

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

NEW DRAFT

EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 918

H. P. 1864

House of Representatives, April 4, 1935.

Reported by Mr. Donahue from Committee on Legal Affairs and on motion of Mr. Graves of Mt. Desert tabled pending motion of Mr. Deering of Hollis to indefinitely postpone. New draft ordered printed.

HARVEY R. PEASE, Clerk.

NEW DRAFT OF H. P. 1220—L. D. 462

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

AN ACT to Regulate the Practices of Professional Engineering and Land Surveying; Creating a State Board of Registration for Professional Engineers and Land Surveyors.

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

Sec. 1. General provisions. In order to safeguard life, health and property, any person practicing or offering to practice the profession of engineering in any of its branches including land surveying, shall after January 1, 1936 be required to submit evidence that he is qualified so to practice and shall be registered as hereinafter provided; and it shall be unlawful for any person to practice or to offer to practice the profession of engineering in any of its branches including land surveying, in the state, or to use in connection with his name or otherwise assume, use, or advertise any title or description tending to convey the impression that he is a professional engineer or a land surveyor, unless such person has been duly registered or exempted under the provisions of this act.

Sec. 2. Definitions. The term "professional engineer" as used in this act shall mean a 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 engineering practice as hereinafter defined.

The practice of professional engineering within the meaning and intent of this act shall be held to mean any professional service, such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the public welfare, or the safeguarding of life, health or property is concerned or involved, when such professional service requires the application of engineering principles and data.

The term "land surveyor" as used in this act shall mean a person who engages in the practice of land surveying as hereinafter defined.

The practice of land surveying within the meaning and intent of this act shall be held to mean surveying of areas for their correct determination and description and for conveyancing, or for the establishment or re-establishment of land boundaries and the plotting of lands and subdivisions thereof.

The term "board" as used in this act shall mean the state board of registration for professional engineers and land surveyors, provided for by this act.

Sec. 3. State board of registration for professional engineers and land surveyors; appointment of members; terms. A state board of registration for professional engineers and land surveyors is hereby created whose duty it shall be to administer the provisions of this act. The board shall consist of 5 professional engineers, who shall be appointed by the governor by and with the consent of the council from among nominees recommended by the representative engineering societies in the state and shall have the qualifications required by section 4. The members of the first board shall be appointed within 30 days after this act becomes effective to serve for the following terms: 1 member for 1 year; 1 member for 2 years, 1 member for 3 years, 1 member for 4 years, and 1 member for 5 years, from the date of their appointment, or until their successors are duly appointed and qualified. Every member of the board shall receive a certificate of his appointment from the governor before beginning his term of office and shall file with the secretary of state his written oath or affirmation for the faithful discharge of his official duty. Each member of the board first appointed hereunder shall receive a certificate of registration under this act from said board.

On the expiration of the term of any member, the governor shall in the manner hereinbefore provided appoint for a term of 5 years a registered professional engineer, having the qualifications required by section 4, to take the place of the member whose term on said board is about to expire. 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.

Sec. 4. Qualifications of members of board. 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 the profession of engineering for at least 12 years, and shall have been in responsible charge of important engineering work for at least 5 years. Responsible charge of engineering teaching may be construed as responsible charge of important engineering work.

Sec. 5. Compensation and expenses of board members. No member of the board, except as provided in section 9, shall receive any compensation for his services as a member of the board, but shall be reimbursed for all actual traveling and incidental expenses necessarily incurred in carrying out the provisions of this act. No clerical expenses shall be allowed any member of the board except as provided in section 9.

Sec. 6. Removal of members of board; vacancies. The governor by and with the consent of the council may remove any member of the board for misconduct, incompetency, neglect of duty, or for any other sufficient cause. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor as provided in section 3.

Sec. 7. Organization and meetings of the board. The board shall hold a meeting within 30 days after its members are first appointed, and thereafter shall hold at least 2 regular meetings each year. Special meetings shall be held at such time as the by-laws of the board may provide. Notice of all meetings shall be given in such manner as the by-laws may provide. The board shall elect or appoint annually the following officers: a chairman, a vice-chairman, and a secretary. A quorum of the board shall consist of not less than 3 members.

Sec. 8. Powers of the board. The board shall have the power to make all by-laws and rules, not inconsistent with this act and the constitution and laws of this state, which may be reasonably necessary for the proper per-

formance of its duties and the regulations of the proceedings before it. The board shall adopt and have an official seal.

In carrying into effect the provisions of this act, the board may, under the hand of its chairman and the seal of the board, subpoena witnesses and compel their attendance, and also may require the production of books, papers, documents, etc., in a case involving the revocation of registration or practicing or offering to practice without registration. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued, or shall refuse to testify or produce any books, papers, or documents, the board may present its petition to the superior court, setting forth the facts, and thereupon such court shall, in a proper case, issue its subpoena to such person, requiring his attendance before such court and there to testify or to produce such books, papers, and documents, as may be deemed necessary and pertinent by the court. Any person failing or refusing to obey the subpoena or order of the said court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the court.

Sec. 9. Receipts and disbursements. The secretary of the board shall receive and account for all moneys derived under the provisions of this act, and shall pay the same monthly to the treasurer of state, who shall keep such moneys in a separate fund to be known as the "professional engineers' fund". Such fund shall be kept separate and apart from all other moneys in the treasury and shall be continued from year to year and shall be paid out only by warrant of the state controller upon itemized vouchers, approved by the chairman of the board. All moneys in the "professional engineers' fund" are hereby specifically appropriated for the use of the board. The secretary of the board shall give a surety bond to this state in such sum as the board may determine. The premium on said bond shall be regarded as a proper and necessary expense of the board, and shall be paid out of the "professional engineers' fund". The secretary of the board shall receive a salary and allowance for clerical hire as recommended by the board and approved by the state controller in addition to the expenses provided for in section 5. The board may make other expenditures from this fund which in the opinion of the board is reasonably necessary for the proper performance of its duties under this act. Under no circumstances shall the total amount of warrants issued by the state controller in payment of the expenses and compensations provided for in this act exceed the amount of the examination, registration and renewal fees collected as herein provided.

Sec. 10. Records and reports. The board shall keep a record of its proceedings and a register of all applications for registration, which register shall show (a) the name, age, and residence of each applicant; (b) the date of the application; (c) the place of business of such applicant; (d) his educational and other qualifications; (e) whether or not an examination was required; (f) whether the applicant was rejected; (g) whether a certificate of registration was granted; (h) the date of the action of the board; and (i) such other information as may be deemed necessary by the board.

The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

Not later than August 1st of each year, the board shall submit to the governor a report of its transactions of the preceding fiscal year ending June 30 and shall also transmit to him a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

Sec. 11. Roster of registered engineers and surveyors. A roster showing the names and places of business of all registered professional engineers and all registered land surveyors shall be prepared by the secretary of the board during the month of January of each year. Copies of this roster shall be mailed to each person so registered, placed on file with the secretary of state and the clerk of courts of each county, and furnished to the public upon request.

Sec. 12. General requirements for registration. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer, or land surveyor respectively, to wit:

(1) As a professional engineer:

a. Graduation from an approved course in engineering of 4 years or more in a school or college approved by the board as of satisfactory standing; and a specific record of an additional 3 years or more of active practice in engineering work, and indicating that the applicant is competent to be placed in responsible charge of such work; or

b. Successfully passing a written, or written and oral, examination designed to show knowledge and skill approximating that attained through graduation from an approved 3 year engineering course and a specific record of 8 years or more of active practice in engineering work and indicat-

ing that the applicant is competent to be placed in responsible charge of such work.

(2) As a land surveyor:

a. Graduation from an approved course in surveying in a school or college approved by the board as of satisfactory standing; and an additional 2 years or more of active practice in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work; or

b. Successfully passing a written, or written and oral, examination in surveying prescribed by the board; and a specific record of 6 years or more of active practice in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work.

No person shall be eligible for registration as a professional engineer or land surveyor who in the opinion of the board is not of good character and reputation.

Each year of engineering teaching, post graduate or research work in an engineering school or college approved by the board as of satisfactory standing may be considered as a year of active practice in engineering work except that 2 years of engineering work other than engineering teaching, post graduate or research work in such engineering school or college and of a character satisfactory to the board shall be required.

Each year of teaching courses in land surveying in a school or college approved by the board as of satisfactory standing may be considered as a year of active practice in land surveying work except that 1 year of land surveying work other than teaching land surveying and of a character satisfactory to the board shall be required.

The satisfactory completion of each year of an approved course in engineering in a school or college approved by the board as of satisfactory standing, without graduation, shall be considered as equivalent to a year of active practice. Graduation in a course other than engineering from a college or university of recognized standing shall be considered as equivalent to 2 years of active practice. The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent shall not be deemed to be active practice in engineering work.

After this act shall have been in effect 5 years, the board shall issue certificates of registration only to those applicants who meet the above requirements of section 12 or section 21.

At any time within 5 years after this act becomes effective the board may accept as evidence that the applicant is qualified for registration as a pro-

professional engineer a specific record of 12 years or more of lawful active practice in engineering work of a character satisfactory to the board and indicating that the applicant is qualified to design or to supervise construction of engineering works and has had responsible charge of important engineering work for at least 5 years and provided applicant is not less than 35 years of age. Responsible charge of engineering teaching may be construed as responsible charge of engineering work.

At any time within 5 years after this act becomes effective the board may accept as evidence that the applicant is qualified for registration as a land surveyor a specific record of 10 years or more of lawful active practice in land surveying work of a character satisfactory to the board and indicating that the applicant has had responsible charge of important land surveying work for at least 5 years and provided applicant is not less than 30 years of age.

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

Sec. 13. Applications and registration fees. Applications for registration shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and detail summary of his technical work, and shall contain not less than 5 references, of whom 3 or more shall be engineers having personal knowledge of his engineering experience.

The registration fee for professional engineers shall be \$15, \$7.50 of which shall accompany application, the remaining \$7.50 to be paid upon issuance of certificate.

The registration fee for land surveyors shall be \$8, \$4 of which shall accompany application, the remaining \$4 to be paid upon issuance of certificate.

The combined registration fee for a certificate as a professional engineer and for a certificate as a land surveyor shall be \$15, \$7.50 of which shall accompany the application, the remaining \$7.50 to be paid upon issuance of certificates.

Should the board deny the issuance of a certificate of registration to any applicant the initial fee deposited shall be retained as an application fee.

Sec. 14. Examinations When oral or written examinations are required they shall be held at such time and place as the board shall determine, except that, upon written request by an applicant, a special examination shall be held within 90 days after receipt of such request by the

board. The scope of the examinations and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering works, which shall insure the safety of life, health, and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration separately in professional engineering and in land surveying. A notification of the result of the examination shall be mailed to each candidate within 30 days after taking such examination. A candidate failing on examination may apply for reexamination at the expiration of 6 months and will be re-examined without payment of additional fee. Subsequent examination will be granted upon payment of a fee to be determined by the board.

Sec. 15. Certificates; seals. The board shall issue a certificate of registration upon payment of registration fee as provided for in this act, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this act. In case of a registered engineer, the certificate shall authorize the practice of "professional engineering", and in the case of a registered land surveyor, the certificate shall authorize the practice of "land surveying." Certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the chairman and the secretary of the board under seal of the board.

The issuance of a certificate of registration by this board shall be evidence that the person named herein is entitled to all the rights and privileges of a registered professional engineer, or of a registered land surveyor, while the said certificate remains unrevoked or unexpired.

Each registrant hereunder upon registration may obtain a seal of the design authorized by the board, bearing the registrant's name and the legend "registered professional engineer," or "registered land surveyor." Plans, specifications, plats, and reports issued by a registrant shall be stamped with the said seal, as prescribed in the rules of the board, during the life of the registrant's certificate, but it shall be unlawful for any one to stamp or seal any documents with said seal after the certificate of the registrant named thereon has expired or has been revoked, unless said certificate shall have been renewed or re-issued.

Sec. 16. Expiration and renewals. Certificates of registration shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed, provided, however, that certificates of registration issued during the calendar year of 1935 shall not expire until the last day of December, 1936. It shall be the duty of the secretary of the board to notify every person registered under

this act, of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for 1 year; such notice shall be mailed at least one day in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee designated by the board but which shall not exceed \$3 nor be less than \$1 for professional engineers and which shall be \$1 for land surveyors. Any person holding certificates for both professional engineering and land surveying may renew the same by payment of the renewal fee required of professional engineers. The failure on the part of any registrant to renew his certificate annually in the month of December as required above shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased 10% for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the normal renewal fee.

Sec. 17. Practitioners at time act became effective. At any time within 1 year after this act becomes effective, upon due application therefor and the payment of the registration fee of \$10 for professional engineers, or \$5 for land surveyors, the board shall issue, without oral or written examination, requirements as specified under section 12, to any professional engineer or land surveyor who shall submit evidence under oath satisfactory to the board that he is of good character, has been a resident of the state of Maine for at least 1 year immediately preceding the date of his application, and has had practical professional experience, if an engineer for at least 4 years or land surveying if a surveyor for at least 2 years, provided however, that if the applicant has performed work of a character satisfactory to the board the board may waive the foregoing requirements as to period of practice.

After this act shall have been in effect 1 year, the board shall issue certificates of registration only as provided for in section 12 or section 21 thereof, except those who can qualify under the provisions set out in this section at the time this law becomes operative.

Sec. 18. Firms, partnerships, corporations and joint stock association. A firm, or a co-partnership, or a corporation, or a joint stock association may engage in the practice of professional engineering or land surveying in this state, provided only such practice is carried on by professional engineers or land surveyors, respectively, registered in this state.

Sec. 19. Public works. Any department of this state or any of its political subdivisions, any county, city, town, township, or plantation, may engage in construction of any public work involving professional engineering without procuring the services of a registered professional engineer, provided, that the contemplated expenditure for the completed project does not exceed \$5000.

Sec. 20. Exemptions. The following persons shall be exempt from the provisions of this act, to wit:

(a) A person not a resident of and having no established place of business in this state, practicing or offering to practice herein the profession of engineering or land surveying when such practice does not exceed in the aggregate more than 30 days in any calendar year; provided, such person is legally qualified by registration to practice the said profession in his own state or county in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this act.

(b) A person not a resident of and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice herein for more than 30 days in any calendar year the profession of engineering or land surveying, if he shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this act. Such exemption shall continue only for such time as the board requires for the consideration of the application for registration; provided, that such a person is legally qualified to practice said profession in his own state or county in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this act.

(c) An employee or a subordinate of a person holding a certificate of registration under this act, or an employee of a person exempted from registration by classes (a) and (b) of this section; provided his practice does not include responsible charge or design or supervision.

(d) Officers and employees of the government of the United States while engaged within this state in the practice of the profession of engineering or land surveying, for said government.

(e) An officer or employee of a corporation engaged in interstate commerce as defined in the act of congress entitled 'An Act to Regulate Commerce' approved February 4, 1887, as amended, or in interstate communication as defined in the act of congress entitled 'Communications Act of 1934' approved June 19, 1934, while working solely as an employee of such corporation; provided that an officer or employee of such corporation

customarily in responsible charge of the engineering work of such corporation within the state of Maine shall be a registrant under this act.

Sec. 21. Reciprocity. The board may, upon application therefor, and the payment of a fee of \$15, issue a certificate of registration as a professional engineer to any person who holds a certificate of qualification or registration issued to him by proper authority of the national bureau of engineering registration, or any state or territory or possession of the United States, or any country, provided that the requirements for the registration of professional engineers under which said certificate of qualification or registration was issued do not conflict with the provisions of this act and are of a standard not lower than that specified in section 12 of this act.

Sec. 22. Revocations and re-issuances of certificates. The board shall have the power to revoke the certificate of registration of any registrant who is found guilty of:

(a) The practice of any fraud or deceit in obtaining a certificate of registration;

(b) Any gross negligence, incompetency, or misconduct in the practice of professional engineering or land surveying as a registered professional engineer or land surveyor.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any registrant. Such charges shall be in writing, and shall be sworn to by the person making them and shall be filed with the secretary of the board.

All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within 3 months after the date on which they shall have been preferred.

The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such registrant, at least 30 days before the date fixed for the hearing. At any hearing, the accused registrant shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense.

If, after such hearing, 4 or more members of the board vote in favor of finding the accused guilty, the board shall revoke the certificate of registration of such registered professional engineer or land surveyor.

The board, for reasons it may deem sufficient, may re-issue a certificate of registration to any person whose certificate has been revoked, providing

3 or more members of the board vote in favor of such re-issuance. A new certificate of registration, to replace any certificate revoked, lost, destroyed, or mutilated, may be issued, subject to the rules of the board, and a charge of \$3 shall be made for such issuance.

Sec. 23. Violations and penalties. Any person who shall practice, or offer to practice, the profession of engineering or land surveying in this state without being registered or exempted in accordance with the provisions of this act, or any person presenting or attempting to use as his own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked certificate of registration, or any person who shall violate any of the provisions of this act, shall be guilty of a misdemeanor, and shall, upon conviction, be sentenced to pay a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than 3 months, or by both such fine and imprisonment.

It shall be the duty of all duly constituted officers of the law of this state, or any political subdivision thereof, to enforce the provisions of this act and to prosecute any persons violating same. The attorney-general of the state or his assistant shall act as legal adviser of the board and render such legal assistance as may be necessary in carrying out the provisions of this act.

Sec. 24. Saving clause. This act shall not be construed to affect or prevent the practice of any other legally recognized profession.

Sec. 25. Invalid sections. If any section or parts of sections of this act shall be declared unconstitutional or invalid, this shall not invalidate any other portion of this act.

Sec. 26. Repeal of conflicting legislation. All laws or parts of laws in conflict with the provisions of this act shall be, and the same are hereby repealed, or amended to conform herewith.