



SPONSOR: Sen. McBride & Rep. Ulbrich
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Wagner, Spence, B. Ennis, Viola, Gilligan

DELAWARE STATE SENATE

142nd GENERAL ASSEMBLY

SENATE BILL NO. 282

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE DELAWARE PROFESSIONAL ENGINEERS ACT.

1 WHEREAS, because the field of engineering is highly technical and complex and the recipients of professional
2 engineering services do not normally have adequate expertise by which they might be able to evaluate the services rendered by
3 a professional engineer; and

4 WHEREAS, because of these complexities, the qualifications of a professional engineer should be established and
5 evaluated by other engineers; and

6 WHEREAS, it is in the best interests of the public property, health, safety and welfare that the evaluation of an engineer
7 and the control of the practice of engineering be vested in members of the engineering profession; and

8 WHEREAS, this Act constitutes a new departure and experience in the field of state regulatory procedure, being the first
9 of its kind in the Nation, wherein the First State of the Nation delegates to a professional association the powers, duties and
10 responsibilities of self- regulation;

11 NOW, THEREFORE,

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

13 Section 1. Amend Title 24 of the Delaware Code by deleting the existing Chapter 28 in its entirety and by substituting in
14 lieu thereof, a new Chapter 28 to read as follows:

15 "CHAPTER 28. PROFESSIONAL ENGINEERS

16 §2801. Short title.

17 This chapter shall be known and may be cited as the 'Delaware Professional Engineers Act.'

18 §2802. Declaration of purpose; unlawful practice.

19 In order to safeguard life, health, and property and to promote the public welfare, the practice of engineering in this State is
20 hereby declared to be subject to regulation in the public interest. It shall be unlawful for any person to practice or to offer to
21 practice engineering in this State; to use in connection with his name, by verbal claim, sign, advertisement, letterhead, card or
22 to in any other way, represent himself to be an engineer, a professional engineer or through the use of some other title imply
23 that he is a professional engineer licensed under this chapter; or to advertise any title or description tending to convey the
24 impression that he is a professional engineer unless such person has been duly licensed, authorized or exempted under this
25 chapter. The right to engage in the practice of engineering shall be deemed a personal right based on the qualifications of the
26 individual as evidenced by his certificate of licensure, which shall not be transferable.

27 §2803. Definitions.

28 (a) The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them, except
29 where the context clearly indicates a different meaning;

30 (1) ‘Active Roster’ shall mean the record of members, associate members, , permittees and holders of a certificate of
31 authorization.

32 (2) ‘Adjunct member’ shall mean an adjunct member of the Association, as defined in §2806(d).

33 (3) ‘Affiliate member’ shall mean an affiliate member of the Association, as defined in §2806 (c).

34 (4) ‘Applicant’ shall mean a person who applies to become licensed as a professional engineer, applies to become
35 certified as engineer intern, applies to become an adjunct member of the association, or applies for a certificate of authorization
36 or permit.

37 (5) ‘Associate member’ shall mean an associate member of the Association, as defined in §2806 (b).

38 (6) ‘Association’ shall mean the Delaware Association of Professional Engineers.

39 (7) ‘Bylaw’ shall mean a bylaw of the Association.

40 (8) ‘Certificate of authorization’ shall mean an authorization issued by the Council to engage in the practice of
41 engineering.

42 (9) ‘Committee’ shall mean a committee appointed by the Council.

43 (10) ‘Council’ shall mean the Council of the Association.

44 (11) ‘Engineer’ shall mean a person who, by reason of his special knowledge and use of the mathematical, physical, and
45 engineering sciences and the principles and methods of engineering analysis and design acquired by an engineering education,
46 through graduation with a baccalaureate degree from a Council-approved 4-year educational program in engineering, in
47 engineering technology or in science related to engineering, is qualified to begin the path to licensure.

48 (12) 'Engineering corporations or partnerships' are corporations or partnerships who practice engineering to provide
49 engineering services to the public.

50 (13) 'Engineer Intern' shall mean a person certified as an engineer intern by the Council.

51 (14) 'Examination' shall mean any qualifying examination or examinations required by this chapter.

52 (15) 'Licensed' means licensure as a professional engineer under this chapter.

53 (16) 'Licensee' shall mean a person licensed as a professional engineer under this chapter.

54 (17) 'Member' shall mean a member of the Association, as defined in §2806 (a).

55 (18) 'Permit' shall mean a temporary privilege to practice engineering in the State granted to a qualified individual,
56 corporation, or partnership by the Council.

57 (19) 'Permittee' shall mean an individual, corporation or partnership holding a valid permit from the Association.

58 (20) 'Practice of engineering' or 'to practice engineering' includes any professional service performed for the general
59 public such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation
60 in connection with any public or private buildings, structures, utilities, machines, equipment, processes, works, or projects
61 wherein the public welfare or the safeguarding of life, health or property is concerned or involved when such professional
62 service requires the application of engineering principles and data, but it does not include the work ordinarily performed by
63 persons who operate or maintain machinery or equipment, neither does it include engineering services performed by an
64 employee of a firm or corporation that does not offer professional engineering services to the general public.

65 (21) 'Professional engineer' shall mean a person who has been duly licensed as a professional engineer by the Council.

66 (22) 'Responsible Charge' shall mean direct supervisory control of the engineering work.

67 (23) 'Substantially related' shall mean the nature of the criminal conduct, for which the person was convicted, has a direct
68 bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the practice of
69 engineering.

70 §2804. Delaware Association of Professional Engineers; Objectives.

71 There is hereby established the Delaware Association of Professional Engineers, an instrumentality of the State of
72 Delaware. The objectives of the Association and of this chapter are to: regulate the practice of engineering; to provide for the
73 licensure of qualified persons as professional engineers and the certification of engineer interns; to define the terms "engineer",
74 "professional engineer", "engineer intern" and "the practice of engineering"; to create an organization to regulate the practice
75 of engineering; to provide and administer qualifying examinations and grant licensure to qualified persons as professional
76 engineers; to provide for the appointment and election of members to the governing body of this Association; to define the

77 power and duties of the Council; to set forth the minimum qualifications and other requirements for licensure as a professional
78 engineer, certification as an engineer intern, the granting of a permit to practice engineering, and the granting of a certificate of
79 authorization; to set rules for the establishment of fees, expiration requirements and renewal requirements; and to provide for
80 the enforcement of this chapter together with penalties for violations of the provisions of this chapter.

81 § 2805. Ownership and use of property.

82 The Association may purchase, acquire, or receive by gift or bequest for the purposes of the Association and furtherance of
83 its objectives, but for no other purposes or objectives, any real or personal property, and may sell, mortgage, lease, or otherwise
84 dispose of any said property.

85 § 2806. Membership

86 (a) All persons licensed as professional engineers on July 7, 1972 or hereafter licensed as professional engineers and who
87 are residents of or are employed in or have a place of business within the State, and who subscribe to the code of ethics in
88 accordance with §2816, are members of the Association. Members shall be entitled to vote as provided by this chapter.

89 (b) All other persons licensed as professional engineers, and who subscribe to the code of ethics in accordance with
90 §2816, are associate members of the Association and shall not be entitled to vote.

91 (c) All persons certified as engineer interns within the State on July 7, 1972 or who are hereafter certified as engineer
92 interns, and who subscribe to the code of ethics in accordance with §2816, are affiliate members of the Association and shall
93 not be entitled to vote. Affiliate members may use the titles 'Engineer', 'Engineer Intern' or 'E.I.'

94 (d) All persons meeting the definition of engineer, as set forth in §2803(11), and who subscribe to the code of ethics in
95 accordance with §2816, who are residents or employed in or have a place of business in the State, are adjunct members of the
96 Association and shall not be entitled to vote. Adjunct members may use the title 'Engineer'.

97 (e) Fees.

98 (1) All fees for licensure, membership and renewals shall be in accordance with the Association Bylaws, as approved
99 by the members in accordance with this chapter.

100 (2) All fees required under the provisions of this section shall be nonreturnable and nontransferable.

101 (3) Reinstatement fees for professional engineers and holders of certificates of authorization shall be required for
102 return from the inactive roster to the active roster. Reinstatement fees shall be established by bylaw and shall include any
103 unpaid supplemental levies assessed prior to removal from the active roster.

104 (4) The Council may, whenever the Association has incurred an operating deficit, make a supplemental levy in order
105 to eliminate such deficit. Each member, associate member and each holder of a certificate of authorization shall be assessed in

106 direct proportion to their rate of annual renewal and the total amount assessed shall be the amount of the deficit. Fractional
107 assessments shall be raised to the next highest even dollar amount. The amount assessed against any person pursuant to this
108 paragraph shall not exceed the annual renewal fee paid by such person under this chapter. Such supplemental levy shall be a
109 debt against those assessed and shall be billed only at the time when the annual renewal fees are billed and must be paid within
110 3 months. Those failing to pay within 3 months shall be declared ineligible to practice engineering in the State and shall be
111 removed from the active roster. Reinstatement will not be allowed until the reinstatement fee has been paid in full.

112 (f) Expiration and renewals.

113 (1) Members, associate members, adjunct members, and holders of certificates of authorization shall be billed for
114 renewal fees 30 days before expiration of the period for which fees have been paid. If fees are not paid within 3 months after
115 the expiration date, the member, associate member or holder of a certificate of authorization shall be declared ineligible to
116 practice engineering in the State and shall be removed from the active roster.

117 (2) Any applicant, associate member, adjunct member, engineering corporation or partnership whose application is
118 approved shall be billed for fees for the quarter-year in which approved and for any remaining full quarters in the Association's
119 licensure period.

120 (3) Any member, associate member, or holder of certificate of authorization on the active roster who intends to
121 withdraw from the practice of engineering in the State shall notify the Secretary of the Council in writing. That name will then
122 be removed from the active roster and be placed in an inactive status file. That name may be reinstated to active status by a
123 request for reinstatement, in writing, within ten years of that removal from the active roster, to the Secretary of the Council and
124 by payment of a reinstatement fee. After the expiration of the ten year period, reinstatement may be obtained only by
125 reapplying for licensure pursuant to §2817 of this Title. Any member, associate member or holder of a certificate of
126 authorization in inactive status shall be ineligible to practice engineering in the State.

127 (4) Any member, associate member, or holder of a certificate of authorization who has not given notice of
128 withdrawal and whose name has been removed from the active roster because of a delinquency in payment of fees, may be
129 reinstated upon petition to the Council within two years of the removal from the active roster and by payment of the
130 reinstatement fees plus any delinquency fees. After the expiration of the two year period, reinstatement may be obtained only
131 by reapplying pursuant to §2817 of this Title.

132 §2807. Council of the Delaware Association of Professional Engineers.

133 (a) There shall be a Council which will be the governing board of the Association. The Council shall consist of 15 voting
134 members, 12 of whom shall be elected, and 3 of whom shall be appointed by the Governor. The immediate past president, if

135 not an elected member of Council, shall be a non-voting member of Council. A quorum of the Council shall be a majority of
136 the seated members of the Council.

137 (b) The 12 elected members shall be elected and hold office on the basis of the following constituencies:

138 (1) One shall be from each of the following 5 engineering disciplines: Civil, chemical, electrical, mechanical and any
139 other;

140 (2) One shall be from each of the following fields of employment: Government, industry, private consulting practice
141 and education: and

142 (3) One shall be from each of the 3 counties: New Castle, Kent and Sussex.

143 (c) Of the three appointed members, one shall be from each of the three counties. New Castle, Kent and Sussex.

144 (d) (1) A person elected as a Council member shall, at the time of election, and during the term of office, be a citizen of
145 the United States of America, a resident of the State, a member of the Association and be qualified to represent the
146 constituency from which the person was elected.

147 (2) A person appointed as a Council member shall, at the time of appointment, and during the term of office, be a
148 citizen of the United States of America and a resident of the State and of the county for which the appointment is designated.

149 (e) The term of office for members of Council shall, unless otherwise specified, be four (4) years. A member of Council,
150 whether appointed or elected, may not serve more than two (2) consecutive terms on the Council.

151 (f) Three members of Council shall be elected each year for a four (4) year term to fill vacancies in the field of discipline,
152 field of employment and county of residence. Each Council vacancy will be designated by discipline, field of employment or
153 county of residence in accordance with the constituency designation specified in subsection (b) of this section and each
154 designated vacancy will be voted upon separately by members of the Association. A candidate for Council must announce at
155 the time of nomination or petition the vacancy for which that candidate is seeking election and the candidate must be qualified
156 by discipline, field of employment or residence to fill the vacancy for which that candidate is seeking election. For purposes of
157 election, the candidate discipline shall be that shown on the roster, the field of employment shall be that held by the candidate
158 and the county of residence shall be that of the candidate at the time of nomination or petition as well as at the time of election.
159 The terms of office for Council members shall commence on September 1 of the year elected or appointed and shall expire on
160 August 31, of the year ending the term.

161 §2808. Council election and appointment procedure.

162 (a) The schedule for the election of the twelve (12) elected members shall be as follows:

163 (1) Three members representing the constituencies of: civil engineering, industry and New Castle County shall be
164 elected in 1978 and every four years thereafter.

165 (2) Three members representing the constituencies of: electrical engineering, private consulting practice and Kent
166 County shall be elected in 1979 and every four years thereafter.

167 (3) Three members representing the constituencies of: mechanical engineering, education and Sussex County shall be
168 elected in 1980 and every four years thereafter.

169 (4) Three members representing the constituencies of: chemical engineering, government and any other engineering
170 discipline not previously designated shall be elected in 1981 and every four years thereafter.

171 (b) The schedule for the appointment of the three (3) appointed members shall be as follows:

172 (1) One member from New Castle County shall be appointed in 1994 and every four years thereafter.

173 (2) One member from Kent County shall be appointed in 1993 and every four years thereafter.

174 (3) One member from Sussex County shall be appointed in 1991 and every four years thereafter.

175 (c) All appointments to the Council shall be made by the Governor in accordance with the above schedule and with the
176 requirements of §2807 of this title. Each term of office of the appointed Council members shall expire on the date specified in
177 the appointment, however, the Council member shall remain eligible to participate in Council proceedings unless and until
178 replaced by the Governor.

179 (d) The twelve Council members shall be elected by members of the Association by means of a letter ballot returned
180 within thirty (30) days after the mailing thereof. The members in contest for each elected Council position receiving a plurality
181 of votes from those voting within the prescribed time for that Council position shall be declared elected to that Council
182 position.

183 §2809. Election of annual officers.

184 The President, Vice-President, Secretary and Treasurer of the Council shall be elected annually from among the Council
185 members by vote of the Council. No Council President or Vice-President may serve more than 2 consecutive 1-year terms in
186 office.

187 §2810. Powers of the Council.

188 In carrying into effect the provisions of this chapter, the Council, under the head of the Council President and seal of the
189 Council, may subpoena witnesses and compel their attendance, and also may require the production of books, papers,
190 documents, etc., in a matter involving an application for licensure, the revocation of licensure or practicing or offering to
191 practice without licensure.

192 Any member of the Council may administer oaths or affirmations to witnesses appearing before the Council.

193 If any person refuses to obey any subpoena so issued or refuses to testify or produce any books, papers or documents, the
194 Council may present its petitions to the Superior Court setting forth the facts. Thereupon the Court shall, in a proper case,
195 issue its subpoena to such person requiring his attendance before such Court, and there to testify or to produce such books,
196 papers and documents as may be deemed necessary and pertinent by the Council.

197 Any person failing or refusing to obey the subpoena or order of the Court may be proceeded against in the same manner as
198 for refusal to obey any other subpoena or order of the Superior Court.

199 The records of the Council shall be prima facie evidence of the proceedings of the Council set forth therein. A transcript
200 thereof, duly certified by the Secretary of the Council under seal, shall be admissible in evidence with the same force and effect
201 as if the original were produced.

202 Except as provided for in §2804 the Council may not create or promulgate rules or regulations to extend, modify, or in any
203 way supplement the provisions of this chapter governing the regulation or the practice of engineering or the qualification,
204 certification, or licensure of engineers, professional engineers, or engineer interns.

205 §2811. Council vacancies.

206 (a) Where any member of Council is absent from three consecutive meetings of the Council without suitable or
207 acceptable reason or becomes incapacitated, the office may be declared vacant by the Council.

208 (b) When any member of Council resigns, dies, moves his or her residence from the State or otherwise ceases to be a
209 member, or in the case of an elected member who changes his or her engineering discipline in the roster if elected to fill a
210 discipline position on the Council, or in the case of an elected member who changes his or her field of engineering employment
211 if elected to fill a field of engineering employment position on the Council, or in the case of an elected or an appointed member
212 who changes his or her county of residence if elected to fill a county residency position, the office shall be declared vacant.

213 (c) A declared vacancy of an appointed Council position shall be filled for the unexpired term by appointment by the
214 Governor of the State of a person meeting the qualifications required to hold that appointed Council seat. A declared vacancy
215 of an appointed Council position may, upon a majority vote of Council, be temporarily filled by the former Council member
216 until a new person meeting the qualifications required to hold that appointed Council seat is appointed by the Governor.

217 (d) A declared vacancy of an elected Council seat shall be temporarily filled either by the former Council member or by a
218 member meeting the qualifications required to hold that Council seat by virtue of a discipline or employment or county of
219 residence, upon the vote of a majority of the Council, until the next annual election when a member shall be elected to fill any
220 remainder of the unexpired term.

221 §2812. Administration.

222 The Council may appoint or employ such administrative officials as it deems fit.

223 §2813. Legal liabilities of the Council.

224 (a) No action or other legal proceedings for damages shall be instituted against the Council or against any Council
225 member or official of the Council for any act done in good faith and in the performance or intended performance of any duty or
226 in the intended performance of any power granted under this chapter or any bylaw of this chapter or for any neglect or default
227 in the performance or exercise in good faith of any such duty or power.

228 (b) The Attorney General shall represent the Council, any Council member, and at the express request of the Council, any
229 person appointed or employed by the Council in a civil action against such person arising from services for the State of
230 Delaware. If any Attorney General determines he is unable to represent the Council, or any Council member or any person
231 whom he is requested by the Council to represent, and in all criminal actions, §3925 of Title 10 of the Delaware Code shall
232 apply.

233 §2814. Bylaws of the Association.

234 (a) The Council shall prepare for approval by the membership the following bylaws related to the administrative and
235 domestic duties of the Association:

236 (1) Prescribing procedures for the nomination of members of Council by a nominating committee and by the
237 nomination by members;

238 (2) Prescribing procedures for the election of members of the Council;

239 (3) Prescribing procedures for the nomination and election of Council President, Vice-President, Secretary and
240 Treasurer by the Council;

241 (4) Prescribing the duties of members of the Council and rules governing their conduct;

242 (5) Respecting the remuneration and reimbursement of members of the Council;

243 (6) Respecting the calling, holding and conducting of meetings of the Council and of the Association;

244 (7) Respecting the management of the property of the Association;

245 (8) Providing for the borrowing of money on the credit of the Association and the charging, mortgaging or pledging
246 of the real or personal property of the Association to secure any money borrowed or other debt or other obligation or other
247 liability of the Association;

248 (9) Respecting the receipt and disbursement of the funds of the Association and the investment of funds in a savings
249 account which must be in a bank located within the State for the purpose of earning interest on the investment;

250 (10) Respecting the establishment of a reserve fund within a year of the initial election of Council for emergency or
251 unforeseen expenses;

252 (11) Providing for an annual independent audit of the accounts of the Association;

253 (12) Providing for the appointment of committees of the Council and defining their composition, functions,
254 remuneration and reimbursement;

255 (13) Providing for the closing of the active roster and the recording of changes of addresses or disciplines of the
256 licensees for a period of 20 calendar days immediately preceding any meeting of the Association or any mailing of ballots for
257 vote or election by the membership;

258 (14) For maintaining a system for the recording of licensees, their disciplines, their residence and business addresses
259 and the counties in which they are resident, recording of the names and addresses of official representative of engineering
260 corporations and partnerships, and other pertinent data. The active roster of the Association shall be available to the
261 membership;

262 (15) Fixing and providing for the levying and collection or remitting of annual or other fees approved by the members
263 in accordance with this chapter.

264 (16) Prescribing applications, certificates, permits and seals and providing for their issuance and use;

265 (17) Concerning bonding of officers of the Council and employees of the Association;

266 (18) Respecting all other things that are deemed necessary or convenient for the attainment of the objectives of the
267 Association and the efficient conduct of its business.

268 §2815. Bylaw approval by members.

269 A bylaw is effective when approved by the members. Proposed bylaws or changes shall be submitted to the members for
270 approval by means of a letter ballot returned by not less than 20 percent of the members within 30 days after the mailing
271 thereof. Affirmative votes by the majority of members voting within the prescribed time shall constitute approval by the
272 members.

273 §2816. Code of Ethics.

274 (a) The Council shall prepare and publish a code of ethics designed for the protection of the public.

275 (b) All applicants, members, associate members, affiliate members, adjunct members, holders of certificate of
276 authorization and permittees must subscribe to and follow this code of ethics in the practice of professional engineering, or in
277 seeking to register as a professional engineer or seeking certification as an Engineer Intern.

278 (c) Copies of the code of ethics shall be provided to each member, associate member, affiliate member, adjunct member
279 and permittee and shall be available free of charge to the public. Copies of the code of ethics shall also be sent to prospective
280 applicants as a part of their application materials.

281 §2817. Requirements for licensure.

282 (a) The following requirements shall be considered as the minimum satisfactory evidence that an applicant is qualified for
283 licensure as a professional engineer:

284 (1) Graduates from an engineering educational program approved by the Engineering Accreditation Commission
285 (EAC) of ABET, Inc. (formerly the Accreditation Board for Engineering and Technology) or from an ABET recognized
286 foreign accreditation agency approved educational program.

287 a. Graduation with a baccalaureate degree from an engineering educational program accredited by the EAC of
288 ABET, Inc. or by a foreign educational program accreditation agency adjudged by ABET to use substantially equivalent
289 accreditation procedures; and

290 b. Professional experience in engineering work of a character satisfactory to the Council in the amount of 4
291 years or more, such experience indicating that the applicant is competent to practice as a professional engineer; and

292 c. Successful passing of a written examination totaling 16 hours and meeting the additional requirements of
293 §2817(5).

294 (2) Graduates from non-EAC of ABET accredited engineering programs, from engineering technology programs or
295 from science programs related to engineering.

296 a. Graduation with a baccalaureate degree from a Council approved 4-year educational program in engineering
297 that is not EAC of ABET accredited, in engineering technology or in science related to engineering; and

298 b. Professional experience in engineering work of a character satisfactory to the Council in the amount of 8
299 years or more, such experience indicating that the applicant is competent to practice as a professional engineer; and

300 c. Successful passing of written examination totaling 16 hours, and meeting the additional requirements of
301 §2817(5).

302 (3) Engineering Experience and Examination.

303 a. Professional experience in engineering work of a character satisfactory to the Council, consisting of 15 years
304 or more of lawful practice and indicating that the applicant is competent to practice as a professional engineer; and

305 b. Successful passing of written examinations totaling 16 hours and meeting the additional requirements of
306 §2817(5).

307 (4) Comity.

308 a. The Council may, upon application and payment of the required fee and without further examination, issue a
309 license as a professional engineer to any person holding a valid certificate of registration or a license as a professional engineer
310 issued to that person by a proper authority of a state, territory or possession of the United States, the District of Columbia, or a
311 province or territory of Canada, provided the applicant's qualifications meet at least one of the following:

312 1. The professional engineering qualifications of the applicant on the effective date of such certificate
313 of registration or a license would have satisfied the requirements for licensure in this State on that date.

314 2. The professional engineering qualifications of the applicant at any time subsequent to the effective
315 date of such certificate of registration or a license would have satisfied the requirements for licensure in this State in effect at
316 that time. A personal interview may be required by Council to ascertain the facts in the case.

317 3. The professional engineering qualifications of the applicant include successful passing of written
318 examinations totaling 16 hours, meeting the additional requirements of §2817(5), and having a minimum of 10 years of
319 professional experience in engineering work of a character satisfactory to the Council, such experience indicating that the
320 applicant is competent to practice as an engineer. Such experience shall have been obtained in states, territories or possessions
321 of the United States, the District of Columbia, or provinces or territories of Canada, and at least 8 years of it shall have been
322 obtained after the applicant has received the said valid certificate of registration or a license.

323 4. The professional engineering qualifications of the applicant include a minimum of 10 years of
324 continuous and verifiable experience as a professional engineer. Such experience shall have been obtained in a state, territory,
325 or possession of the United States, the District of Columbia, or a province or territory of Canada. The applicant must meet the
326 additional requirements of subsections (5) (a) and (7) and must not have been subject to disciplinary action in the current or
327 previous licensing jurisdictions.

328 b. A person holding a valid NCEES Council Record issued by the National Council of Examiners for
329 Engineering and Surveying, whose qualifications meet the requirements of this chapter, may be registered by Council as a
330 professional engineer upon receipt from the National Council of Examiners for Engineering and Surveying of a certified copy
331 of such registration Record together with the usual application form and fee from the applicant.

332 c. If the person who has been licensed in Delaware pursuant to paragraph a. or b. of this subdivision has his
333 license to practice revoked in the state in which the person was registered or licensed at the time licensure in Delaware through
334 comity was sought, then the authorization issued in Delaware shall be automatically revoked followed 30 days' written notice

335 from the Council unless the person makes application to the Council for consideration for retaining the Delaware authorization
336 and the Council acts favorably on such application.

337 (5) Additional Requirements.

338 a. Every applicant shall give not less than 5 references, people who state that in their opinion and by their
339 personal knowledge the applicant is qualified to practice as a professional engineer. At least 3 such references shall be
340 registered or licensed professional engineers in this or any other state or territory or possession of the United States, the District
341 of Columbia, or the province or territory of Canada.

342 b. An applicant, otherwise qualified, shall not be required to be actively practicing his profession at the time of
343 his application.

344 c. Every applicant must demonstrate knowledge of the Delaware Professional Engineer's Act and the Code of
345 Ethics to the satisfaction of the Council.

346 d. The required 16-hour written examination shall consist of an 8-hour Fundamentals of Engineering
347 examination and an 8-hour Principles and Practice of Engineering examination furnished by, and scored by, the National
348 Council of Examiners for Engineering and Surveying, or other nationally normed examinations which are approved by the
349 Council.

350 e. The examination in the Fundamentals of Engineering shall be taken after graduation, except it may be taken
351 by a college or university senior in good academic standing in an educational program leading to a baccalaureate degree in
352 engineering, related science or engineering technology. The Council may permit other students in such programs to take the
353 Fundamentals of Engineering examination prior to graduation.

354 f. The examination in Principles and Practice of Engineering shall not be taken until after the completion of the
355 professional experience requirement. The Council may waive this requirement in the case of an applicant who has previously
356 passed the examination in any other state, territory, or possession of the United States, the District of Columbia, or province or
357 territory of Canada.

358 (6) Applicants for licensure as a professional engineer shall be exempt from the requirement to pass the written 8
359 hour Fundamentals of Engineering Examination, if they are qualified as follows:

360 a. An individual holding an earned doctoral degree in engineering from a university, which has an ABET
361 accredited undergraduate program in that discipline at the time that individual earned his/her doctoral degree, providing that
362 doctoral degree required the passing of a Ph.D. qualifying examination from that university; or,

363 b. An individual holding a baccalaureate degree from a Council-approved 4 year engineering educational
364 program, who has at least fifteen (15) years of professional experience in the lawful practice of engineering of a character
365 satisfactory to the Council, and which indicates that the applicant is competent to practice as a professional engineer.

366 (7) The Council may refuse an applicant for licensure if the Council finds that the applicant has:

- 367 a. Been convicted of a crime that is substantially related to the practice to the practice of engineering; or
- 368 b. Misstated or misrepresented a fact in connection with his or her application; or
- 369 c. Been found guilty of a violation of the Delaware Association of Professional Engineers' Code of Ethics; or
- 370 d. Engaged in the practice of engineering in this State without being licensed as a professional engineer, or
- 371 e. Used improper means to gain information usable by the applicant on or in connection with a written
372 examination taken by the applicant to obtain licensure as a professional engineer or certification as an Engineer Intern.

373 (8) Where an application of a person has been refused or rejected, and such applicant feels that the Council has acted
374 without justification, has imposed higher or different standards for him or her than for other applicants, or has in some other
375 manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

376 §2818. Experience and Educational Equivalence.

377 (a) The experience of a full-time faculty member teaching advanced engineering subjects in an ABET-accredited, or
378 CEAB-accredited engineering curriculum may be accepted as part of the professional experience specified in §2817(1) or (2)
379 of this title.

380 (b) The award of a master's degree in engineering involving 1 year or more of post graduate study in an engineering
381 educational program approved by the Council may be accepted as 1 year of professional experience required in §2817 of this
382 title; or

383 (c) The award of a doctor's degree in science or philosophy, with or without a master's degree, involving full-time post-
384 graduate study in an engineering educational program approved by the Council may be accepted as two years of professional
385 experience required in §2817 of this Chapter.

386 §2819. Requirements for Certification as an Engineer Intern.

387 The following shall be considered as minimum satisfactory evidence that the applicant is qualified for certification as an
388 engineer intern:

389 (a) Graduation with a baccalaureate degree from an engineering educational program accredited by the Accreditation
390 Board of Engineering and Technology (ABET), or by a foreign educational program accreditation agency adjudged by ABET
391 to use substantially equivalent accreditation procedures, or from a Council-approved educational program in engineering not

392 accredited by ABET or an ABET-approved foreign educational program accreditation agency, engineering technology or
393 science related to engineering; and

394 (1). Council-approved professional experience of 15 years or more; or

395 (2) Successful passing of an eight-hour written Fundamentals of Engineering examination.

396 §2820. Qualifications for a permit.

397 (a) Individuals not residing in this State, not having full-time employment in this State, and not having established a place
398 of business for the practice of professional engineering within this State, who are legally qualified by licensure to practice
399 engineering as defined within the chapter in the state, territory or possession of the United States, the District of Columbia, or
400 province or territory of Canada where they reside or are in business, may make application to the Council in writing for a
401 permit to practice professional engineering in this State.

402 (b) After payment of the fee established in the bylaws, the applicant may be issued a permit to practice engineering for a
403 specific project. Such permit shall be limited to a specified time period, not to exceed 1 year, and shall be issued in writing
404 upon authorization of the Council. The issuance of 1 such permit shall not mean that the Council will approve other permits
405 nor shall such issuance result in any accrual of the right to practice engineering with respect to any other works not specified in
406 the permit. Applicants for the permit must comply with all applicable state tax laws of Chapter 23 of Title 30 of the Delaware
407 Code to the same extent as required by Delaware residents. Proof of compliance with all applicable state laws is required by
408 the Council prior to actual issuance of permit.

409 (c) An engineering corporation or partnership may be issued a permit subject to the above limitations, provided that 1 of
410 its officers or partners or 1 of its employees is designated as being in responsible charge of the engineering activities and
411 decisions and holds a valid permit or is licensed under this chapter.

412 § 2821. Certificate of authorization.

413 (a) An engineering corporation or partnership must have a certificate of authorization in order to practice, or offer to
414 practice, engineering as defined in this chapter.

415 (b) The practice of or offer to practice engineering for the public by an engineering corporation or partnership which has
416 been issued a certificate of authorization is permitted, provided that 1 of the officers or 1 of the employees of the said
417 engineering corporation or partnership:

418 (1) is designated as being in responsible charge of the engineering activities and engineering decisions of the said
419 corporation or partnership; and

420 (2) is a licensee.

421 (c) All personnel of any such engineering corporation or partnership who practice engineering on its behalf shall be
422 licensees. The requirements of this chapter shall not prevent an engineering partnership or corporation and its employees from
423 performing engineering services for the said engineering partnership or corporation or its subsidiaries or for affiliated
424 corporations.

425 (d) An engineering corporation or partnership desiring a certificate of authorization shall file with the Council an
426 application listing the names and addresses of all officers, board members and principals of the engineering corporation or
427 partnership and also of any licensee who shall be in responsible charge of the practice of engineering through the said
428 engineering corporation or partnership, together with any other information required by the Council. The same information
429 must accompany the annual renewal fee. In the event there shall be a change in any of these persons during the year, such
430 change shall be filed with the Council within 30 days after the effective date of such change. If all the requirements of this
431 section are met, the Council shall issue a certificate of authorization to such engineering corporation or partnership, and such
432 engineering corporation or partnership shall be authorized to contract for and to collect fees for furnishing engineering services.

433 (e) No such engineering corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents,
434 employees or officers by reason of this compliance with the provisions of this section, nor shall any individual practicing
435 engineering be relieved of responsibility for engineering services performed by reason of this employment or relationship with
436 such corporation or partnership.

437 (f) Applicants for a certificate of authorization must comply with the applicable state tax laws of Chapter 23 of Title 30.
438 Proof of such compliance is required by the Council prior to the issuance of a certificate of authorization.

439 (g) A licensee who practices, or offers to practice, engineering under a name other than his or her licensed name is
440 required to obtain a Certificate of Authorization, or to practice under a Certificate of Authorization.

441 § 2822. Public works.

442 (a) The State, its political subdivisions, agencies, commissions and authorities shall not solicit or receive proposals for, or
443 engage in, the construction of public works involving the practice of engineering as defined in this chapter, unless:

444 (1) The engineer, partnership or corporation which will perform and/or take responsibility for all engineering work,
445 as identified in the proposal, is authorized to practice engineering under this chapter at the time of submission of the proposal;
446 and

447 (2) The engineering study, drawings, specifications and estimates are prepared by, and the construction is executed
448 under the responsible charge or direct supervision of a licensee or permittee.

449 (b) Any contract executed in violation of this section shall be null and void.

450 §2823. Disciplinary action; appeals.

451 (a) The Council shall have the power to review the action and representations of any applicant, adjunct member, or
452 affiliate member, as well as the professional conduct of any individual, corporation or partnership authorized under this chapter
453 to engage in the practice of engineering in Delaware. Following such review the Council shall have the power to require the
454 successful completion of additional training or education courses and/or to refuse licensure, to warn or reprimand or censure or
455 suspend for a period of time not exceeding 2 years or refuse to renew or revoke any authorization issued to use the term
456 engineer or practice engineering in Delaware, to any individual, corporation or partnership found guilty of:

457 (1) The practice of any fraud or deceit in the attempt to obtain any authorization to practice engineering in this State.

458 (2) Any gross negligence, incompetence or misconduct in the practice of engineering.

459 (3) Violation of the code of ethics promulgated by the Council.

460 (4) A crime that is substantially related to the practice of engineering.

461 (5) An activity resulting in discipline by another jurisdiction, territory, District of Columbia, foreign country, the
462 United States government, or any other governmental agency, if at least one of the grounds for discipline is the same or
463 substantially equivalent to those contained in this section.

464 (6) Aiding or abetting another person in violating any provision of this Act.

465 (7) Signing, affixing the licensee's seal, or permitting the licensee's seal or signature to be affixed to any
466 specifications, reports, drawings, plans, plats, design information, construction documents or calculations, or revision thereof,
467 which have not been prepared by the licensee or those under his responsible charge.

468 (b) When disciplinary action requires the successful completion of additional training or education courses, Council shall
469 determine the conditions of the additional training or education courses on a case-by-case basis, including, but not limited to,
470 the type and number of hours of training or education. All training or education courses shall be related to the engineering
471 profession and must be approved by Council.

472 (c) Any individual, corporation or partnership aggrieved by any disciplinary decision by Council may appeal such
473 decision to the Superior Court. The appeal shall be filed within 30 days of the day the notice of the decision was mailed. The
474 appeal shall be on the record without a trial de novo. If the Court determines that the record is insufficient for its review, it
475 shall remand the case to the Council for further proceedings on the record. The Court, when factual determinations are at issue,
476 shall take due account of the experience and specialized competence of the Council and of the purposes of the Delaware
477 Professional Engineers' Act under which Council has acted. The Court's review, in the absence of actual fraud, shall be
478 limited to determination of whether the Council's decision was supported by substantial evidence on the record before it.

479 (d) When an action is brought in the Court for review of a Council decision, enforcement of such decision may be stayed
480 by the Court only if it finds, upon a preliminary hearing, that the issues and facts presented for review are substantial and the
481 stay is required to prevent irreparable harm.

482 (e) No appeal for relief of the Court shall be considered as having been taken or made until it has been filed with the
483 Prothonotary and served upon the Council in accordance with the rules of the Court.

484 §2824. Disciplinary action; procedure.

485 (a) Any practitioner or member of the public who has a question or complaint concerning any aspect of the practice of
486 engineering may, during the regular business hours of a business day, contact the Council or voice such a question at a regular
487 business meeting of the Council.

488 (b) The Council shall investigate any complaint, written, oral or other form of communication, by an identified
489 complainant; and shall follow through on those complaints which, upon investigation, appear to be valid and well-founded.
490 The Council shall, within one week after receipt of the complaint, notify the complainant as to what action (if any) the Council
491 intends to take in the matter. All charges preferred pursuant to complaints, unless dismissed by the Council as unfounded or
492 trivial, shall be heard by the Council, or a committee appointed by the Council, within 3 months after the date on which such
493 charges have been preferred.

494 (c) The time and place for such hearing shall be fixed by the Council or the Committee appointed by the Council, and a
495 copy of the charges, together with a notice of the time and place of hearing, shall be personally served on the accused, or sent
496 by registered or certified mail to the last known address of such applicant, adjunct member, affiliate member, individual
497 licensee, permittee, engineering corporation or partnership at least 20 days before the date fixed for the hearing. At any
498 hearing, the accused applicant, individual licensee, permittee, engineering corporation or partnership shall have the right to
499 appear in person or by counsel, or both, to cross-examine witnesses in defense against such charges, and to produce evidence
500 and witnesses on behalf of the accused. If the accused person, engineering corporation or partnership fails or refuses to appear,
501 the Council or committee appointed by the Council may proceed to hear and determine the validity of the charges.

502 (d) If, after such hearing, a majority of the seated Council vote in favor of sustaining the charges, the Council shall require
503 the successful completion of additional training or education courses and/or reprimand, suspend, refuse to grant or renew, or
504 revoke an individual's authorization to use the term engineer, license, certification or permit, or may revoke an engineering
505 corporation's or partnership's certificate of authorization. The written decision of the Council shall be delivered personally to
506 the accused or sent by registered or certified mail to the last known address of the accused.

507 (e) Any individual applicant, adjunct member, affiliate member, licensee, or permittee having authorization to use the
508 term engineer, license or a permit or any engineering corporation or partnership holding a certificate of authorization aggrieved
509 by any action of the Council in denying, suspending, refusing to renew or revoke authorization to use the term engineer, a
510 license, permit or certificate of authorization may appeal therefrom to the Superior Court within 30 days from the date the
511 written decision of the Council is mailed.

512 (f) The Council may, upon petition of an adjunct member, affiliate member, individual licensee, permittee, engineering
513 corporation or partnership holding a certificate of authorization, reissue authorization to use the term engineer, a license, permit
514 or certificate of authorization; provided, however, that a majority of the seated members of the Council vote in favor of such
515 issuance.

516 §2825. Penalties.

517 (a) Persons or engineering corporations or partnerships not licensed, not authorized by Council, or not holding a permit or
518 certificate of authorization may not:

519 (1) Practice engineering as defined in this chapter.

520 (2) Use any name, title, description of designation, either orally or in writing, that will lead to the belief that such
521 person is entitled to practice engineering as defined in this chapter, including without limitation the words “engineer” or
522 “engineering” or any modification or derivative of those words.

523 (3) Advertise or hold oneself or conduct oneself in any way or in any such manner as to lead to the belief that such
524 person is entitled to practice engineering.

525 (b) Each partner of a partnership and each officer or director of a corporation which practices engineering in violation of
526 this chapter shall also be liable jointly and severally with and to the same extent as such partnership or corporation unless such
527 partner, officer or director who is so liable sustains the burden of proof he did not know, and in the exercise of reasonable care
528 could not have known, of the existence of the facts by reason of which the violation is alleged to exist.

529 (c) Whoever practices or offers to practice engineering in this State without being licensed in accordance with the
530 provisions of this chapter shall be in violation thereof.

531 (d) Whoever presents or attempts to use as his own license, certificate of authorization, permit or the seal of a professional
532 engineer not his own shall be in violation of the provisions of this chapter.

533 (e) Whoever gives any false or forged evidence of any kind to the Council or to any member thereof in obtaining
534 authorization to use the term engineer, a license, a certificate of authorization, or a permit shall be in violation of the provisions
535 of this chapter.

536 (f) Whoever falsely impersonates any other adjunct member, affiliate member, licensee, holder of a certificate of
537 authorization, or permittee with a similar or different name shall be in violation of the provisions of this chapter.

538 (g) Whoever attempts to use an expired or revoked authorization to use the term engineer, license, certificate of
539 authorization or permit shall be in violation of the provisions of this chapter.

540 (h) Any applicant who misstates or misrepresents any fact in connection with his or her application or any such applicant
541 who uses improper means to gain information usable by such applicant on or in connection with a written examination taken by
542 the applicant to obtain licensure as a professional engineer or certification as an Engineer Intern shall be in violation of the
543 provisions of this chapter.

544 (i) Whoever violates any of the provisions of this chapter shall be fined not less than \$500 nor more than \$5,000 or be
545 imprisoned not more than 6 months, or both.

546 (j) The Superior Court of the State of Delaware shall have exclusive original jurisdiction of any violation of this chapter,
547 notwithstanding any provision of the Delaware Code to the contrary.

548 (k) This chapter shall not be construed to prevent or to affect:

549 (1) The work of an employee or a subordinate of a licensee or permittee, provided such work is done under the direct
550 responsibility, checking and supervision of a licensee or permittee, or

551 (2) The practice of professional engineering by an architect legally licensed in this State when such practice is
552 incidental to what may be properly considered an architectural project.

553 §2826. Injunctive relief.

554 Whenever it appears to the Council that any person has engaged or is about to engage in any act or practice constituting a
555 violation of any provisions of this chapter, it may in its discretion bring an action in the Court of Chancery to temporarily
556 restrain or to enjoin the acts or practices and to enforce compliance with this chapter. Any permanent injunction granted by the
557 Court of Chancery pursuant to this section shall include an award for the costs of the action and reasonable attorney's fees to be
558 paid by the defendant, with multiple defendants being jointly and severally liable for such costs and fees. The Court shall not
559 require Council to post a bond.

560 §2827. Annual reports.

561 The Association shall submit annually to the Governor and the State Auditor an annual report, certified by a certified
562 public accountant, detailing its income, expenses, assets and liabilities, as well as pertinent statistical and narrative information
563 summarizing its regulatory activities, changes in modus operandi and progress made within its area of responsibility. The
564 Association shall send notice to the General Assembly that such report was submitted to the Governor and the State Auditor.

565 §2828. Applicability of Freedom of Information Act.

566 (a) The Association and the Council shall each be deemed a “public body” as that term is used in the Freedom of
567 Information Act, Chapter 100, Title 29, of the Delaware Code, and that for the purpose of this section all references to the
568 Council shall be deemed to refer to the Association and vice versa.

569 (b) In addition to the records which are not deemed public by reason of §10002(d) of Title 29, of the Delaware Code, the
570 following records shall not be deemed to be public records:

571 (1) The application, and all documents, files and record pertaining thereto, of any person to practice engineering in
572 the State, except the name and address of the applicant, the date of the application, the action of the Council on the application
573 and the status of the person’s authorization to practice engineering in the State.

574 (2) Records and information, including written communications received by the Council, relating to charges against
575 any person which could result in disciplinary action by the Council. However, any such records and information which may be
576 disclosed in any public hearing conducted by the Council with respect to the charges and any findings or orders of the Council
577 arising out of the charges which are adverse to the person against whom the charges are made shall be deemed to be public
578 records.

579 (3) All examination materials and related documents.

580 (c) In addition to the purpose for which a public body may go into executive session pursuant to the Freedom of
581 Information Act, the Council may conduct an executive session for the following purposes:

582 (1) Consideration of the application of any person for authorization to practice engineering in the State which
583 consideration involves matters of qualification, recommendations, education, experience or testing of the applicant.

584 (2) Consideration of any charges which could result in disciplinary action by the Council.

585 (d) For purposes of this section, the term “application” shall mean any application or filing with the Council for the
586 purpose of obtaining authorization to use the term engineer, licensure, a certification of authorization, a temporary permit or
587 certification as an engineer intern.

588 §2829. Use of Seals and Stamps.

589 (a) Each licensee shall obtain an embossing seal of the design authorized by the Council, bearing the licensee’s name,
590 license number and the legend “professional engineer”. Failure of the licensee to substantiate to the Council, within six (6)
591 months of the licensee’s application approval date, that such a seal has been procured will result in the licensee being placed by
592 the Council in “delinquent status”.

593 (b) In addition to the embossing seal required by the foregoing provisions of this section,

594 (1) licensees may procure and use a stamp containing the same data as the embossing seal, or

595 (2) licensees may use a seal that can be created or transmitted electronically.

596 §2830. Dating, Signing and Sealing.

597 (a) All final drawings, specifications and documents involving the practice of engineering as defined in this chapter when
598 issued or filed for public record shall be dated and bear the signature and seal of the licensee(s) who prepared or approved
599 them.

600 (b) If original tracings are sealed or stamped, the date of sealing or stamping must appear under the signature.

601 (c) The holder of a temporary permit, using the seal of the State designated by the Council on his permit, shall seal all
602 final drawings, specifications, and documents in accordance with this section.

603 (1) The permittee shall, in addition, write his permit number and his signature immediately adjacent to the imprint of
604 his seal.”

SYNOPSIS

Revisions to the Delaware Professional Engineer’s Act proposed by this legislation are grouped into three categories: “Omnibus Provisions,” “Use of the Term “Engineer,””and “Substantially Related Crimes Provisions”.

Regarding the “Omnibus Provisions”, the original law authorizing professional self-regulation of engineers was approved in 1972. Since that time there have been various issue-by-issue amendments; however, there has been no wholesale “modernization” of the Act. The “Omnibus Provisions” are necessary to “modernize” the law to reflect changes in the profession, as well as, changes in how the profession is regulated nationally. The “Omnibus Provisions” represent the majority of the proposed revisions. A non-exhaustive list of examples of this type of revision includes: 1) Changes consistent with National Council of Examiners for Engineering and Surveying Model law; 2) Clarification of an existing condition or practice, 3) Removing age requirements to eliminate potential age discrimination, 4) Alphabetizing the Definitions Section, and 5) Changes to be more consistent with the national norm.

Regarding “Use of the Term ‘Engineer,’” currently an individual with an engineering related college degree is prohibited from identifying him/herself to the public as an engineer, unless that individual is a Professional Engineer. The revisions related to the “Use of the Term ‘Engineer’” allow individuals meeting the minimum level of education required to enter the profession to use the term “engineer”, provided those individuals join DAPE and subscribe to the Code of Ethics.

The “Substantially Related Crimes Provisions,” would require that the refusal, revocation or suspension of licenses and/or authorizations related to the practice of engineering be based upon conviction of crimes that are “substantially related” to the practice of engineering and not for crimes that are unrelated to the profession.

These amendments combine to provide increased protection of the general public by improving DAPE’s ability to administer and enforce the Delaware Professional Engineers Act and increasing the number of individuals becoming members of DAPE. The latter will result in an increased number of individuals subscribing to the Engineering Code of Ethics and individuals beginning the path to licensure earlier in their engineering careers.

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