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124th General Assembly
(As Passed by the General Assembly)

Reps. Lendrum, Hollister, Webster, Brinkman, Carmichael, Manning, Damschroder, Redfern, Coates, Schmidt, Hartnett, DePiero, Fessler, G. Smith, Flowers, Collier, Schneider, Widowfield, Grendell, Sferra, Carano, Latell, Key, Barnes, Hagan, Olman, Latta, Woodard, Salerno

Sen. Coughlin

Effective date: August 6, 2002

ACT SUMMARY

- Creates the position of Executive Director, who is appointed by the State Board of Registration for Professional Engineers and Surveyors, and transfers the duties of the Board's secretary to the Executive Director.
- Revises the sets of minimum educational and experience qualifications required for a person to become registered as a professional engineer or surveyor.
- Requires the State Board of Registration for Professional Engineers and Surveyors to exercise discretion in granting credit for practical experience gained in the armed forces when specifically asked to do so.
- Requires engineering technology curricula to be accredited by the Technical Accreditation Commission of the Accreditation Board for Engineering and Technology.
- Establishes names of first and second stage examinations as the "fundamental examination" and the "principles and practice examination," respectively.
- Eliminates the authority of the State Board to examine the applicant's knowledge of subjects as the State Board selects from the published curricula of the engineering colleges in Ohio approved by the State Board.

- Removes the restriction on the number of times an applicant for a license may apply for re-examination within the same calendar year.
- Establishes procedures for the use of computer generated seals.
- Eliminates registration without examination of engineers licensed by other states for reciprocity purposes.
- Allows the State Board to fine, refuse to renew a registration or certificate of authorization, and to deny an applicant the opportunity to sit for an examination or to have the examination scored for various offenses.
- Revises the complaint and investigation procedure of the State Board.
- Prohibits a state authority from accepting or using any engineering or surveying plan from any person not registered as a professional engineer or surveyor or not otherwise exempt.
- Makes other changes in the licensing law governing professional engineers and surveyors.
- Repeals a provision that establishes specific restrictions regarding evidence submitted by surveyors.

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CONTENT AND OPERATION

Definitions

Prior law defined an "engineer," in part, as a graduate of an accredited engineering curriculum or a curriculum that becomes an accredited engineering curriculum. The act removes the option for a person to be a graduate of an engineering curriculum that subsequently becomes accredited. (Sec. 4733.01(B).)

Prior law defined a "professional surveyor" as a person who engaged in the practice of that branch of engineering commonly known as surveying and who was registered as a professional surveyor under Ohio law. The act removes references to surveying being a "branch" of engineering and adds to the definition of the practice of surveying that it includes the measuring of contours of the earth's surface. (Sec. 4733.01(E) and (F).)

Prohibitions

Under continuing law, any person practicing or offering to practice the profession of engineering or of surveying must be registered. The act specifically adds that a person must be either registered or exempt from registration. (Sec. 4733.02.)

State Board of Registration for Professional Engineers and Surveyors

Members

Under previous law, the structure of the State Board of Registration for Professional Engineers and Surveyors (hereafter State Board) consisted of four professional engineers and one professional surveyor. Previous law also required any member to continue in office subsequent to the expiration date of the member's term until the member's successor took office, or until a period of 60 days elapsed, whichever came first. Under previous law members of the State Board either elected or appointed the following officers annually from its members: a chairperson, a vice-chairperson, and a secretary.

Under the act, at least one of the four professional engineers also must be a professional surveyor. The act also removes the 60-day time restriction in office so that a member continues in office past the expiration date of that member's term until that member's successor takes office.

The act requires the State Board to appoint an Executive Director and requires the Executive Director to assume the duties that are assigned to the Board's secretary under current law. (Secs. 4733.03, 4733.06, 4733.08, and 4733.09.)

Rules and bylaws

Under continuing law, the State Board must adopt all necessary rules, regulations, and bylaws not inconsistent with state and federal laws to govern matters related to its powers. Under prior law, this duty included fixing the length of terms of its officers. The act eliminates reference to the fixing of term lengths. Prior law required the State Board to include requirements regarding financial responsibility and professional liability insurance. The act makes this duty permissive rather than mandatory.

The act specifies that rules and bylaws but not regulations, as was required under prior law, must be adopted and requires that they be adopted in accordance with the Administrative Procedure Act. (Sec. 4733.07.)

Records

Under continuing law the State Board is required to keep a record of its proceedings and a record of all applicants for registration. Prior law required the records to show all of the following:

- (1) The name, age, and residence of each applicant;



- (2) The date of the application;
- (3) The place of business of such applicant;
- (4) His educational and other qualifications;
- (5) Whether or not an examination was required;
- (6) Whether the applicant was rejected;
- (7) Whether a certificate of registration was granted;
- (8) The date of the action of the board;
- (9) Such other information as may be deemed necessary by the board.

The act removes this specific list and requires applicants to complete an application, under oath, provided by the State Board that includes the applicant's education and experience sufficient for the State Board to evaluate the credentials of the applicant relative to requirements for registration. (Sec. 4733.09.)

Application for registration as a professional engineer

Under prior law, an applicant for registration as a professional engineer was required to show at least one of the following sets of qualifications, which were considered minimum evidence of qualification to be registered:

(1) Graduation from an approved curriculum in engineering of four years or more in a recognized school or college of engineering, a specific record of an additional four years or more of practical experience in engineering work indicating that the applicant is responsible to be in charge of work; and passing the prescribed written or written and oral examination;

The act modifies this option so that an applicant must show that the applicant graduated from an accredited engineering curriculum of four years or more and possesses a specific record of four years or more of practical experience acceptable to the State Board in addition to and not overlapping in time, any school work completed for graduation, not more than two of which may be after the second year of college but before graduation, indicating that the applicant is competent to be placed in responsible charge of work and passing prescribed written or written and oral examinations;

(2) Possession of eminent and recognized standing in the engineering field, provided the person passes a special written, or written and oral examination if the person satisfies requirements similar to those listed in (1) above and if the person

is at least 45 years of age and has a record of not less than 20 years lawful practice of engineering, of which at least ten years have been in responsible charge of outstanding engineering work, of a character acceptable to the State Board. The act eliminates this option.

(3) *Completing four years or more from a college curriculum in engineering that is not approved by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology in engineering technology, or in a related science approved by the Board, and eight years or more of progressive experience in engineering work indicating that the applicant is competent to be placed in responsible charge of that work and passing the prescribed written or written and oral examination.*

The act modifies this last option to stipulate that the applicant must have *graduated* from a college curriculum in engineering *not approved by the Engineering Commission of the Accreditation Board* or graduated from a college curriculum in engineering technology that is accredited by the Technical Accreditation Commission of the Accreditation Board and possess eight years or more of practical experience in engineering work acceptable to the State Board, no more than two years of which may be after the second year of college but before graduation, indicating that the applicant is competent to be placed in responsible charge of work and passing prescribed written or written and oral examinations. In addition, the act requires the eight years or more of practical experience to be in addition to, and not overlapping in time, any school work required to meet the education requirements for registration. (Sec. 4733.11.)

Application for registration as a professional surveyor

Prior law regarding the requirements of an applicant who desired to become registered as a professional surveyor were parallel to the requirements of a professional engineer in the area of education, experience, and examination. (See above "**Application for registration as a professional engineer.**") The act modifies these requirements for surveyors in the same way that it modifies the requirements for professional engineers.

Specific to professional surveyors, the act requires that an applicant's experience include four years or more of surveying office and field experience of a character acceptable to the State Board at least two years of which must be after college graduation with at least two of those four years in surveying land boundaries under the direct supervision of a professional surveyor. The act also clarifies that the four years of experience must be in addition to, and not overlapping in time, the education requirements for registration. (Sec. 4733.11(B).)

Sufficient experience for registration as a professional engineer or surveyor

Service in the armed forces

Under prior law, the State Board was required to credit engineering or surveying experience in the armed forces for registration requirement purposes. The act makes the credit discretionary based on whether the experience is acceptable to the State Board. (Sec. 4733.11(C).)

Approved curriculum

Under prior law *"an approved curriculum in engineering"* was one that had been accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology or one that had been approved by the State Board of Registration for Professional Engineers and Surveyors as having satisfactory standing, and a "recognized school or college of engineering" meant any college or university offering an approved curriculum in engineering.

The act eliminates these definitions but requires that the engineering technology curriculum be accredited by the Technical Accreditation Commission of the Accreditation Board for Engineering and Technology. (Sec. 4733.11(A)(2)(a).)

Under continuing law, "an approved surveying curriculum" must be accredited by the Accreditation Board for Engineering and Technology or approved by the State Board. The act clarifies that the curriculum must be accredited by the related accreditation committee of the Accreditation Board or be approved by the State Board. (Sec. 4733.11(D).)

Educational experience

Under prior law, the satisfactory completion of each year of an approved curriculum in engineering and surveying in a school or college approved by the Board as having satisfactory standing, without graduation, was considered equivalent to a year of experience for surveying applicants only. The act removes this provision. (Sec. 4733.11(F).)

Under prior law the execution, as a contractor, of work designed by a professional engineer or professional surveyor, or the supervision of the construction of such work as a foreman or superintendent was not practical experience in engineering or surveying work, unless the work involved engineering or surveying practices, or the applicant provided evidence of additional engineering or surveying experience, indicating that the applicant was competent to be placed in responsible charge of engineering work.

The act removes work as a foreman from this list of activities not considered practical experience. The act also removes the provision that allows contractor work to qualify as practical experience if the work involves engineering or surveying practices, or the applicant presents evidence of additional engineering or surveying experience, indicating that the applicant is competent to be placed in responsible charge of engineering work. (Sec. 4733.11(F).)

Examination

Name of the examinations

Under prior law, unless otherwise exempt, every applicant for registration as a professional engineer or surveyor was required to pass a written or written and oral examination.

Under the act, the examinations are named the "fundamentals examination" and the "principles and practice examination." The act requires applicants to pass each examination. Under the act, an applicant may take the fundamental examination after the completion of the required education, or at the discretion of the State Board, during the applicant's concluding term of an approved curriculum. (Sec. 4733.11(H) and (J).)

Designation of intern status

Under prior law, upon passing the first stage of the examination process, an applicant would receive a certificate showing the applicant's status as an engineer or surveyor in training. An applicant was not eligible to take the second phase of the examination until passing the first.

The act changes this terminology from engineer or surveyor "in training" to an engineer or surveyor "intern" upon passing the fundamental examination. Under the act, the applicant is not eligible to take the second examination known as the principles and practice examination until the applicant has passed the fundamentals examination. (Sec. 4733.11(H) to (J).)

Content

Under prior law, the examination for engineering and methods of procedure was required to test the engineering applicant's knowledge to perform engineering services and to design and supervise engineering works. The State Board was allowed to examine the applicant's knowledge of subjects selected by the State Board from the published curricula of the engineering colleges in Ohio that were approved by the State Board.

Under the act, both examinations must be designed to test the applicant's knowledge to perform professional engineering or surveying services. The fundamentals of engineering or the fundamentals of surveying examination tests the applicant's knowledge of the fundamentals of engineering or surveying as appropriate. The act eliminates the provision that allows the State Board to examine the applicant's knowledge of subjects as the State Board selects from the published curricula of the engineering colleges in Ohio approved by the State Board. (Sec. 4733.13(A).)

Under prior law, in the second stage of the examination for engineers, the applicant was required to be examined in the major branch or branches of engineering in which the applicant specialized. The major branches of engineering were all those branches in which engineering degrees are conferred by any of the approved engineering colleges of this state. Applicants who specialized in a sub-branch of engineering were required to be examined in that major branch of engineering of which such sub-branch forms a part. In the second stage of examination for surveyors, the applicant was required to be tested for the applicant's knowledge and ability to perform surveying services that would affect the safety of life, health, and property and in the laws and practices applicable in Ohio.

Under the act, the principles and practices of engineering examination must test the applicant's knowledge of the branch of engineering in which the applicant specializes. The branches of engineering are all of those branches in which the State Board or the National Council of Examiners for Engineering and Surveying offers an examination. The principles and practices of surveying examination must test the applicant's knowledge of surveying and the law and practices applicable in Ohio. (Sec. 4733.13(B) and (C).)

Re-examination

The act removes the current law restriction that an applicant failing an examination may apply for re-examination only once in any calendar year. (Sec. 4733.13(D).)

Applications for registration as a professional engineer or surveyor

Under prior law, an applicant was required to complete an application under oath that included a detailed summary of the applicant's technical work and the branch in which the applicant specialized. The act, instead, requires the applicant to provide a detailed summary of the applicant's engineering or surveying experience as appropriate. The act makes the required application fee nonrefundable.

Prior law required an applicant to submit an examination fee prior to taking the first stage and second stage examinations and a registration fee after passing both examinations. The registration fee was required to be established by the State Board to cover the cost of issuing a certificate of registration. The act specifies that each of these fees are nonrefundable and that the registration fee must be established by the State Board to cover the entire cost of registration. (Sec. 4733.12.)

Registration and issuance of a certificate showing initial registration

Under prior law, an applicant who successfully completed all of the requirements of registration as a professional engineer or surveyor was issued a certificate of registration. Under the act, a successful applicant is referred to as "registered" throughout the act and only receives a certificate to evidence initial registration of the applicant. Any reference to renewing a certificate is replaced with the term "renewing registration." (Sec. 4733.14.)

Under prior law, each registrant holding an unrevoked or unexpired certificate of registration as a professional engineer or professional surveyor in any branch of engineering or surveying on November 1, 1953, was entitled to all the rights and privileges of a registered professional engineer or professional surveyor while that certificate remained unrevoked or unexpired. The act removes this provision. (Sec. 4733.14.)

Legal seal of registered professional engineers or surveyors

Under prior law, plans, specifications, plats, and reports issued by a registrant was required to be stamped with the legal seal authorized by the State Board during the life of the registrant's certificate, but no person was allowed to stamp or seal any documents with the registrant's seal after the certificate of that registrant had expired or had been revoked, unless the certificate had been renewed or reissued.

Under the act, plans, specifications, plats, reports, and all other engineering or surveying work products issued by a registrant must be stamped with the seal or bear a computer-generated seal, and be signed and dated by the registrant. The act prohibits any other person to use the seal, or to sign any documents after the registration of the registrant expires or has been revoked or suspended, unless the registration is renewed or reissued. (Sec. 4733.14.)

Computer generated seals

The act creates a procedure for the use of computer-generated seals. Except when documents are transmitted electronically to a client or a governmental

agency, computer-generated seals may be used on final original drawings on the condition that a handwritten signature and date is placed adjacent to or across the seal. Plans, specifications, plats, reports, and all other engineering or surveying work products that are transmitted electronically to a client or a governmental agency must have the computer-generated seal removed from the electronic file before transmittal. An electronic transmission with no computer-generated seal must have the following inserted in place of the signature and date:

"This document was originally issued by _____ (name of registrant) on _____ (date). This document is not considered a sealed document." (Sec. 4733.14.)

Registration renewal procedure

Under continuing law, the registration renewal fee is \$16 for renewal of a registration as either an engineer or surveyor. Under prior law the registration fee was \$21 for an individual registered as both an engineer and a surveyor. Continuing law allows the State Board to waive the payment of renewal fees during the period of time the registrant is on active duty in connection with any branch of the armed forces.

The act eliminates reference to a \$21 fee for an individual who renews both an engineer and a surveyor registration. The act also specifies that, if requested to do so, the State Board may waive fees during the time a person is on active duty in the armed forces. (Sec. 4733.15.)

Temporary registration for individuals

Under prior law, the State Board was allowed to authorize temporary certification as an engineer or surveyor to individuals under the following conditions and requirements:

(1) A person not be a resident of and have no established place of business in this state and practice or offer to practice the profession of engineering or surveying in Ohio, for no more than 60 continuous calendar days in any calendar year and provided the person is legally qualified by registration to practice the profession in the person's own state in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in Ohio. The State Board must establish the fee for a temporary certificate of registration.

(2) The person is not a resident of and has no established place of business in Ohio, or has recently become a resident and practices or offers to practice for more than 60 days in any calendar year the profession of engineering or surveying,

if the person has filed with the State Board an application for a certificate of registration and pays the required fee. This type of temporary certificate of registration continues only for the time it takes the State Board to consider the application for registration and provided that the person is legally qualified to practice that profession in the person's own state in which the requirements and qualifications for obtaining a certificate of registration are not lower than in Ohio.

The act eliminates the conditions relative to residential status and amount of days of practice and instead permits the State Board to authorize a temporary registration for an individual who has filed an application for a temporary registration and paid the required fee. (Sec. 4733.18.)

Reciprocity

Under prior law, a person holding a certificate of registration to engage in the practice of engineering or surveying by a proper authority of a state, territory, or possession of the United States, or the District of Columbia and person holding a certificate of qualification issued by the National Council of Engineering Examiners Committee on National Engineering certification who, in the opinion of the State Board, meets the requirements of Ohio's law, based on verified evidence, was allowed, upon application and payment of the established fee, to be registered. However, whereas engineers were not further examined, any person who sought registration as a professional surveyor was required to pass a four-hour professional practice examination devoted to the laws and practices of Ohio, prior to receiving registration. The act eliminates reference to registration without examination for engineers and reduces the four-hour professional practice examination for surveyors to a two-hour examination. It also abolishes this reciprocity provision for those who hold a certificate of qualification issued by the National Council of Engineering Examiners Committee on National Engineering Certification. Additionally, this reciprocity provision applies to persons *registered or licensed* to engage in the practice of engineering or surveying by a proper governmental authority, instead of only to those who specifically hold a certificate of registration. (Sec. 4735.19.)

Sanctions

Under continuing law, the State Board may revoke, suspend, or limit the certificate of registration of any holder of such certificate or reprimand or place on probation the holder of a certificate of registration or the holder of a certificate of authorization who is found guilty of any of the following:

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

(2) Any gross negligence, incompetence, or misconduct in the practice of professional engineering or professional surveying as a registered professional engineer or registered professional surveyor;

(3) Aiding or abetting any person to practice professional engineering or professional surveying illegally in the state;

(4) Any felony or crime involving moral turpitude (the act makes it specific that it is a conviction or guilty plea to such crimes);

(5) Violation of the code of ethics adopted by the State Board (the act replaces a violation of the code of ethics with a violation of the law governing registered professional engineers and surveyors or any of the rules adopted pursuant to those laws);

(6) Violation of any condition of limitation placed by the State Board upon a certificate of registration or a certificate of authorization.

In addition to the list of sanctions listed above, the act allows the State Board to fine (up to \$1,000 per offense), refuse to renew a registration or certificate, or deny an applicant the opportunity to sit for an examination or to have an examination scored. Additionally, the act allows the State Board to impose any combination of disciplinary measures on any applicant or registrant, or revoke the certificate of authorization of any holder found to be or to have been engaged in any one or more acts or practices described above. The act makes failure to abide by or comply with examination instructions an act that subjects a person to the disciplinary actions described above. (Sec. 4733.20(A).)

Code of ethics

Under prior law, the State Board had the authority to periodically amend and revise the code of ethics. The State Board was required to notify each registrant, in writing, of those revisions. The act removes this written notification requirement and instead requires notice to be made in accordance with the Administrative Procedure Act. (Sec. 4733.20(B).)

Misconduct

Filing a charge

Under prior law, any person was allowed to file charges alleging fraud, deceit, gross negligence, incompetence, misconduct, or violation of the code of ethics against the holder of a certificate of registration or certificate of authorization. The charges were required to be in writing, and sworn to by the

person, or persons, making them and to be filed with the secretary of the State Board.

Under the act, any person may file a complaint with the State Board alleging fraud, deceit, gross negligence, incompetence, misconduct, or violation of the laws or rules governing registered professional engineers and surveyors. The complaint must be in writing, but the act eliminates the requirement that the complaint must be sworn to by the person filing it. (Sec. 4733.20(C).)

Investigation

Under prior law, all charges were required to be investigated and reviewed by the State Board within three months after the date they were referred, after which all charges, unless dismissed by the State Board as unfounded or trivial, were to be heard by the State Board at a hearing in accordance with Chapter 119. of the Revised Code.

Under the act, investigation by the State Board is discretionary and there is no time limit within which the investigation must commence after receiving the complaint. The act gives the State Board the power, by subpoena, to compel witnesses to appear and testify in relation to any investigation and may require, by subpoena duces tecum, the production and copying of any book, paper, or document pertaining to an investigation. If a person fails to comply with the subpoena or subpoena duces tecum, the State Board may apply to the Franklin County Court of Common Pleas for an order compelling the person to comply, or for the failure to do so, to be held in contempt of court. (Sec. 4733.20(D).)

Hearings

Under prior law, the time and place for a hearing was fixed by the State Board and a copy of the charges, together with a notice of the time and place of the hearing, was required to be personally served on the individual registrant or in the case of a business entity, its agent, or mailed to the last known address of the individual registrant or any firm, partnership, or association holding a certificate of authorization. At any hearing the accused registrant or holder of a certificate of authorization had the right to appear in person or by counsel, or both, to cross-examine witnesses, and to produce evidence and witnesses. If the accused registrant or holder of a certificate of authorization failed or refused to appear, the State Board was allowed to proceed to hear and determine the validity of the charges.

Under the act, the State Board first determines whether there is cause to believe that an applicant, registrant or a holder of a certificate of authorization is or has been engaged in any act or practice for which discipline may be imposed.

(See "Sanctions" above.) When there is cause for such belief, the State Board is required to issue a written charge and notify the applicant, registrant or a holder of a certificate of authorization of the right to an adjudication hearing under the Administrative Procedure Act. If the accused fails or refuses to appear or does not request a hearing within the time allowed under the Administrative Procedure Act, then the State Board may determine the validity of the charge and issue an adjudication order in accordance with the Administrative Procedure Act. (Sec. 4733.20(E).)

Discipline

Under prior law, if, after a hearing, a majority of the State Board voted in favor of sustaining the charges, the State Board was required to reprimand the individual or suspend, refuse to renew, or revoke the certificate of registration or the holder's certificate of authorization. The State Board, for reasons it considered sufficient, was allowed to reissue a certificate of registration to any person or a certificate of authorization to any corporation, firm, partnership, or association whose certificate had been revoked.

Under the act, if a majority of the State Board votes in favor of sustaining the charge, the State Board must impose any one or any combination of the sanctions allowed by the law governing registered professional engineers and surveyors. (See "Sanctions" above.) For good cause shown, the State Board may reregister any person or reissue a certificate of authorization to any business entity whose registration or certificate have been either revoked or suspended. (Sec. 4733.20(F).)

Reissuance of a certificate of authorization

Under prior law, the State Board was allowed to issue a new certificate of registration or certificate of authorization to replace a revoked, lost, destroyed, or mutilated certificate. Under the act, this provision applies to certificates of authorization only. (Sec. 4733.20(H).)

Engaging in a contract with a person not registered

Prior law required all officers of the law of Ohio, or of any political subdivision to enforce and prosecute any persons violating the Professional Engineers and Surveyors Law (R.C. Chapter 4733.). The act abolishes this provision and instead prohibits public authorities from accepting or using any engineering or surveying plan prepared by any person not registered as a

professional engineer or professional surveyor unless the person is exempt from registration requirements.¹ (Sec. 4733.23.)

Surveyor's chains and testimony

Surveyors were prohibited under prior law from giving evidence in a cause pending in any of the courts of Ohio, or before arbitrators, respecting the survey or "admeasurement" of any lands, unless the surveyor makes oath, if required, that the chain or measure used was conformable to the standards used in Ohio. The act repeals this provision. (Sec. 4733.24.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	08-02-01	p. 810
Reported, H. Commerce & Labor	01-30-02	p. 1350
Passed House (95-0)	02-13-02	p. 1389
Reported, S. Insurance, Commerce, & Labor	04-16-02	p. 1669
Passed Senate (33-0)	04-17-02	p. 1680
Concurrence	04-23-02	p. 1660

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¹ "Public authority" means the state, or a county, township, municipal corporation, school district, or other political subdivision, or any public agency, authority, board, commission, instrumentality, or special district of the state or a county, township, municipal corporation, school district, or other political subdivision. (Sec. 153.65(A).)