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ENGINEERS OR SURVEYORS—EXAMINATION IN TWO STAGES FOR FINAL REGISTRATION OF PROFESSIONAL ENGINEERS OR SURVEYORS—SECTION 1083-13, G. C.—GRADUATES FROM ENGINEERING AND SURVEYING COURSES IN SCHOOLS OR COLLEGES APPROVED BY STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS—STATUS WHERE GRADUATION OCCURS PRIOR TO JANUARY 1, 1946—REQUIREMENTS TO OBTAIN FINAL REGISTRATION WITHOUT EXAMINATION — STATUS, WHERE FOUR YEARS OF EXPERIENCE CAN NOT BE ACQUIRED PRIOR TO JANUARY 1, 1946.

SYLLABUS:

Section 1083-13 General Code, provides for an examination in two stages before final registration of persons as professional engineers or surveyors. Graduates from engineering and surveying courses in schools or colleges approved by the State Board of Registration for Professional Engineers and Surveyors as of satisfactory standing are entitled to be registered without examination as engineers or surveyors in training provided graduation occurs prior to January 1, 1946 and an application for registration is filed prior to such date. In order to obtain final registration without examination the four years of experience required by said Section 1083-13 must be obtained prior to January 1, 1946 and the application for registration filed before that date. In the event said four years of experience can not be acquired prior to January 1, 1946 persons seeking final registration are required to take the second stage of the examination provided for in said Section 1083-13 General Code.

Columbus, Ohio, July 12, 1945

Mr Robert N. Waid, Chairman, State Board of Registration for Professional Engineers and Surveyors
Columbus, Ohio

Dear Sir:

Your request for my opinion reads:

“Your opinion is respectfully requested concerning certain situations which have developed in connection with the operation of the Engineers and Surveyors Registration Act.

Under authority of Section 1083-13, sub-paragraphs 1(a), the Registration Board now issues certificates of registration to

professional engineers, *without examination*, who have graduated from an approved course in engineering of four years or more in a school or college approved by the board as of satisfactory standing and who have a specific record of an additional four years or more of active practice in engineering work of a character satisfactory to the board.

The registration law was amended by the 95th General Assembly in 1943. Section 1083-13 now provides that '*Every person applying subsequent to January 1, 1946, for a certificate of registration as a professional engineer—shall be required to pass a written or written and oral examination prescribed by the Board. In addition to passing the requisite examination he must submit evidence, satisfactory to the Board, that he has completed the eight years of training and active practice or eight years of active practice required in Section 1083-13, sub-paragraphs 1(a) or (b),—or Section 1083-21 of the General Code.*'

Applications for registration are now being received by the Registration Board from young men who have already graduated, and from others who will graduate before January 1, 1946, from an approved course in engineering of four years or more in a school or college approved by the Board as of satisfactory standing, but *who will not have been able to complete, by January 1, 1946, an additional four years or more of active practice in engineering work of a character satisfactory to the Board.* Some of these engineering graduate applicants are now in the armed services of the United States. Others will not have sufficient time, since graduation, to complete four years of engineering practice prior to the date above indicated.

1. In case an applicant applies to the Board for registration prior to January 1, 1946, who has graduated from the engineering course in a school or college approved by the Board as of satisfactory standing, but who has not completed the required four years of engineering experience prior to January 1, 1946, can the Board consider the application as pending and legally register said applicant *without any examination* as soon as he does complete the required four years of engineering experience?

2. If, in the case of the above described applicant, it is your ruling that he must pass an examination prescribed by the Board because his experience is not complete prior to January 1, 1946, does the Board then have the authority to accept his graduation from an approved engineering college as fulfilling, *without examination, the first half of the training and active practice requirement* and issue him a license when he passes an examina-

tion covering the *second stage only* of the prescribed eight years of training and active practice as outlined in the procedure for licensing those who apply subsequent to January 1, 1946?

3. Can it be accepted that your ruling with regard to licensing engineers applies equally to the licensing of surveyors under parallel circumstances?

Your opinion is requested so that the board may give information, as promptly as possible, to interested individuals and colleges for the benefit of engineering graduates who want to apply for registration prior to January 1, 1946, if by so doing, they can save themselves the necessity of passing a future examination."

It might be noted preliminarily that in 1933 the General Assembly passed an act whereby your board was created and also to regulate the practice of professional engineering and surveying (115 O. L. 355). Thereafter said act was codified as Sections 1083-1 to 1083-26, both inclusive, General Code, the sub-section numbers of the Code corresponding to the sections of said Act. Section 1083-2, General Code, which defines the terms "professional engineer" and "surveyor" reads, in part, as follows:

"The term 'professional engineer' as used in this act shall mean a person who, by reason of his knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as hereinafter defined. * * *

The term 'surveyor' as used in this act shall mean a person who engages in the practice of that branch of engineering commonly known as surveying and as hereinafter defined."

Section 1083-1, General Code, provides that it shall be unlawful for any person to practice or offer to practice the professions of engineering or of surveying unless duly registered or exempted under the provisions of the aforesaid Act. By virtue of Section 1083-12, General Code, it became the duty of your Board to register as professional engineers or surveyors all persons making application and able to qualify as such and the period of eighteen months after the Act became effective was fixed as the time within which such applications for registration were required to be filed. It was further provided in said section that after the Act had been in effect eighteen months certificates of registration were to issue only as

provided for in Section 13 or Section 21 thereof. Section 1083-12, General Code, was what is commonly known as the "grandfather" provision of the Act and as such it permitted registration without oral or written examination. No consideration need presently be given to the other requirements of the section that had to be met as a basis for registration.

As pointed out in your aforementioned request, former Section 1083-13 was recently amended. It is with some reluctance, because of the length of said section, that I quote it in full, but feel that in the interests of clarity it is perhaps advisable that I do so. Said Section 1083-13, General Code, reads as follows:

"The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer, or surveyor, respectively, to wit:

(1) As a professional engineer:

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

b. Successfully passing a written, or written and oral examination in engineering prescribed by the board; and designed to show knowledge and skill approximating that attained through graduation from an approved four year engineering course; and a specific record of eight years or more of active practice in engineering work of a character satisfactory to the Board and indicating that the applicant is competent to be placed in responsible charge of such work.

(2) As a surveyor:

a. Graduation from an approved course in engineering and surveying of four years or more in a school or college approved by the board as of satisfactory standing and a specific record of an additional four years or more of active practice, subsequent to graduation, in engineering and surveying work of a character satisfactory to the board, indicating that the applicant is competent to be placed in responsible charge of such work, has passed the prescribed written or written and oral examination; or

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

Engineering experience and training in any of the armed forces of the United States or civilian war services shall be credited as active practice in engineering work in connection with any application for registration as a professional engineer or surveyor.

At any time within five years after this act becomes effective the board may accept as evidence, in lieu of a prescribed examination, that the applicant is qualified for registration as a professional engineer a specific record of ten years or more of active practice in engineering work of a character satisfactory to the board and indicating that the applicant is qualified to design or to supervise construction of engineering work and has had responsible charge of important engineering work for at least four years.

At any time within five years after this act becomes effective the board may accept as evidence, in lieu of a prescribed examination, that the applicant is qualified for registration as a surveyor, a specific record of eight years or more of active practice in surveying work of a character satisfactory to the board and indicating that the applicant has had responsible charge of important surveying work for at least three years.

After this act shall have been in effect five years, the board shall issue certificates of registration only to those applicants who meet the requirements of section 1083-13, subparagraphs 1 (a) or (b), or 2 (a) or (b) or section 1083-21 of the General Code.

Provided that no person shall be eligible for registration as a professional engineer, or surveyor, who is not of good character and reputation.

In considering the qualifications of applicants, responsible charge of engineering teaching may be construed as responsible charge of engineering work. The satisfactory completion of each year of an approved course in engineering in a school or college approved by the board as of satisfactory standing, without graduation, shall be considered as equivalent to a year of active practice. Graduation in a course other than engineering from a college or university of recognized standing shall be considered as equivalent to two years of active practice; provided, however, that no applicant shall receive credit for more than four years of

active practice because of educational qualifications. The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent shall not be deemed to be active practice in engineering work; unless such work involves engineering practices, or the applicant presents evidence of additional engineering practice of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of engineering work.

Every person applying subsequent to January 1, 1946, for a certificate of registration as a professional engineer or surveyor shall be required to pass a written or written and oral examination prescribed by the board. In addition to passing the requisite examination he must submit evidence, satisfactory to the board, that he has completed the eight years of training and active practice or eight years of active practice required in section 1083-13, subparagraphs 1 (a) or (b), or 2 (a) or (b), or section 1083-21 of the General Code.

The board may permit the applicant for a certificate of registration as a professional engineer or surveyor *to take the prescribed examination in two stages*. The first stage of the examination may be taken by the applicant at any time after he has completed four years of the required eight years of active practice or training and active practice.

This first stage of the examination shall test the applicant's knowledge of fundamental, technical subjects, including mathematics and the basic sciences. Satisfactory passage of this portion of the examination shall constitute a credit for the life of the applicant, or until he shall have been registered.

When the applicant has satisfactorily passed the first stage of the examination he shall be given an appropriate certificate by the board showing his status as an *engineer or surveyor in training*.

The second stage of the examination shall cover the more advanced professional training of engineers or surveyors as amplified and matured by practical experience and shall test the applicant's ability to apply the principles of engineering or surveying to the actual practice of his profession.

The applicant shall not be eligible to take the second stage of the examination until he has satisfactorily completed the required eight years of active practice or training and active practice. Nothing in this act shall be construed as requiring the applicant to take the examination in two separate stages. He

may, at his option, take both stages of the examination at one time after he has completed the requisite eight years of active practice or training and active practice.

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

It might be noted that at the same time the General Assembly amended the above quoted section, it also saw fit to amend other sections of the original Act. As amended the new Act became effective August 6, 1943 (120 O. L. 145). At this point I also call attention to the fact that reference is made in the just quoted section to Section 1083-21, General Code. However, the provisions of said last mentioned section need not be considered in connection with your inquiry. It deals with the authority of your Board to register engineers and surveyors of *other states* who hold certificates of qualification and registration being obliged to meet certain Ohio requirements before being granted registration in this state.

An analysis of said section 1083-13 indicates that as a requisite to what might be designated "final registration" applicants are required to have four years of training in addition to certain educational qualifications. What might be called "preliminary registration" is the registration that is authorized prior to the obtaining of four years of actual experience. The fact that the examination consists of two stages, and the reference in Section 1083-13 to an "engineer or surveyor in training," seems to support this conclusion. But in this connection I should like to point out that when said Section 1083-13 was amended, there was added to subparagraph 1 (a) the words "has passed the prescribed written, or written and oral examinations." This quoted language might readily give rise to the belief that after the section in question became effective (August 6, 1943) persons seeking registration thereunder prior to January 1, 1946 are required to pass a written or written and oral examination. I make this observation because you have stated in your letter that you are now issuing certificates of registration "without examination" to applicants who have graduated from an approved four years or more in an approved school or college. I concur in your views in this respect for reasons now stated.

It seems evident to me that it was the legislative intent that the adding to subparagraph 1 (a) of the words "has passed the prescribed written, or written and oral examinations" was for the purpose of applying to persons making application for registration subsequent to January 1, 1946. Consequently, it would seem to me that your Board has the legal authority, until January 1, 1946, to make registrations under subparagraph 1 (a) without subjecting the applicant to a written or written and oral examination.

I feel obliged to observe that when the General Assembly amended said Section 1083-13 it made virtually no change in certain provisions thereof. In the paragraph following 2 (b) reference is made to allowing credit to certain persons in the armed forces. This paragraph contains new material. The next paragraph commences with the words "At any time within five years after *this act* becomes effective." The following paragraph commences in the same manner. Said two paragraphs appeared in the section prior to amendment. And in this connection it should be remembered that the original act became effective in 1933 so that after 1938 these paragraphs, as they formerly existed, were without significance. The following paragraph starting with the words "After *this act* shall have been in effect five years" was likewise in the original section. However, it previously referred to "section 13, 1 (a) or (b)" whereas in its amended form the reference is to "section 1083-13, subparagraphs 1 (a), etc." Thus it is evident that in amending the section cognizance was taken of the fact that Section 13 of said original act had been codified as Section 1083-13, General Code.

The next, and somewhat lengthy paragraph, beginning with the words "In considering the qualifications of applicants, etc." is also exactly the same as in the original section. The original or first five year period having expired in 1938, it is not apparent just why the General Assembly seemingly sought to revive it. I am in doubt as to the meaning of the words "this act," viz., whether they refer to the 1933 act or to the act pursuant to which Section 1083-13 was amended. Perhaps this matter is collateral to your question since your inquiry deals with persons who are graduates of approved courses in engineering or surveying and are seeking to qualify under subparagraphs 1 (a) or 2 (a). I feel justified, therefore, in dismissing the matter until such time as I am called upon to pass upon the significance of this language in the section as amended.

I come now to your first and second questions which will be considered together as they clearly deal with closely related matters. In this connection it is to be noted that your inquiry concerns applicants who have graduated, or who anticipate graduating prior to January 1, 1946, from approved schools and who consequently presently meet or perhaps will meet the requirements of subparagraphs 1 (a) or 2 (a) of said Section 1083-13, General Code. However, it is further noted that in some instances the applications for registration were filed *before* graduation and in anticipation of such being the situation before January 1, 1946. I must, therefore, consider the legal effect of the filing of what might be characterized as premature applications and the necessity for the refiling of such applications.

I believe it may be said that, as a general rule, when a person seeks registration to engage in a profession or makes application for a license to engage in some undertaking that requires licensing, such person may reasonably be expected to possess the qualifications for registration or licensing at the time the application is filed. Perhaps, in the case of a request for a license, there may be some trifling situation that, when brought to the attention of the applicant, would readily be corrected. Possibly there would be legal justification for rejecting the application for a license and the applicant put to the trouble and expense of refiling the same. It would seem logical to say that the application need not necessarily be summarily disposed of and the license denied, but that a reasonable opportunity should be given the person to comply when it is apparent that compliance is readily possible.

It is to be borne in mind that Section 1083-13, General Code, is remedial in nature and as such should be given a liberal construction. See Sutherland on Statutory Construction (3rd Edition), Section 3302. Consequently, I am of the view you would be fully warranted in considering as pending an application for registration by a prospective graduate of an approved school and, if graduation results before January 1, 1946, to consider said application as formally filed on the date immediately following graduation.

The next matter to consider is the type or kind of registration you are legally authorized to grant. Said Section 1083-13 provides for an examination in two stages. Clearly, as to applications filed subsequent to January

1, 1946, both stages of said examination must be taken and passed before *final* registration is authorized. But in the light of the fact that said section is remedial in character, as previously noted, the General Assembly must have had in mind that prior to such date some other situation would prevail when applications were filed. I feel obliged to hold, therefore, that registration of some sort without examination was anticipated. I also feel obligated to hold that when the four years of experience can not be acquired prior to such date, it was the legislative intent that an examination be given.

Therefore, in specific answer to your first and second questions, it is my opinion that Section 1083-13, General Code, provides for an examination in two stages before final registration of persons as professional engineers or surveyors. Graduates from engineering and surveying courses in schools or colleges approved by the State Board of Registration for Professional Engineers and Surveyors as of satisfactory standing are entitled to be registered without examination as engineers or surveyors in training provided graduation occurs prior to January 1, 1946 and an application for registration is filed prior to such date. In order to obtain final registration without examination the four years of experience required by said Section 1083-13 must be obtained prior to January 1, 1946 and the application for registration filed before that date.

In the event said four years of experience can not be acquired prior to January 1, 1946 persons seeking final registration are required to take the second stage of the examination provided for in said Section 1083-13, General Code.

It is apparent, of course, from the above that your third question has also been answered.

Respectfully,

HUGH S. JENKINS

Attorney General