

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1271

S.P. 475

In Senate, April 11, 1995

An Act to Revise and Add to the Laws Regulating the Practice of Professional Engineering.

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator HARRIMAN of Cumberland.
Cosponsored by Representative: POVICH of Ellsworth.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 32 MRSA §1251, sub-§§2 and 4** are amended to read:

6 **2. Engineer-intern.** The term "~~engineer-in-training~~
~~engineer-intern~~" shall-mean means a person who has been certified
8 as such by the board and whose name has been entered in the
register of ~~engineer-in-training~~ engineer-interns.

10 **4. Professional engineer.** The term "professional engineer"
shall-mean means a person who, by reason of ~~his~~ a knowledge of
12 mathematics, the physical sciences and the principles of
engineering, acquired by professional education and practical
14 experience, is qualified to engage in engineering practice as
defined.

16 **Sec. 2. 32 MRSA §1255, sub-§1**, as amended by PL 1991, c. 442,
18 §2, is further amended to read:

20 **1. Limited practice by nonresident.** A person not a
resident of and not having established a place of business in
22 this State, practicing or offering to practice the profession of
engineering when such practice does not exceed more than 30
24 consecutive days in any calendar year, ~~provided--such if the~~
person is legally qualified by registration to practice the
26 profession in that person's own state or county in which the
requirements and qualifications for obtaining a certificate of
28 registration are not lower than those specified in this chapter.
To practice under this section, the person must apply in writing
30 and receive authorization from the chair of the board.

32 **Sec. 3. 32 MRSA §1255, sub-§§2 and 3** are amended to read:

34 **2. Nonresident becoming resident.** A person not a resident
of and not having ~~ne~~ established a place of business in this
36 State, or who has recently become a resident ~~thereof of this~~
State, practicing or offering to practice ~~herein in the State~~ for
38 more than 30 days in any calendar year the profession of
engineering, ~~if-he-shall-have~~ and having filed with the board an
40 application for a certificate of registration and ~~shall--have~~
having paid the fee required by this chapter. ~~Such The~~ exemption
42 ~~shall-continue~~ continues only for such time as the board requires
for the consideration of the application for registration,
44 ~~provided--such-a~~ if the person is legally qualified to practice
said the profession of engineering in ~~his-own the~~ state or county
46 of residence in which the requirements and qualifications for
obtaining a certificate of registration are not lower than those
48 specified in this chapter.

2 **3. Certain employees.** An employee or a subordinate of a
3 person holding a certificate of registration under this chapter,
4 or an employee of a person exempted from registration by
5 subsections 1 and 2; provided his that the practice does not
6 include responsible charge or design or supervision by the
7 employee or subordinate.

8 **Sec. 4. 32 MRSA §1256,** as amended by PL 1983, c. 413, §41, is
9 further amended to read:

10 **§1256. Violations; penalties; injunction**

11 Any ~~A~~ person who ~~shall-practice~~ practices or ~~offer~~ offers to
12 practice the profession of engineering in this State without
13 being registered or exempted in accordance with this chapter, or
14 any ~~a~~ person presenting or attempting to use as ~~his-own~~ the
15 certificate of registration or the seal of another, or any ~~a~~
16 person who ~~shall-give-any~~ gives a false or forged evidence of any
17 kind to the board or to any ~~a~~ member ~~thereof of the board~~ in
18 obtaining a certificate of registration, or any ~~a~~ person who
19 shall falsely ~~impersonate~~ impersonates any other registrant of
20 like or different name, or any ~~a~~ person who ~~shall--attempt~~
21 attempts to use an expired or revoked certificate of
22 registration, or any ~~a~~ person who ~~shall-violate~~ violates any of
23 the provisions of this chapter ~~shall-be-guilty-of~~ commits a Class
24 E crime.

25 The State may bring an action in Superior Court to enjoin
26 any ~~a~~ person from violating this chapter, regardless of whether
27 proceedings have been or may be instituted in the Administrative
28 Court or whether criminal proceedings have been or may be
29 instituted.

30 It ~~shall-be~~ is the duty of all duly constituted officers of
31 the law of this State or any political subdivision ~~thereof of~~
32 this State to enforce this chapter and to prosecute any persons
33 violating ~~same the provisions of this chapter.~~ The Attorney
34 General or ~~his~~ a designated assistant shall act as legal adviser
35 of the board and render such legal assistance as may be necessary
36 in carrying out this chapter.

37 **Sec. 5. 32 MRSA §1301,** as amended by PL 1993, c. 600, Pt. A,
38 §103, is further amended to read:

39 **§1301. Appointment; term**

40 The State Board of Registration for Professional Engineers,
41 as established by Title 5, section 12004-A, subsection 16,
42 administers this chapter. The board consists of ~~6~~ 7 members
43 appointed by the Governor, of which ~~5~~ 6 must be professional
44

2 engineers who have the qualifications required by section 1302
3 and one must be a representative of the public. To the extent
4 that qualified nominees are available, appointment of nonpublic
5 members are made to ensure that a variety of engineering
6 disciplines are represented. Nominees for appointment may be
7 recommended to the Governor by representative engineering
8 societies in the State.

9
10 Appointments are for 5-year terms. Appointments of members
11 must comply with section 60.

12 **Sec. 6. 32 MRSA §1302**, as amended by PL 1975, c. 575, §17, is
13 further amended to read:

14 **§1302. Qualifications**

15
16 Each member of the board shall must be a citizen of the
17 United States and a resident of this State, and each engineer
18 member shall must have been engaged in the practice of the
19 profession of engineering for at least 12 years and shall must
20 have been in responsible charge of ~~important~~ engineering work for
21 at least 5 years. Responsible charge of engineering teaching may
22 be construed as responsible charge of ~~important~~ engineering work.

23
24 **Sec. 7. 32 MRSA §1306, sub-§3**, as enacted by PL 1983, c. 413,
25 §45, is amended to read:

26
27 **3. Hearings.** Hearings may be conducted by the board to
28 assist with investigations, to determine whether grounds exist
29 for suspension, revocation or denial of a license, or as
30 otherwise ~~deemed~~ considered necessary to the fulfillment of its
31 responsibilities under this chapter.

32
33 The board shall may not refuse to renew a license for any reason
34 other than failure to pay a required fee, unless it has afforded
35 the licensee an opportunity for an adjudicatory hearing. The
36 board shall hold an adjudicatory hearing at the written request
37 of any person who is denied a license without a hearing for any
38 reason other than failure to pay a required fee, provided that
39 the request for hearing is received by the board within 30 days
40 of the applicant's receipt of written notice of the denial of his
41 the application, the reasons ~~therefor~~ for the denial and his the
42 right to request a hearing. Hearings shall must be conducted in
43 conformity with ~~the Maine Administrative Procedure Act~~, Title 5,
44 chapter 375, subchapter IV, to the extent applicable. The board
45 may subpoena witnesses, records and documents in any hearing it
46 conducts.

47
48 **Sec. 8. 32 MRSA §1307** is amended to read:

2 **§1307. Receipts and disbursements**

4 The secretary of the board shall receive and account for all
6 ~~monies~~ money derived under this chapter and shall pay the same
8 ~~money~~, as provided by law, to the Treasurer of State, who shall
10 keep such ~~monies~~ the money in a separate fund to be known as the
12 "Professional Engineers' Fund." The secretary of the board shall
14 ~~receive a salary~~ is entitled to compensation and allowance for
clerical hire as ~~recommended~~ approved by the board, in addition
to the expenses provided for in section 1303. The board may make
other expenditures from this fund, upon itemized vouchers
approved by the ~~chairman~~ chair of the board, ~~which that~~ in the
opinion of the board are reasonably necessary for the proper
performance of its duties under this chapter.

16 **Sec. 9. 32 MRSA §1309**, as amended by PL 1991, c. 442, §4, is
18 further amended to read:

20 **§1309. Roster of registered engineers**

22 A roster showing the names of all active registered
24 professional engineers and ~~engineers-in-training~~ newly certified
26 ~~engineer-interns~~ is prepared by the secretary of the board during
the first calendar quarter of each even-numbered year. A
supplementary roster of newly registered professional engineers
and newly certified ~~engineers-in-training~~ engineer-interns is
prepared by the secretary of the board during the first calendar
quarter of each odd-numbered year. The rosters must give the
place of business of each listed registered engineer ~~and the date~~
30 ~~of expiration of the certificate of each listed~~
32 ~~engineer-in-training.~~ Copies of the roster and of the
supplementary roster are mailed to each active engineer listed on
the roster and furnished to the public upon request for such fees
as the board may authorize in its rules.

36 **Sec. 10. 32 MRSA §1351** is amended to read:

38 **§1351. Registration required**

40 In order to safeguard life, health and property, any person
42 practicing or offering to practice the profession of engineering
44 ~~shall be~~ is required to submit evidence ~~that he is qualified of~~
46 ~~qualification~~ to ~~so~~ practice the profession of engineering and
shall must be registered as provided. It ~~shall be~~ is unlawful for
any person to practice or to offer to practice the profession of
engineering in the State or to use in connection with ~~his~~ the
48 ~~person's~~ name or otherwise assume, use or advertise any title or
description tending to convey the impression that he ~~the person~~
is a professional engineer, unless such ~~that~~ person has been duly
50 registered or exempted under this chapter.

2 **Sec. 11. 32 MRSA §1352**, as amended by PL 1991, c. 442, §5, is
further amended to read:

4 **§1352. Qualifications**

6
7 To be eligible for registration as a professional engineer,
8 or certification as ~~a-engineer-in-training~~ an engineer-intern, an
applicant shall ~~must~~ submit 5 references with ~~his~~ the application
10 for registration as a professional engineer, 3 of ~~which~~ the
12 references shall ~~must~~ be registered engineers having personal
knowledge of ~~his~~ the applicant's engineering experience, or in
14 the case of an application for certification as an
~~engineer-in-training~~ engineer-intern, by 3 character references.
Each applicant shall demonstrate that ~~he~~ the applicant is
16 trustworthy and competent to engage in the practice of
engineering in such manner as to safeguard the interests of the
18 public.

20 The following ~~shall--be~~ is considered as minimum evidence
satisfactory to the board that the applicant is qualified for
22 registration as a professional engineer or for certification as
an ~~engineer-in-training~~ engineer-intern, respectively:

24 **1. Professional engineer.** As a professional engineer:

26 A. A person holding a certificate of registration to engage
28 in the practice of engineering, on the basis of comparable
written examinations, issued ~~to him~~ by a proper authority of
30 a state, territory or possession of the United States, the
District of Columbia, or of any foreign country, who, in the
32 opinion of the board, meets the requirements of this
chapter, based on verified evidence may, upon application,
34 be registered without further examination.

36 A person holding a certificate of ~~qualification record~~
verification issued by the National ~~Bureau of Engineering~~
38 ~~Registration Council of Examiners for Engineering and~~
Surveying, whose qualifications meet the requirements of
40 this chapter may, upon application, be registered without
further examination.;

42 B. A graduate of an engineering curriculum of 4 years or
44 more approved by the board as being of satisfactory
standing; and with a specific record of an additional ~~--4~~
46 ~~years--or--more--of~~ experience in engineering work of a grade
and character ~~which--indicates~~ that indicate to the board
48 that the applicant may be competent to practice engineering,
~~shall~~ may be admitted to an 8-hour written examination in
50 the fundamentals of engineering and an 8-hour written

examination in the principles and practice of engineering.
Upon passing such the examinations, the applicant ~~shall~~ may
be granted a certificate of registration to practice
engineering in this State, ~~provided--he--is--otherwise~~
qualified, if all other qualifications are met;

C. An applicant, having a specific record of a high school
education and 12 years or more of progressive experience in
engineering work of a character and grade ~~which--indicates~~
that indicate to the board that the applicant may be
competent to practice engineering, and who passes an 8-hour
written examination in the fundamentals of engineering
designed to show knowledge and skill approximating that
obtained through graduation in an approved 4-year
engineering curriculum, and an 8-hour written examination in
the principles and practice of engineering, ~~shall~~ may be
granted a certificate of registration to practice
engineering in this State, ~~provided--he--is--otherwise~~
qualified, if all other qualifications are met;

D. An applicant with an experience record of at least 15
years of lawful practice in engineering work, of which at
least 10 years have been in responsible jobs or important
engineering work, and of a grade and character ~~which~~
indicates that indicate to the board that the applicant may
be competent to practice engineering, and who has passed an
oral examination conducted by the State Board of
Registration for Professional Engineers or by a board
committee or an 8-hour written examination in the principles
and practice of engineering, and is otherwise qualified,
~~shall~~ may be registered to practice engineering in this
State. This paragraph is repealed December 31, 1996;

E. Engineering teaching in a college or university offering
an approved engineering curriculum of 4 years or more may be
considered as engineering experience.;

F. An applicant with an experience record of at least 15
years of lawful practice in engineering work, of which at
least 10 years have been in responsible jobs or engineering
work and of a grade and character that indicate to the board
that the applicant may be competent to practice engineering,
and who has passed an 8-hour written examination in the
principles and practice of engineering, and is otherwise
qualified, may be registered to practice engineering in this
State; and

G. An applicant with an experience record of at least 15
years of lawful practice in engineering work, of which at
least 10 years have been in responsible jobs or engineering

work and of a grade and character that indicate to the board that the applicant may be competent to practice engineering, who has a certificate of registration to engage in the practice of engineering, on the basis of experience or non-National Council of Examiners for Engineering and Surveying examination issued by a proper authority of a state, territory or possession of the United States, the District of Columbia or any foreign country, and who in the opinion of the board meets the requirements of this chapter based on verified evidence may be registered upon application by passing an oral examination conducted by the State Board of Registration for Professional Engineers or by a board committee; and

2. Engineer-intern. As an engineer-in-training+ ~~engineer-intern.~~ The following shall be is considered as minimum evidence that the applicant is qualified for certification as an ~~engineer-in-training+~~ engineer-intern.

A. A graduate of an approved engineering curriculum of 4 years or more who has passed the board's 8-hour written examination in the fundamentals of engineering shall may be certified or enrolled as an ~~engineer-in-training,--if-he-is~~ otherwise---qualified engineer-intern if all other qualifications have been met.

B. An applicant having a high school education and a specific record of 8 or more years of experience in engineering work of a grade and character satisfactory to the board, who passes the board's 8-hour written examination in the fundamentals of engineering shall may be certified or enrolled as an ~~engineer-in-training,--if-he-is--otherwise~~ qualified engineer-intern if all other qualifications have been met.

~~C.-----The-----certification-----or-----enrollment-----of-----an~~
~~engineer-in-training-shall-be-valid-for-a-period-of-12-years.~~

Any person having the necessary qualifications prescribed in this chapter to entitle him that person to registration shall be is eligible for such registration though he the person may not be practicing his the profession at the time of making his the application.

Sec. 12. 32 MRSA §1353, as amended by PL 1991, c. 442, §6, is further amended to read:

§1353. Application; fees

Application for registration as a professional engineer or certification as an ~~engineer-in-training~~ engineer-intern is on a form prescribed and furnished by the board; contains statements made under oath, showing the applicant's education and a detailed summary of the applicant's technical experience, and contains references as set forth in section 1352, none of whom may be members of the board. An application fee and an examination fee may be established by the board in amounts which that are reasonable and necessary for their respective purposes.

The registration fee for professional engineers ~~is must be established by the board in an amount not to exceed \$40 in the rules adopted by the board.~~

The registration fee for ~~engineer-in-training~~ engineer-intern certification or enrollment ~~is must be~~ established by the board in an amount not to exceed 1/2 of the registration fee for professional engineers.

Sec. 13. 32 MRSA §1354, as amended by PL 1983, c. 468, §2, is further amended to read:

§1354. Examinations

Written examinations shall ~~shall~~ must be held at such times and places as the board ~~shall--determine~~ determines. Examinations required on fundamental engineering subjects may be taken as provided in section 1352. The ~~final~~ principles and practices of engineering examinations may not be taken until the applicant has completed a period of engineering experience as set forth in section 1352.

The passing grade on any examination ~~shall-be is not-less than--70% established by the board. A--candidate--failing--one examination--may--apply--for--reexamination,--which--may--be--granted upon--payment--of--a--fee--established--by--the--board. Any--candidate--for registration--having--an--average--grade--of--less--than--50%--may--not apply--for--reexamination--for--one--year,--unless--this--waiting--period is--reduced--or--waived--by--the--board.~~

Sec. 14. 32 MRSA §1356, as repealed and replaced by PL 1983, c. 413, §49, is amended to read:

§1356. Revocation and reissuance

The board may suspend or revoke the registration of an engineer or the certificate of an ~~engineer-in-training~~ engineer-intern pursuant to Title 5, section 10004. The board may refuse to issue or renew or the Administrative Court, pursuant to Title 4, chapter 25, may revoke, suspend or refuse to renew the

2 registration of a registered professional engineer or the
3 certificate of an ~~engineer-in-training~~ engineer-intern who is
4 found guilty of:

5 **1. Fraud or deceit.** The practice of any fraud or deceit in
6 obtaining a certificate of registration as professional engineer
7 or a certificate as an ~~engineer-in-training~~ engineer-intern;

8 **2. Negligence or misconduct.** Any gross negligence,
9 incompetency or misconduct in the practice of professional
10 engineering as a registered professional engineer or as an
11 ~~engineer-in-training~~ engineer-intern; or

12 **3. Violations.** Violating any provision of this chapter or
13 any rule of the board.

14 Any person may register a complaint of fraud, deceit, gross
15 negligence, incompetency or misconduct against any registered
16 professional engineer or any ~~engineer-in-training~~
17 engineer-intern. These complaints shall must be in writing, sworn
18 to by the person making them and filed with the secretary of the
19 board.

20 The board, for reasons it may deem determine sufficient, may
21 reissue a certificate of registration as a professional engineer
22 or as an ~~engineer-in-training~~ engineer-intern to any person whose
23 certificate has been revoked, provided that 4 or more members of
24 the board vote in favor of that reissuance. A new certificate of
25 registration as a professional engineer or as an
26 ~~engineer-in-training~~ engineer-intern, to replace any certificate
27 revoked, lost, destroyed or mutilated, may be issued, subject to
28 the rules of the board, and a charge of ~~\$3 shall be made for that~~
29 issuance established by the board.

30 **Sec. 15. 32 MRSA §1358** is amended to read:

31 **§1358. Exemptions from expiration and renewal fees**

32 Any A person holding a valid certificate of registration
33 under this chapter on the date of entering employment in the
34 Armed Forces of the Government of the United States during a
35 period of war or employment in any wartime service outside of the
36 continental United States, governmental or otherwise, under the
37 United States or any of its allied nations ~~shall be~~ is exempt,
38 for the duration of such that employment, from the payment of all
39 renewal fees, and ~~his~~ the registrant's certificate of
40 registration ~~shall remain~~ remains in full force and effect until
41 the next regular renewal date following the termination of such
42 that employment.

2 Sec. 16. 32 MRSA §1360, as amended by PL 1983, c. 413, §52,
is further amended to read:

4 **§1360. Residents certified elsewhere**

6 A person who is a resident of the State and has been
certified in another state as an ~~engineer-in-training~~
8 engineer-intern may, be certified as an engineer-intern in this
State upon payment of a fee of--\$5,--be--certified--as--an
10 engineer-in-training-in-Maine,--provided-that-he-submits-evidence
satisfactory--to--the--board--that--he-has-been-certified-as--an
12 engineer-in-training--in--another--state--under--qualifications
equivalent--to--those--specified--in--this--chapter--for--that
14 certification established by the board and upon submission of
evidence satisfactory to the board that certification as an
16 engineer-intern in another state was under qualifications
equivalent to those specified in this chapter for that
18 certification.

20 Sec. 17. 32 MRSA §1361 is enacted to read:

22 **§1361. Retired status**

24 A registrant who has terminated practice of engineering may
apply to the board for retired status. Upon receiving an
26 application for retired status, accompanied by the fee
established by the board, the board shall issue a certificate of
28 retired status to the applicant and record the applicant's name
in the roster as a retired registrant, along with the date of
30 retired status.

32 A retired registrant may retain but not use the seal and may
not practice engineering. The board shall reissue a certificate
34 of registration to a retired registrant who pays all application
fees, meets all current requirements for registration and
36 demonstrates to the board's satisfaction that, for 2 years
preceding the application for registration, the retired
38 registrant met the requirements for maintaining professional
competence established under the board rules.
40

42 **STATEMENT OF FACT**

44 The bill changes the term "engineer-in-training" to
"engineer-intern," corrects gender-specific language and makes
46 technical changes. The bill amends the law pertaining to a
nonresident practicing in the State by adding language that
48 indicates the application must be in writing. The bill changes
the number of members on the State Board of Registration for
50 Professional Engineers from 6 to 7. The bill adds new

2 requirements that may be considered for a person to qualify as a professional engineer. The bill also specifies who may be considered for retired status.