

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)

L.U.O.



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
BOARD OF REGISTRATION
FOR
PROFESSIONAL ENGINEERS
92 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0092

LAW & LEGISLATIVE
REFERENCE LIBRARY
42 STATE HOUSE STATION
AUGUSTA, ME 04333

RALPH F. SWEET, P.E., CHAIRMAN
LONG ISLAND, ME
JOHN K. BUTTS, P.E.,
RETIRED

January 27, 2004

To: David Bragdon, Assistant to the Commissioner, Department of Professional and Financial Regulation

From: John K. Butts, Secretary, Board of Regulation for Professional Engineers

Subject: Revised Governmental Evaluation Report

Transmitted herewith is a revised report containing changes to wording and also changes to projected figures for the Boards income and expenses for the years 2004 and 2005.

The changes to income and expenses for those two years is the result of transferring the administration of examinations to the National Council of Examiners for Engineering and Surveying instead of administration by our Board as in the past.

Attending the Legislature's review January 30 will be:

Ralph Sweet, P.E., Chairman of the Board

Beatrice Labbe, Office Manager

John K. Butts, Secretary

Possibly other members of the Board

KF
4943
.Z99
M34
2003j

MAR 31 2004

OFFICE LOCATION: AUGUSTA AIRPORT TERMINAL BLDG., SECOND FLOOR

PHONE: (207) 287-3236
E-MAIL: penginers@preexar.com

FAX: (207) 626-2309
www.professionals.maineusa.com

GOVERNMENT EVALUATION ACT REVIEW

BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS TO COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

The Board of Registration for Professional Engineers (Board) was established in 1935 by RL. 1935, chapter 189. The mission of the Board is to safeguard life, health and property of Maine citizens by ensuring that anyone practicing or offering to practice the profession of engineering is qualified.

A. The Board is authorized by Title 32, Chapter 19 Maine Revised Statutes Annotated (32 M.R.S.A. Section 1251 *et. seq.*). Every state and possession of the United States has a similar board that licenses professional engineers. Coordination of the state boards is achieved through the National Council of Examiners for Engineering and Surveying (NCEES). Through the efforts of NCEES, laws pertaining to licensing of engineers are similar such that engineers registered in Maine are recognized and can gain a license to practice engineering in other states. Canada, Mexico and most countries have licensing laws for engineers.

B. Programs:

1. Registration of Professional Engineers and Engineer Interns. (32 M.R.S.A. Section 1352-A). At the present time, there are approximately 6,000 active registered professional engineers. Of that total, 43% are Maine residents. Most non-residents live in other states or Canada.

In 2002, the Board received 300 applications for registration that required evaluation to ascertain whether the applicant met one of the following qualifications required by Maine Statutes:

- Licensed in other another state or country whose qualifications meet comparable education, experience, and written examination required in Maine.
- An approved Bachelor of Science in engineering, engineering technology, four years of engineering experience, and passing two eight hour written examinations.
- A Bachelor of Science from an allied science curriculum, eight years of engineering experience, and passing two eight hour written examinations.
- Until December 31, 2004, fifteen years of engineering experience and passing one eight hour examination.
- Registration in another state or country with less than fifteen years of engineering experience and passing one eight hour examination.

- Registration in another state or country with more than fifteen years of engineering experience and successful completion of an oral examination administered by the Board.

When an application is received by the Board, staff compiles all documentation consisting of verification of licensure (for applicants who are licensed in other jurisdictions), letters of reference, verification of engineering work experience, and verification of required examinations passed. Once the documentation is assembled, each application is presented to the Board at the first available Board meeting and is either approved or disapproved. Applicants are notified of the Board action.

Registrations expire on December 31 of odd numbered years and must be renewed. Rosters are printed in the first quarter in even numbered years and supplemental rosters are printed in the first quarter of odd numbered years. A list of current registrants is maintained on the Board's web page.

A registrant who has terminated the active practice of engineering may apply for retired status. A professional engineer in retired status may not practice engineering.

An Engineer-Intern Certificate is awarded to applicants who have an approved Bachelor of Science Degree in engineering or engineering technology and who have passed the an eight hour Fundamentals of Engineering examination.

2. Administration of examinations – 32 M.R.S.A. section 1352-A requires the passing of the Fundamentals of Engineering (FE) examination to become an Engineer-Intern and the passing of the Principles and Practice of Engineering examination to become a registered professional engineer. The FE and PE examinations that are administered by the Board are standard national examinations that are written, printed and scored by the National Council of Examiners for Engineering and Surveying (NCEES) and are given by all the states on uniform dates in April and October. With the assistance of hired proctors, Board staff administers the FE examination in Augusta and Orono and the PE examination in Augusta. For the years 2001 and 2002, the Board administered 359 FE examinations and 268 PE examinations. 196 passed the FE examination and 143 passed the PE examination.
3. Process and investigate complaints (32 M.R.S.A. sections 1256, 1306 and 1356). Complaints are received from the general public and from other registrants. Complaints can be against a registrant for malpractice or against a non-registrant for unlicensed practice of engineering. Complaints for unlicensed practice are reviewed and if warranted, referred to the Attorney General for further investigation and disposition.

Complaints against registrants are investigated by the Board's Complaint Officer, who is Board member and who is appointed each year. Upon completion of the investigation, the Complaint Officer presents the nature and circumstances of the Complaint to the full Board at a regularly scheduled Board meeting. The parties are notified of any meeting when the Complaint is discussed with instructions that they can only observe and are not allowed to speak. The identities of parties are not disclosed during the presentation. At that meeting, the Board may either dismiss the Complaint or proceed to take action leading to possible discipline of the registrant. During the process the Assistant Attorney General assigned to the Board is kept apprised of the actions taking by the Complaint Officer and gives advice on legal matters.

During 2001 and 2002 there were 2 complaints logged in for unlicensed practice. These were either dismissed or resolved by negotiation. There were 5 complaints against registrants. 3 were dismissed and 2 resulted in consent agreements.

4. Rules (See item F) The Board is currently engaged in Rule Making process to define the Continuing Education Requirements as mandated by the bill enacted by the 121st Legislature.
5. Continuing Education. Legislation passed during the first session of the 121st Legislature placed a requirement on the Board for registrants to meet requirements established by the Board starting with the renewals for registrations that expire on December 31, 2005. The Board is in the process of developing rules to define the requirement and administrative procedures to implement the requirement.

C. Organization and Staffing

The Board is comprised of seven members appointed by the Governor. Six members are required by statute to be professional engineers and one member is required to be a member of the public to represent the interest of the public on the Board. Appointments are for five year terms. The Board annually elects a chairman and vice-chairman. The Board holds four meetings per year which are in January, March, June, and September. Other meetings may be scheduled as required to conduct the business of the Board.

The Board employs a full time office manager and a part time clerk who staff the office during normal business hours and handle routine administration of the Board's business. The Board contracts for a Board Secretary who works with the officer manager in the administration of the Board's policies and business and who is normally a retired professional engineer. The Board Secretary reviews applications for registration and makes recommendations concerning applicant

qualifications to the Board at Board meetings. The Board Secretary assists the Complaint Officer in processing complaints, prepares biennial budgets and work plans, and administers the examinations. The office manager and Board Secretary are responsible to the Board and work with the Board Chair and Board Executive Committee between Board meetings.

D. Compliance with federal and state health and safety laws. The Board complies with federal and state health and safety laws. The Board may also discipline registrants for non-compliance with federal and state health and safety laws when the violation is brought to the Board by the Complaint Process.

E. Financial Summary. (32 M.R.S.A. Section 1307)

The Board is funded solely from fees which are placed in a dedicated fund by the State Treasurer. The Board's fee schedule is as follows:

| | Existing | Proposed |
|--|----------|----------|
| Engineer Intern Application (Students) | \$5.00 | \$5.00 |
| Engineer Intern Application (Graduates) | \$10.00 | \$10.00 |
| Fundamentals of Engineering Examination | \$45.00 | \$120.00 |
| Professional Engineer Application | \$10.00 | \$25.00 |
| Principles and Practice of Engineering Examination | \$110.00 | 170.00 |
| Registration Fee (per year) | \$25.00 | \$40.00 |
| Renewal of Registration (two years) | \$50.00 | \$80.00 |
| Temporary Registration (thirty days) | \$100.00 | \$100.00 |

32 M.R.S.A. Section 1353 authorizes a registration fee not to exceed \$200. 32 M.R.S.A. Section 1357 authorizes a registration renewal fee not to exceed \$50.00 annually. Fees actually charged are established in the Board's Rules.

The Board's income and expenses for the past ten years are summarized in the following table:

| Year | Personnel Services | All Other Expenses | Total Expenses | Revenues | Annual Balance | Unexpended Balance |
|-------|--------------------|--------------------|----------------|----------|----------------|--------------------|
| 1994 | 31,536 | 90,121 | 121,657 | 291,114 | 169,457 | 205,035 |
| 1995 | 35,063 | 108,547 | 143,609 | 68,145 | (75,464) | 129,571 |
| 1996 | 38,716 | 88,489 | 127,204 | 285,623 | 158,419 | 287,990 |
| 1997 | 40,310 | 89,820 | 130,131 | 34,945 | (95,186) | 192,804 |
| 1998 | 40,835 | 95,571 | 138,407 | 286,420 | 148,013 | 340,817 |
| 1999 | 40,378 | 106,561 | 146,939 | 39,426 | (107,513) | 233,304 |
| 2000 | 46,852 | 97,974 | 144,826 | 311,984 | 167,158 | 400,462 |
| 2001 | 47,091 | 119,752 | 166,843 | 39,545 | (127,298) | 273,164 |
| 2002 | 53,469 | 134,254 | 187,723 | 331,279 | 143,556 | 416,720 |
| 2003 | 55,155 | 117,601 | 172,758 | 44,265 | (128,493) | 288,227 |
| 2004* | 68,211 | 125,001 | 193,212 | 310,000 | 84,788 | 399,015 |
| 2005* | 69,458 | 125,083 | 194,541 | 35,000 | (186,541) | 236,474 |

Revenues collected in even numbered fiscal years are greater than revenues collected in odd numbered years because all registrations expire of December 31st of odd numbered years and the income derived from renewal of registrations is collected in even numbered fiscal years.

The unexpended balance has been growing. As the Board is solely supported by its own fees, the unexpended balance has to be positive. The amount should be large enough to fund unforeseen occurrences such a lengthy investigation or an adjudicatory hearing. Projections show that the unexpended balance will show a decrease. The reduction in the unexpended balance will continue to decrease until fees are raised.

F. Board's Rules.

The Board has adopted the following rules:

Chapter 1 RULES AND REGULATION OF STATE BOARD OF PROFESSIONAL ENGINEERS – BY-LAWS.

This Chapter details and expands on the Statute governing the operation of the Board.

Chapter 2 REGISTRATION OF PROFESSIONAL ENGINEERS

This Chapter expands on the Statute in regard to registration, exemptions, the application process, examinations, fees, the use of individual registration seals, and the practice of professional engineering. Included in this chapter is the Maine Professional Engineers Code of Ethics.

Chapter 3 RULES OF PRACTICE

This Chapter contains provisions relating to the issuance of advisory rulings by the Board and the conduct of adjudicatory proceedings.

The Board's Regulatory Agenda will be to amend the Rules to define a program of Continuing Education resulting from the change in the statute passed by 121st Legislature requiring Mandatory Continuing Education for Professional Engineers and to consider raising fees.

G. Coordination with other Agencies.

The Board is affiliated with the Department of Professional and Financial Regulation. The Board also communicates with departments and bureaus that have programs that deal with matters pertaining to engineering and the use of professional engineers such as the Department of Transportation, the Department of Environmental Protection, The Department of Conservation, the Department of Inland Fisheries and Wildlife, the Bureau of General Services, and the State Fire Marshall.

H. Constituencies

1. Citizens of Maine are served by the Board's regulation of the practice of engineering by limiting the practice of engineering to qualified registered professional engineers. The public is also served by the Board's response to individual questions and concerns.
2. Professional engineers and applicants for registration are served by the Board's prompt and efficient responses to their requests and questions.

I. Alternative Delivery Systems

1. The Board has engaged InformME to develop a procedure for on-line renewals with payment by credit card. The procedure will be utilized with the renewals that result from the registrations that expire December 31, 2003.
2. The Board is considering the use of a contract with NCEES to administer examinations. A primary consideration is the liability associated with a breach of security during the administration of examinations. That liability would become the responsibility NCEES as opposed to the Board.

J. Emerging issues.

1. The review of continuing education credits by registrants. A system for recording credits will have to be established.
2. Examination security requirements imposed by NCEES during the administration of the Fundamentals of Engineering and Principles and Practice of Engineering examinations. These are national examinations which are given in each state on the same day. NCEES has concerns about individuals who would steal examination questions for their own gain by various means including electronic imaging technology.

K. "What would be the impact on the board and on licensees if a continuing education requirement allowed licensees to receive credit for non-traditional education experiences. (professional conferences, for example)?"

It is the Board's intent to develop a program that would allow credits in the form of Professional Development Hour (PDH) be allowed for non-traditional educational experiences. Examples are as follows:

1. Successful completion of correspondence, television, videotaped, and other short courses/tutorials – 10 PDH for each Continuing Education Credit (CEU).

2. Attending or presenting qualifying seminars, in-house courses, workshops, or technical presentations at meetings, conferences, or conventions. (one PDH for each hour of attendance).
3. Authoring published papers, articles, or books (10 PDH).
4. Active participation in professional and technical societies (2PDH for each organization).

The criteria listed above would make it possible for registrants to meet the requirements of Mandatory Continuing Education entirely by non-traditional education experiences. It is anticipated that registrants will meet the requirements through both educational and non-traditional educational experiences.

- L. There are no related federal laws or regulations that govern the practice of engineering. The practice of engineering is governed by each state by a state board of registration or licensing. NCEES is an organization of the state boards that regulate the practice of engineering and surveying. NCEES has developed a Model Law and Model Rules which are provided as a standard that states may followed in developing their statutes and rules. While each state has their own statute and rules, all states have a common core that comply with the standards of NCEES. Individuals practicing engineering in any state have to be registered in that state. Maine residents that practice engineering in other states have become registered in those states. Non-residents that practice in Maine are required to be registered in Maine. Professional Engineers that meet the criteria of NCEES Model Law can easily become registered in other states upon submitting an application to an another state.

M. Policy for Collecting, Managing and Using Personal Information

Applications for Registration are available on the Board's web page. The Board does not allow the application to be submitted electronically. Applications can be downloaded and mailed to the Board when completed and notarized. Applicant and registrant information is stored in the Board's files and in a data base on the computer which is not connected to the Internet and thus the data base is secure.

NCEES provides a service to registrants who are registered in other states consisting of maintaining an electronic record in an NCEES file. This record is provided by NCEES through e-mail for those applicants that have an NCEES record.

A roster of professional engineers, their registration number, and their business addresses is published every two years as required by statute. This roster is available on the Board's web page which is kept up to date whereas the published roster is current every two years. Personal addresses and information are not released.

Most correspondence with applicants and registrants is by mail. Renewal notices are sent to home addresses unless registrants have requested that they be sent to their business address. E-mail correspondence is becoming more frequent.

N. Reports, applications, and other paperwork required to be filed by the public.

1. Application for Engineer-Intern
 - a. Statutory Authority – 32 M.R.S.A. 1353
 - b. Established in 1954, amended in 1999.
 - c. One time only.
 - d. 2001 =139, 2002 =147, 2003-140 estimated, 2004- 140 estimated.
 - e. None

2. Application for Registration.
 - a. Statutory Authority – 32 M.R.S.A. 1353.
 - b. Established in 1935, amended in 1999.
 - c. One time only.
 - d. 2001- 310, 2002 - 327, 2003 - 325 estimated, 2004 - 325 estimated.
 - e. None.

3. Renewal Notices for Registrants.
 - a. Statutory Authority – 32 M.R.S.A. 1357.
 - b. Established in 1937, last amended in 2001.
 - c. Biennially – Before December 31 of odd-numbered years.
 - d. 2001 – 5000, 2003 – estimated 6,200, 2005- 5,700 estimated.
 - e. Form is undergoing revision for continuing education requirement in 2005 and to offer the opportunity for on-line renewal.

4. Examination Notices to Examinees.
 - a. Statutory Authority – 32 M.R.S.A. 1354.
 - b. Last amended in 1999.
 - c. Twice per examination administration in April and October.
 - d. 2001 -898, 2002 -948, 2003 – 930, 2004 – 930 estimated.
 - e. None.

January 26, 2004

GOVERNMENT EVALUATION ACT REVIEW

BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS TO COMMITTEE ON BUSINESS RESEARCH AND ECONOMIC DEVELOPMENT

Amendment: Examples of actions taken by the Board of Registration on complaints.

Complaints of Maine licensed engineering practice:

E01-002. A complaint was filed of a violation of the engineering code of ethics by a licensed engineer with a conflict of interest. The engineer was hired to review plans and later withdrew from that firm and joined another design/build firm for the same work. The Board determined there was no evidence of a violation and dismissed the complaint.

E01-003. A complaint that a licensed engineer used proprietary information of a former employer to hire the same client but with another employer. A consent agreement was reached that the complainant would relinquish all future rights to apply for an engineering license.

E02-001. A home owner, attempting to sell her home, complained that a Home Inspection Report by a licensed engineering firm caused a potential buyer to withdraw their offer. The Board determined there was no violation of board rules and dismissed the complaint.

E02-002. A complaint of incompetence by a licensed engineer resulted in a consent agreement that fined the person \$2000 and stipulated that he refrain from practicing engineering until he demonstrates competence in his field and passes designated exams.

E02-003. A complaint against an engineer regarding inspection of a house subjected to construction damage. The Board concluded there was no violation of Board rules by the engineer and dismissed the complaint.

Complaints of unlicensed practice of engineering:

U01-001. A complaint of unlicensed engineering practice was made for work which may have been either building and grounds maintenance or engineering. The person was registered in another state and agreed to apply and become registered in Maine.

U00-002. An insurance adjuster signed as a consulting engineer and was determined to be practicing engineering without a license. The case was settled by the adjuster acknowledging the violation and was fined \$100.

U00-003. In an advertising letter a firm offered drafting services and appeared to be offering engineering as well. The head of the firm had an engineering degree and was

invited to become registered in Maine. The Board determined there was no violation at present.

U01-002. An engineer, registered in another state, used his other state seal to certify drawings for work in Maine. He was advised to become registered in Maine and has done so.