

MAINE STATE LEGISLATURE

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N I N E T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 128

S. P. 58

In Senate, January 22, 1953.

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Tabb of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

AN ACT Relating to the Board of Registration for Professional Engineers.

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

R. S., c. 74, repealed and replaced. Chapter 74 of the revised statutes, as amended, is hereby repealed and the following chapter enacted in place thereof :

'CHAPTER 74.

BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS.

Sec. 1. General provisions. In order to safeguard life, health and property, any person practicing or offering to practice the profession of engineering, shall be required to submit evidence as hereinafter provided; and it shall be unlawful for any person to practice or offer to practice the profession of engineering 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, unless such person has been duly registered or exempted under the provisions of this chapter.

Sec. 2. Definitions. As used in this chapter, unless a different meaning clearly appears from the context:

I. The term "engineer-in-training" shall mean a person who has been

certified as such by the board and whose name has been entered in the register of engineer-in-training.

II. The term "professional engineer" 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.

III. The term "practice of professional engineering" 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.

IV. The term "board" shall mean the state board of registration for professional engineers provided for by this chapter.

Sec. 3. State board of registration for professional engineers; appointment; terms. The state board of registration for professional engineers, as heretofore established, shall administer the provisions of this chapter. The board shall consist of 5 professional engineers, who shall be appointed by the governor with the advice and consent of the council, from among nominees recommended by the representative engineering societies in the state, and who shall have the qualifications required by section 4.

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. 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. 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 chapter. No clerical expenses shall be allowed any member of the board except as provided in section 9.

Sec. 6. Removal; vacancies. The governor with the advice and 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. The board 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. The board shall have the power to make all by-laws and rules, not inconsistent with the provisions of this chapter and the constitution and laws of this state, which may be reasonably necessary for the proper performance 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 chapter, 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 a certificate of registration as a professional engineer or a certificate as an engineer-in-training or the practicing or offering to practice professional engineering 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 chapter, and shall pay the same, as provided by law, to the treasurer of state, who shall keep such moneys in a separate fund to be known as the "professional engineers' fund." The secretary of the board shall receive a salary and allowance for clerical hire as recommended by the board, in addition to the expenses provided for in section 5. The board may make other expenditures from this fund, upon itemized vouchers approved by the chairman of the board which in the opinion of the board are reasonably necessary for the proper performance of its duties under the provisions of this chapter.

Sec. 10. Applications for engineers-in-training. The board shall accept applications for certificates as engineer-in-training from persons who are at least 21 years of age and who are graduated from approved engineering curricula or who have had other engineering education and experience of 8 years or more duration and satisfactory to the board and who in the opinion of the board are of good character and reputation. For applicants who are not graduated from accredited engineering curricula, each year of study in such curricula shall be considered as 2 years of education and experience outside such curricula. Applicants meeting the above requirements shall be admitted to written examinations in the fundamentals of the sciences, mathematics and engineering as prescribed by the board, and on successful passage of such examinations shall be given a certificate as an engineer-in-training which certificate shall remain in force for 10 years from the date of issuance, unless revoked by the board, and persons to whom such certificates have been issued shall be listed in the register of engineers-in-training.

Sec. 11. Records and reports. The board shall keep a record of its proceedings and registers of all applications for certificates as engineers-in-training and certificates of registration as professional engineers, which registers shall show:

- I. The name, age and residence of each applicant;
- II. The date of the application;
- III. The place of business of such applicant;
- IV. His educational and other qualifications;
- V. Whether or not an examination was required;
- VI. Whether the applicant was rejected;
- VII. Whether a certificate as engineer-in-training or a certificate as registered professional engineer was granted;

VIII. The date of the action of the board; and

IX. 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 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. 12. Roster of registered engineers. A roster showing the names and places of business of all registered professional engineers shall be prepared by the secretary of the board during the month of January 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 on request.

Sec. 13. 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, to wit:

I. Certification as an engineer-in-training followed by 4 years of active practice in engineering work, and indicating that the applicant is competent to be placed in responsible charge of such work and at the option of the board, the passage of a written examination as prescribed by the board in the practical phases of engineering in the field in which the applicant is attempting to qualify; or

II. 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 4 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, and at the option of the board the passage of written or oral examinations as prescribed by the board; or

III. Successfully passing a written, or written and oral examination designed to show knowledge and skill approximating that attained through graduation from an approved 4-year engineering course and a specific record of 8 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.

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

Each year of engineering teaching, or postgraduate 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, postgraduate or research work in such engineering school or college, 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, or 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.

The board shall issue certificates of registration only to these applicants who meet the requirements of this section or of section 22.

The board may accept as evidence that the applicant is qualified for registration as a professional engineer a specific record of 15 years or more of lawful active practice in engineering work of a character satisfactory to the board and indicating that the applicant is eminently qualified to design or to supervise construction of engineering work and has had responsible charge of important engineering work for at least 10 years and provided applicant is not less than 45 years of age. Responsible charge of engineering teaching may be construed as responsible charge of engineering work.

Any person having the necessary qualifications prescribed in this chapter 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. 14. Applications and registration fees. Applications for registration shall be made 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 fee for applicants for a certificate as engineer-in-training shall be \$7.50 which shall accompany the application and if the applicant is granted a certificate as engineer-in-training, this payment shall be deemed the initial payment if the applicant later applies for registration as a professional engineer.

Should the board deny a certificate as engineer-in-training or a certificate as a registered professional engineer to an applicant, the initial payment shall be retained by the board as an application fee.

Sec. 15. 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 in professional engineering. A notification of the result of the examination shall be mailed to each candidate within 60 days after taking such examination. A candidate failing on examination may apply for re-examination 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. 16. Certificates; seals. The board shall issue a certificate of registration upon payment of registration fee as provided for in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. The certificate shall authorize the practice of "professional engineering." 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 therein is entitled to all the rights and privileges of a registered professional engineer, while the said certificate remains unrevoked or unexpired.

Each registrant upon registration may obtain a seal of the design authorized by the board, bearing the registrant's name and the legend "registered professional engineer." 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 anyone to stamp or seal any document 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 reissued.

Sec. 17. Expiration and renewals. Certificates of registration shall expire on the last day of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered under the provisions of this chapter, 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 1 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 shall not exceed \$3, nor be less than \$1. 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. 18. Exemptions from expiration and renewal fees. Any person holding a valid certificate of registration under the provisions of this chapter on the date of entering employment in the armed forces of the government of the United States during a period of war, or employment in any war time service outside the continental United States, governmental or otherwise, under the United States or any of its allied nations, shall be exempt, for the duration of such employment, from the payment of all renewal fees and his certificate of registration shall remain in full force and effect until the next regular renewal date following the termination of such employment.

Sec. 19. Forms, partnerships, corporations and joint stock associations. A firm, copartnership, corporation or joint stock association may engage in the practice of professional engineering in this state, provided only such practice is carried on by professional engineers registered in this state.

Sec. 20. 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 \$5,000.

Sec 21. Exemptions. The following persons shall be exempt from the provisions of this chapter, to wit:

I. 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 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 chapter.

II. 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, if he shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this chapter. 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 chapter.

III. An employee or a subordinate of a person holding a certificate of registration under the provisions of this chapter, or an employee of a person exempted from registration by subsections I and II of this section; provided his practice does not include responsible charge or design or supervision.

IV. Officers and employees of the government of the United States while engaged within this state in the practice of the profession of engineering for said government.

V. 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 this state shall be a registrant under the provisions of this chapter.

Sec. 22. 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, of any country, provided that the requirements for registration of professional engineers under which said certificate of qualification or registration was issued do not conflict with the provisions of this chapter and are of a standard not lower than that specified in section 13. A person who is a resident of the state and has been certified in another state as an engineer-in-training may upon payment of a fee of \$5 be certified as an engineer-in-training in Maine provided he submits evidence satisfactory to the board that he has been certified as an engineer-in-training in another state under qualifications substantially equivalent to those specified in this chapter for certification as engineer-in-training.

Sec. 23. Revocations and reissuances of certificates. The board shall have the power to revoke the certificate of an engineer-in-training or of a registered professional engineer who is found guilty of:

- I. The practice of any fraud or deceit in obtaining a certificate of registration as professional engineer or a certificate as an engineer-in-training;
- II. Any gross negligence, incompetency or misconduct in the practice of professional engineering as a registered professional engineer, or as an engineer-in-training.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against any registered professional engineer or any engineer-in-training. 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 certificate of such engineer-in-training.

The board, for reasons it may deem sufficient, may re-issue a certificate of registration as a professional engineer or as an engineer-in-training 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 as a professional engineer or as an engineer-in-training, 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. 24. Violations. Any person who shall practice, or offer to practice, the profession of engineering in this state without being registered or exempted in accordance with the provisions of this chapter, 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 chapter, shall be guilty of a misdemeanor, and shall, upon conviction, be punished by 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 chapter and to prosecute any person violating same. The attorney-general of the state, or his assistant, shall act as legal advisor of the board and render such legal assistance as may be necessary in carrying out the provisions of this chapter.

Sec. 25. Other legally recognized professions not affected. The provisions of this chapter shall not be construed to affect or prevent the practice of any other legally recognized profession.'