makes the
29 appointment. Members of the former board whose
30 terms have not expired shall fill the term on this
31 board which corresponds with the length of the
32 unexpired term of that member.

§30-13-5. Board qualifications.

1 Each member of the board must be a citizen of the
2 United States and a resident of this state. Each
3 member shall have been engaged in the lawful prac-
4 tice of engineering as a professional engineer for at
5 least twelve years; shall have been in responsible
6 charge of engineering projects for at least five years;
7 and shall be a registered professional engineer in this
8 state.

§30-13-6. Compensation and expenses.

1 Members of the board shall be compensated not to
2 exceed fifty dollars per diem for time spent in actually
3 performing the duties of the board and shall be
4 reimbursed for reasonable and necessary expenses
5 actually incurred in the performance of board related

6 duties.

§30-13-7. Removal of members and vacancies.

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

§30-13-8. Organization and meetings.

1 The board shall hold at least one regular meeting
2 each year. Special meetings may be held as the bylaws
3 of the board provide. Each year the board shall elect
4 the following officers: A president, a vice president
5 and a secretary, who shall serve at the will and
6 pleasure of the board. A quorum of the board shall
7 consist of not less than three professional engineer
8 members.

§30-13-9. Board powers.

1 (a) The board may adopt and amend bylaws not
2 inconsistent with the constitution and laws of this
3 state. The board may promulgate and shall adopt
4 "rules of professional responsibility for professional
5 engineers". These rules are binding to any person
6 registered with the board under the provisions of this
7 article. These rules are also applicable to firms holding
8 a certificate of authorization as provided in section
9 seventeen of this article.

10 (b) The board may subpoena witnesses and compel
11 their attendance and it may also subpoena books,
12 papers, documents or other pertinent data in any
13 disciplinary matters or in any case involving an
14 allegation of a violation of the provisions of this article.
15 The board may apply to the circuit court of Kanawha
16 county to enforce compliance with any subpoena it
17 issues.

18 (c) The board may seek an injunction in circuit
19 court to enforce the provisions of this article or to
20 restrain a person or entity from violating a provision
21 of this article. In pursuing injunctive relief under this

22 section, the board shall not be required to prove that
23 an adequate remedy at law does not exist or that
24 substantial or irreparable damage would result from
25 the continued violation. The members of the board
26 may not be personally liable for any decisions made in
27 good faith in pursuing injunctive relief.

28 (d) The board may require all applicants for regis-
29 tration to take and successfully pass an examination of
30 their fitness and qualifications to become registered.

31 (e) The board may require that a registered profes-
32 sional engineer demonstrate continuing professional
33 competency in engineering as a condition of renewal
34 or reregistration.

35 (f) Board members are exempt from civil liability
36 for any decision made or any act done in good faith in
37 the performance of any duty or the exercise of any
38 power granted under this article.

§30-13-10. Receipt of fees, fund established, disbursements.

1 There is hereby established within the state treasury
2 a "board of professional engineers fund". The board
3 shall deposit all fees and other moneys received by the
4 board into the fund. The moneys in the fund shall be
5 used for expenses of the board and shall be requisi-
6 tioned on the signatures of the president and secretary
7 of the board. The secretary of the board shall annually
8 furnish an accounting of all funds received and
9 expended by the board to the governor and to each
10 house of the Legislature. The board may use the
11 moneys in the fund to employ necessary staff, pay for
12 membership fees to the national council of examiners
13 for engineering and surveying and for any other
14 necessary and reasonable expense of the board: *Pro-*
15 *vided*, That the board may not issue warrants in
16 excess of moneys in the fund.

§30-13-11. Records and reports.

1 (a) The board shall keep a record of its proceedings
2 and of all applications for registration. The record shall
3 show: (1) The name, age and last known address of
4 each applicant; (2) the date of application; (3) place of

5 business of such applicant; (4) education, experience
6 and other qualifications; (5) type of examination
7 required; (6) whether or not the applicant was
8 rejected; (7) whether or not a certificate of registration
9 was granted; (8) the date of the action by the board;
10 and (9) such information as may be deemed necessary
11 by the board.

12 (b) The record of the board is prima facie evidence
13 of the proceedings of the board and a transcript duly
14 certified by the secretary, shall be admissible as
15 evidence with the same force and effect as if the
16 original were produced.

17 (c) On the first day of July of each year, the board
18 shall submit to the governor a report of its transac-
19 tions of the preceding year and shall transmit to the
20 governor a complete statement of the receipts and
21 expenditures of the board, attested to by affidavits of
22 its chairman and secretary.

23 (d) Board records and papers of the following class
24 are of a confidential nature and are not public records:
25 Examination material for examinations not yet given,
26 file records of examination problem solutions, letters
27 of inquiry and reference concerning applicants, board
28 inquiry forms concerning applicants, investigation files
29 where any investigation is still pending and all other
30 materials of like confidential nature.

§30-13-12. Roster.

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

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

1 To be eligible for admission to examination for
2 professional engineer or engineer-intern, an applicant
3 must be of good character and reputation and he or

4 she shall submit five references along with the appli-
5 cation for registration as a professional engineer.
6 Three references shall be from professional engineers
7 having personal knowledge of the engineering experi-
8 ence of the applicant or in the case of an application
9 for certification as an engineer-intern. The references
10 shall be from three persons knowledgeable of the
11 applicants' character.

12 (a) The minimum requirements for qualification for
13 registration as a professional engineer are:

14 (1) *Registration by comity or endorsement.* — A
15 person holding a certificate of registration to engage in
16 the practice of engineering, issued by a proper author-
17 ity of a state or possession of the United States, the
18 District of Columbia or any foreign country, based on
19 requirements that do not conflict with the provisions
20 of this article and were of a standard not lower than
21 that specified in the applicable registration article in
22 effect in this state at the time such certificate was
23 issued, may, upon application, be registered without
24 further examination.

25 A person holding an active council record with the
26 national council of examiners for engineering and
27 surveying whose qualifications as evidenced by the
28 council record, meet the requirements of this article
29 may, upon application, be registered without further
30 examination;

31 (2) *Graduation, experience and examination.* — A
32 graduate of an engineering curriculum of four years
33 or more approved by the board as being of satisfactory
34 standing and with a specific record of an additional
35 four years or more of progressive experience on
36 engineering projects of a grade and a character which
37 indicates to the board that the applicant may be
38 competent to practice engineering, shall be admitted to
39 an eight-hour written examination in the fundamen-
40 tals of engineering and, if passed, then shall be
41 admitted to an eight-hour written examination in the
42 principles and practice of engineering. Upon passing
43 such examinations, the applicant shall be granted a

44 certificate of registration to practice engineering in
45 West Virginia, provided the applicant is otherwise
46 qualified; and

47 (3) *Engineering teaching.* — Engineering teaching of
48 advanced subjects and the design of engineering
49 research and projects in a college or university
50 offering an approved engineering curriculum of four
51 years or more may be considered as engineering
52 experience.

53 (b) The minimum requirements for registration as
54 an engineer-intern are:

55 (1) Graduation from an engineering curriculum of
56 four years or more approved by the board as being of
57 satisfactory standing; and

58 (2) Satisfactorily passing a written exam, eight hours
59 in duration, covering the fundamentals of engineering.

§30-13-14. Application and registration fee.

1 Every person seeking to become registered as a
2 professional engineer or seeking to become certified as
3 an engineer-intern shall file an application on forms
4 provided by the board. The application shall be made
5 under oath and shall include:

6 (a) The level of education of the applicant;

7 (b) A summary of the applicants' technical experi-
8 ence; and

9 (c) The names and complete mailing addresses of
10 any references.

11 Applicants may not use the names of board
12 members as references.

13 In lieu of information required on the board's
14 application forms, the board may accept the verified
15 information contained in a valid council record issued
16 by the national council of examiners for engineering
17 and surveying for professional engineer applicants.

18 The board shall set fees for all applicants for regis-
19 tration and certification by promulgating legislative

20 rules under the provisions of article three, chapter
21 twenty-nine-a of this code.

22 Fees of unsuccessful applicants and the fees of
23 applicants who have been refused registration or
24 certification for any purpose shall be retained by the
25 board to cover administrative costs.

§30-13-15. Examinations.

1 (a) The board shall establish examination criteria
2 including the acceptable passing grade.

3 (b) Written examinations shall be given in two
4 sections and may be taken only after the applicant has
5 met the other minimum requirements and has been
6 approved by the board for admission to the examina-
7 tions which are as follows:

8 (1) *Engineering fundamentals.* — The examination
9 consists of an eight-hour test period on the fundamen-
10 tals of engineering. Passing this examination qualifies
11 the examinee for an engineer-intern certificate,
12 provided the examinee has met all other requirements
13 for certification required by this article; and

14 (2) *Principles and practice of engineering.* — The
15 examination consists of an eight-hour test period on
16 applied engineering. Passing this examination qualifies
17 the examinee for registration as a professional engi-
18 neer, provided the examinee has met the other
19 requirements.

20 (c) A candidate failing one examination may apply
21 for reexamination, which may be granted upon pay-
22 ment of a fee established by the board. In the event of
23 a second failure, the examinee may be required to
24 appear before the board to present evidence of having
25 pursued further instruction in deficit areas.

26 (d) The board shall publish in brochure form and
27 shall make available to any person interested in being
28 registered, the requirements and specifications of the
29 written examination.

§30-13-16. Certificates and seals.

1 (a) The board shall issue a certificate of registration

2 to any applicant who, in the opinion of the board, has
3 met the requirements of this article. The certificate of
4 registration shall carry the designation "professional
5 engineer". It shall give the full name of the registrant
6 with their registration number and shall be signed by
7 the chairman and the secretary under the seal of the
8 board. The certificate of registration grants the recip-
9 ient authority to practice in this state.

10 (b) An unexpired and unrevoked certificate is prima
11 facie evidence that the person named on it is entitled
12 to all rights, privileges and responsibilities of a
13 professional engineer.

14 (c) Every registrant shall obtain a seal for use in
15 identifying his or her official professional work. The
16 design of the seal shall be determined by the board
17 and shall bear the registrant's name, registrant's
18 registration number, the legend "registered profes-
19 sional engineer, state of West Virginia" and such other
20 words or figures as the board may prescribe. The seal
21 may be a rubber stamp. Whenever the seal is applied,
22 the registrant's written signature shall be adjacent to
23 or across the seal. No further words or wording are
24 required. A facsimile signature is not acceptable.
25 Whenever presented to a client or any public or
26 governmental agency, the seal, signature and date
27 shall be placed on all specifications, reports, drawings,
28 plans, design information and calculations in accor-
29 dance with rules promulgated by the board. The seal
30 and signature shall be used by registrants only when
31 the work being stamped was under the registrant's
32 complete direction and control.

33 In the case of a registrant of another state using a
34 temporary permit issued by this state, the registrant
35 shall use the state of permanent registration seal and
36 shall affix his or her signature and temporary permit
37 number to all work. In the case of a registrant
38 checking the work of an out-of-state registrant, the
39 state registrant shall completely check and have
40 complete dominion and control of the design. The
41 complete dominion and control includes possession of
42 the sealed and signed reproducible construction draw-

43 ings with complete signed and sealed design calcula-
44 tions indicating all changes in design.

45 (d) The board shall issue to any applicant who, in
46 the opinion of the board, has met the requirements of
47 this article, an enrollment card as engineer-intern,
48 which indicates that his or her name has been
49 recorded in the board office. The engineer-intern
50 enrollment card does not authorize the holder to
51 practice as a professional engineer. It is unlawful for
52 a registrant to affix or to permit his or her seal and
53 signature to be affixed to any document after the
54 expiration of his or her certificate or for the purpose
55 of aiding or abetting any other person to evade or
56 attempt to evade any provisions of this article.

§30-13-17. Authorization certificates.

1 (a) The practice of or offer to practice engineering
2 by consulting engineers registered under this article,
3 through a firm, corporation, copartnership, joint stock
4 association or private practitioner employing others,
5 referred to hereinafter as a firm, is permitted: *Pro-*
6 *vided*, That the person in direct control or having
7 personal supervision of the practice and all personnel
8 who act in behalf of the firm in professional matters
9 are registered under this article: *Provided, however,*
10 That the firm has been issued a certificate of authori-
11 zation by the board.

12 (b) A firm desiring a certificate of authorization
13 must file with the board an application using a form
14 provided by the board and the firm shall provide all
15 the information required by the board. A form as
16 provided by the board is to be filed with the board
17 with the renewal fee and within thirty days of the
18 time any information contained on the form is
19 changed or differs for any reason. If the information
20 contained on the form warrants action, the board, in
21 its judgment, may issue a certificate of authorization
22 for the firm to practice engineering and to contract
23 and collect fees for furnishing this service.

24 (c) No firm shall be relieved of responsibility for the
25 conduct or acts of its agents, employees, officers or

26 partners by reason of its compliance with the provi-
27 sions of this article. No individual practicing engineer-
28 ing under the provisions of this article shall be
29 relieved of responsibility for engineering services
30 performed by reason of his or her employment or
31 other relationship with a firm holding an authoriza-
32 tion certificate.

33 (d) An engineer who renders occasional, part-time
34 or consulting engineering services to or for a firm may
35 not, for the purposes of this article, be designated as
36 being responsible for the professional activities of the
37 firm unless that engineer is an owner or principal of
38 the firm.

39 (e) Effective one year from the effective date of this
40 article, the secretary of state shall stop issuing a
41 certificate of incorporation to an applicant or a regis-
42 trant as a foreign firm to a firm which includes,
43 among the objectives for which it is established, the
44 words engineer, engineering or any modification or
45 derivation thereof unless the board of registration for
46 this profession has issued to the applicant or registrant
47 a certificate of authorization or a letter indicating
48 eligibility to receive the certificate. The certificate or
49 letter from the board shall be filed with the firms'
50 application for incorporation or registration.

51 (f) Effective one year after the effective date of this
52 article, the secretary of state shall decline to register
53 any trade name or service mark which includes the
54 words engineer, engineering or modifications or
55 derivatives thereof in its firm name or logotype except
56 those firms holding authorization certificates issued
57 under the provisions of this article.

58 (g) The certificate of authorization may be renewed.

§30-13-18. Expirations and renewals.

1 Certificates of registration and certificates of autho-
2 rization for firms expire on the last day of the month
3 of June following issuance and are invalid after that
4 date unless renewed. The secretary of the board shall
5 notify every person registered and every firm holding

6 a certification of authorization under this article of the
7 pending expiration of a certificate of registration or
8 certificate of authorization issued to that person or
9 firm including notice of the fee required to renew the
10 registration or certificate. The notice shall be mailed to
11 the registrant or firm at their last known address at
12 least one month in advance of the date of the expira-
13 tion. An expired certificate may be renewed under
14 rules promulgated by the board and may require
15 reexamination and the payment of penalty fees.

§30-13-19. Reissuance of certificates.

1 A new certificate of registration or certificate of
2 authorization to replace any certificate lost, destroyed
3 or mutilated may be issued subject to the rules of the
4 board. A charge established by rule shall be made for
5 each new certificate.

§30-13-20. Public works.

1 Government agencies, authorities, officials and
2 employees may not engage in the practice of engineer-
3 ing involving either public or private property unless
4 the provisions of this article are met.

**§30-13-21. Disciplinary action—revocation, suspension, refusal
to issue, restore or renew, probation, fine,
reprimand.**

1 (a) The board may suspend or revoke or refuse to
2 issue, restore or renew a certificate of registration of,
3 or place on probation, fine or reprimand any profes-
4 sional engineer who has:

5 (1) Perpetrated any fraud or deceit in obtaining or
6 attempting to obtain or renew a certificate of registra-
7 tion or certificate of authorization;

8 (2) Been negligent, incompetent or committed an act
9 of misconduct in the practice of engineering;

10 (3) Been convicted of or has entered a plea of nolo
11 contendere to any crime under the laws of the United
12 States or any state or territory thereof, which is a
13 felony whether related to practice or not; and convic-
14 tion of or entry of a plea of nolo contendere to any

15 crime, whether a felony, misdemeanor or otherwise,
16 an essential element of which is dishonesty, or which
17 is directly related to the practice of engineering;

18 (4) Failed to comply with any of the provisions of
19 this article or any of the rules promulgated under it;

20 (5) Been disciplined by another state, territory, the
21 District of Columbia, foreign country, the United
22 States government or any other governmental agency,
23 if at least one of the grounds for discipline is the same
24 or substantially equivalent to those grounds for
25 discipline contained in this article;

26 (6) Failed within thirty days to provide information
27 requested by the board as a result of a formal or
28 informal complaint to the board which would indicate
29 a violation of this article;

30 (7) Knowingly made false statements or signed false
31 statements, certificates or affidavits to induce payment;

32 (8) Aided or assisted another person in violating any
33 provision of this article or the rules promulgated;

34 (9) Violated any terms of probation imposed by the
35 board or using a seal or practicing engineering while
36 the professional engineer's license is suspended,
37 revoked, nonrenewed or inactive;

38 (10) Signed or affixed the professional engineer's
39 seal or permitted the professional engineer's seal or
40 signature to be affixed to any specifications, reports,
41 drawings, plans, design information, construction
42 documents or calculations or revisions which have not
43 been prepared or completely checked by the profes-
44 sional engineer or under the professional engineer's
45 direct supervision or control;

46 (11) Engaged in dishonorable, unethical or unprofes-
47 sional conduct of a character likely to deceive, defraud
48 or harm the public;

49 (12) Provided false testimony or information to the
50 board; and

51 (13) Been habitually intoxicated or addicted to or by

52 the use of drugs or alcohol.

53 In addition to any other penalty provided in this
54 article, any person who violates any provision of this
55 article or any rule promulgated by the board may be
56 fined by the board for each offense in an amount
57 determined by the board.

58 (b) The board shall prepare and shall adopt “rules of
59 professional responsibility for professional engineers”.
60 The board may revise and amend these “rules of
61 professional responsibility for professional engineers”
62 from time to time and shall notify each registrant in
63 writing of any revisions or amendments.

64 (c) The board may:

65 (1) Revoke a certificate of authorization;

66 (2) Suspend a certificate of authorization of any firm
67 for a period of time not exceeding two years where
68 one or more of its officers or directors of the firm have
69 been found guilty of any conduct which would autho-
70 rize a revocation or suspension of his or her certificate
71 of registration under the provisions of this article;

72 (3) Place the person or firm on probation for a
73 period of time and make the person or firm subject to
74 conditions as the board may specify;

75 (4) Levy a fine for each count or separate offense in
76 an amount set by the board.

§30-13-22. Disciplinary action—procedures.

1 (a) Any person may file a complaint with the board
2 that a person or firm subject to the provisions of this
3 article has committed a fraud, been deceitful, been
4 grossly negligent, incompetent, guilty of misconduct or
5 has violated the “rules of professional responsibility
6 for professional engineers”.

7 (b) All complaints unless dismissed by the board as
8 unfounded, trivial or unless settled informally, shall be
9 heard by the board within six months after the date
10 each complaint was received by the board.

11 (c) The board shall fix the time and place for

12 hearings on complaints and a copy of all charges,
13 together with a notice of the time and place of hearing
14 on the complaint the person or firm complained
15 against or mailed to the last known address of the
16 person or firm holding a certificate of authorization at
17 least thirty days prior to the hearing. At the hearing,
18 the individual registrant or firm holding a certificate
19 of authorization shall have the right to appear in
20 person or by counsel, or both, to cross-examine
21 witnesses and to produce evidence and witnesses in
22 his, her or its defense. If the accused person or
23 corporation fails or refuses to appear, the board may
24 proceed to hear the complaint and determine the
25 validity of the charges.

26 (d) If after the hearing a majority of the board votes
27 in favor of sustaining the charges, the board shall
28 reprimand or fine the person or firm complained
29 against. The board may also suspend, revoke, refuse to
30 issue or refuse to restore or renew an individual's
31 certificate of registration or a firm's certificate of
32 authorization. In addition, the board may place a
33 registrant on probation.

34 (e) An individual registrant, having a certificate of
35 registration, or a firm, having a certificate of authori-
36 zation, aggrieved by any action of the board in levying
37 a fine, denying, suspending, refusing to issue, refusing
38 to restore or renew or revoking a certificate of
39 registration or a certificate of authorization, may
40 appeal the boards' decision to the circuit court.

41 (f) Any penalty assessed as a result of a hearing shall
42 be paid within fifty days after the decision becomes
43 final.

44 (g) The board may, upon petition of an individual
45 registrant or firm holding a certificate of authoriza-
46 tion, reissue a certificate of registration or authoriza-
47 tion, provided that a majority of the members of the
48 board votes in favor of such issuance.

§30-13-23. Criminal offenses.

1 Any person who practices or offers to practice

2 engineering in this state without being registered in
 3 accordance with the provisions of this article, or any
 4 person, firm, partnership, organization, association,
 5 corporation or other entity using or employing the
 6 words engineer, engineering or any modification or
 7 derivative thereof in its name or form of business
 8 activity except as authorized in this article, or any
 9 person presenting or attempting to use the certificate
 10 of registration or the seal of another, or any person
 11 who gives any false or forged evidence of any kind to
 12 the board or to any member thereof in obtaining or
 13 attempting to obtain a certificate of registration, or
 14 any person who falsely impersonates any other regis-
 15 trant of like or different name, or any person who
 16 attempts to use an expired, suspended or revoked or
 17 nonexistent certificate of registration, or who practices
 18 or offers to practice when not qualified, or any person
 19 who falsely claims that he or she is registered or
 20 authorized under this article, or any person who
 21 violates any of the provisions of this article is guilty of
 22 a misdemeanor, and, upon conviction thereof, shall be
 23 fined not more than five hundred dollars, or impris-
 24 oned in the county jail not more than six months, or
 25 both fined and imprisoned.

26 Any person who commits a second or subsequent
 27 offense under this section is guilty of a felony, and,
 28 upon conviction thereof, shall be imprisoned in the
 29 penitentiary not less than ten nor more than twenty
 30 years.

31 The attorney general may act as legal adviser to the
 32 board and render any legal assistance as may be
 33 necessary in carrying out the provisions of this article.
 34 The board may employ counsel and necessary assis-
 35 tance to aid in the enforcement of this article and the
 36 compensation and expenses of the council shall be paid
 37 from the funds of the board.

§30-13-24. Exemptions.

1 This article may not be construed to prevent the
 2 practice by:

3 (a) *Other professions.* — The practice of any other

4 legally recognized profession;

5 (b) *Temporary permits.* — The practice or offer to
6 practice engineering by a person not a resident of or
7 having no established place of business in this state,
8 provided the person is legally qualified by registration
9 to practice engineering, as defined in this article, in
10 their own state or country. The person shall make
11 application to the board in writing and after payment
12 of a fee established by the board may be granted a
13 written permit for a definite period of time not to
14 exceed one year to do a specific job: *Provided*, That no
15 right to practice engineering shall accrue to the
16 applicant with respect to any other works not set forth
17 in the permit; and

18 (c) *Employees and subordinates.* — The work of an
19 employee or a subordinate of a person holding a
20 certificate of registration under this article, or an
21 employee of a person practicing lawfully: *Provided*,
22 That the work does not include final engineering
23 designs or decisions and is done under the direct
24 supervision of and verified by a person holding a
25 certificate of registration under this article or a person
26 practicing lawfully. Any regular full-time employee of
27 a person, partnership, corporation or other business
28 entity who is engaged solely and exclusively in per-
29 forming services for such person, partnership, corpora-
30 tion or other business entity, who is not required by
31 any provision of the law other than this article to be
32 a registered professional engineer and whose services
33 are performed on, or in connection with, property
34 owned or leased by such person, partnership, corpora-
35 tion or other business entity, or in which such person,
36 partnership, corporation or other business entity has
37 an interest, estate or possessory right, and are not
38 offered or made available to the public. This exemp-
39 tion includes the use of job title and personal classifi-
40 cation by such person, but no name, title or words
41 may be used which tend to convey the impression that
42 an unlicensed person is offering professional engineer-
43 ing services to the public.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Somer Heck
.....
Chairman Senate Committee

.....*Ernest C. Moore*.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Parrell E. Nelson
.....
Clerk of the Senate

.....*Donald L. Koff*.....
Clerk of the House of Delegates

.....*Kurt Baudette*.....
President of the Senate

Robert C. ...
.....
Speaker House of Delegates

The within is approved this the ... *31st*

day of *March*, 1992.

Yaston Caperton
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/25/92

Time 4:15pm