

By: Representative Perry

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 861

1 AN ACT TO REENACT SECTIONS 73-13-1, 73-13-3, 73-13-5,
2 73-13-7, 73-13-9, 73-13-11, 73-13-13, 73-13-15, 73-13-17,
3 73-13-19, 73-13-21, 73-13-23, 73-13-25, 73-13-27, 73-13-29,
4 73-13-31, 73-13-33, 73-13-35, 73-13-37, 73-13-39, 73-13-41,
5 73-13-43, 73-13-45, 73-13-71, 73-13-73, 73-13-75, 73-13-77,
6 73-13-79, 73-13-81, 73-13-83, 73-13-85, 73-13-87, 73-13-89,
7 73-13-93, 73-13-95 AND 73-13-97, MISSISSIPPI CODE OF 1972, WHICH
8 PROVIDES FOR THE LICENSING AND REGULATING OF ENGINEERS AND LAND
9 SURVEYORS; TO AMEND REENACTED SECTION 73-13-3, MISSISSIPPI CODE OF
10 1972, TO REVISE DEFINITIONS; TO AMEND REENACTED SECTIONS 73-13-5
11 AND 73-13-9, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
12 REENACTED SECTION 73-13-15, MISSISSIPPI CODE OF 1972, TO REVISE
13 RULE MAKING AUTHORITY FOR CONTINUING EDUCATION; TO AMEND REENACTED
14 SECTION 73-13-17, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO
15 AMEND REENACTED SECTION 73-13-23, MISSISSIPPI CODE OF 1972, TO
16 REVISE REGISTRATION QUALIFICATIONS; TO AMEND REENACTED SECTION
17 73-13-25, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
18 REENACTED SECTION 73-13-29, MISSISSIPPI CODE OF 1972, TO REVISE
19 THE CERTIFICATE OF REGISTRATION; TO AMEND REENACTED SECTION
20 73-13-31, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
21 REENACTED SECTION 73-13-37, MISSISSIPPI CODE OF 1972, TO INCLUDE
22 DRUG ABUSE AS A DISCIPLINARY ACTION; TO REVISE BOND REQUIREMENTS;
23 TO CLARIFY THE BRIEFING SCHEDULE; TO PROVIDE FOR RECUSAL; TO AMEND
24 REENACTED SECTION 73-13-39, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
25 THE ASSESSMENT OF CRIMINAL PENALTIES IN ADDITION TO CIVIL
26 PENALTIES; TO AMEND REENACTED SECTION 73-13-41, MISSISSIPPI CODE
27 OF 1972, TO REVISE THE APPLICABILITY OF SECTIONS 73-13-1 THROUGH
28 73-13-45; TO AMEND REENACTED SECTION 73-13-43, MISSISSIPPI CODE OF
29 1972, TO REQUIRE ONE REGISTERED PROFESSIONAL ENGINEER TO BE A
30 PRINCIPAL OFFICER OR PARTNER IN AN ENGINEERING CORPORATION, FIRM
31 OR PARTNERSHIP; TO AMEND REENACTED SECTIONS 73-13-71, 73-13-73 AND
32 73-13-75, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO SPECIFY LAND
33 SURVEYING DUTIES WHICH MUST BE PERFORMED BY AND DONE UNDER THE
34 DIRECT SUPERVISION OF A PROFESSIONAL LAND SURVEYOR OR PROFESSIONAL
35 ENGINEER; TO AMEND REENACTED SECTION 73-13-79, MISSISSIPPI CODE OF
36 1972, IN CONFORMITY; TO AMEND REENACTED SECTION 73-13-83,
37 MISSISSIPPI CODE OF 1972, TO REGULATE THE USE OF SEALS; TO AMEND
38 REENACTED SECTION 73-13-85, MISSISSIPPI CODE OF 1972, TO PLACE A
39 CAP ON FEES; TO AMEND REENACTED SECTIONS 73-13-87 AND 73-13-89,
40 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED
41 SECTION 73-13-95, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
42 CRIMINAL PENALTIES MAY BE ASSESSED IN ADDITION TO CIVIL PENALTIES;
43 TO AMEND REENACTED SECTION 73-13-97, MISSISSIPPI CODE OF 1972, TO
44 REVISE THE APPLICATION OF SECTIONS 73-13-71 THROUGH 73-13-105; TO
45 REPEAL SECTION 73-13-99, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
46 FOR THE REPEAL OF SECTIONS 73-13-1 THROUGH 73-13-45 AND SECTIONS
47 73-13-71 THROUGH 73-13-97, MISSISSIPPI CODE OF 1972; TO REQUIRE
48 ONE REGISTERED PROFESSIONAL LAND SURVEYOR TO BE A PRINCIPAL
49 OFFICER OR PARTNER IN A LAND SURVEYOR CORPORATION, FIRM OR
50 PARTNERSHIP; TO AMEND SECTION 73-13-103, MISSISSIPPI CODE OF 1972,
51 IN CONFORMITY; AND FOR RELATED PURPOSES.

52 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

53 SECTION 1. Section 73-13-1, Mississippi Code of 1972, is
54 reenacted as follows:

55 73-13-1. In order to safeguard life, health, and property,
56 and to promote the public welfare, any person in either public or
57 private capacity practicing or offering to practice engineering
58 shall hereafter be required to submit evidence that he is
59 qualified so to practice engineering and shall be registered as
60 hereinafter provided; and it shall be unlawful for any person to
61 practice or to offer to practice in this state, engineering, as
62 defined in the provisions of Sections 73-13-1 through 73-13-45, or
63 to use in connection with his name or otherwise assume, use, or
64 advertise any title or description tending to convey the
65 impression that he is a professional engineer, unless such person
66 has been duly registered under the provisions of Sections 73-13-1
67 through 73-13-45. There is specifically reserved to engineering
68 graduates of all universities and colleges accredited by a
69 regional accrediting body that is recognized by the United States
70 Department of Education, the right to disclose any college degrees
71 received by such individuals and use the words "graduate engineer"
72 on his stationery, business cards, and personal communications of
73 any character.

74 SECTION 2. Section 73-13-3, Mississippi Code of 1972, is
75 reenacted and amended as follows:

76 73-13-3. The term "engineer" as used in Sections 73-13-1
77 through 73-13-45 shall mean a professional engineer as hereinafter
78 defined.

79 The term "professional engineer" within the meaning and
80 intent of Sections 73-13-1 through 73-13-45 shall mean a person
81 who has met the qualifications as required under Section
82 73-13-23(1) and who has been issued a certificate of registration
83 as a professional engineer.

84 The term "engineer intern" as used in Sections 73-13-1
85 through 73-13-45 shall mean a candidate for registration as a

86 professional engineer who has met the qualifications as required
87 under section 73-13-23(2) and who has been issued a certificate of
88 enrollment as an engineer intern.

89 The term "practice of engineering" within the meaning and
90 intent of Sections 73-13-1 through 73-13-45 shall mean any * * *
91 service or creative work the adequate performance of which
92 requires engineering education, training, and experience in the
93 application of special knowledge of the mathematical, physical,
94 and engineering sciences to such * * * services or creative work
95 as consultation, investigation, evaluation, planning, design, and
96 design coordination of engineering works and systems, planning the
97 use of land and water, performing engineering surveys and studies,
98 and the review of construction for the purpose of monitoring
99 compliance with drawings and specifications; any of which embraces
100 such services or work, either public or private, in connection
101 with any highways, transportation facilities, utilities,
102 structures, buildings, machines, equipment, processes, work
103 systems, projects and industrial or consumer products or
104 equipment, of a mechanical, electrical, hydraulic, pneumatic or
105 thermal nature, insofar as they involve safeguarding life, health
106 or property, and including such other professional services as may
107 be necessary to the planning, progress and completion of any
108 engineering services.

109 Design coordination includes the review and coordination of
110 those technical submissions prepared by others, including as
111 appropriate and without limitation, consulting engineers,
112 architects, landscape architects, land surveyors and other
113 professionals working under direction of the engineer.

114 Engineering surveys include all survey activities required to
115 support the sound conception, planning, design, construction,
116 maintenance and operation of engineered projects but exclude the
117 practice of land surveying as defined in Section 73-13-71(d).

118 A person shall be construed to practice or offer to practice
119 engineering within the meaning and intent of Sections 73-13-1

120 through 73-13-45, who practices any branch of the profession of
121 engineering; or who, by verbal claim, sign, advertisement,
122 letterhead, card, or in any other way represents himself to be a
123 professional engineer, or through the use of some other title
124 implies that he is a professional engineer; or who holds himself
125 out as able to perform, or who does perform any engineering
126 service or work or any other professional service designated by
127 the practitioner or recognized by educational authorities as
128 engineering.

129 The practice of engineering shall not include the work
130 ordinarily performed by persons who operate or maintain:
131 machinery, equipment, water plants, light plants, and sewage
132 plants.

133 The term "board" as used in Sections 73-13-1 through 73-13-45
134 shall mean the State Board of Registration for Professional
135 Engineers and Land Surveyors provided for by said sections.

136 SECTION 3. Section 73-13-5, Mississippi Code of 1972, is
137 reenacted and amended as follows:

138 73-13-5. A State Board of Registration for Professional
139 Engineers and Land Surveyors is hereby created whose duty it shall
140 be to administer the provisions of Sections 73-13-1 through
141 73-13-105. The board shall consist of five (5) registered
142 professional engineers, who shall be appointed by the Governor
143 from fifteen (15) nominees recommended by the Mississippi
144 Engineering Society, and shall have the qualifications required by
145 Section 73-13-7, and two (2) registered professional land
146 surveyors who are not registered professional engineers, who shall
147 be appointed by the Governor from six (6) nominees recommended by
148 the Mississippi Association of Land Surveyors and who shall have
149 the qualifications required by Section 73-13-77. The members of
150 the board shall be appointed from the above nominees. The board
151 so appointed shall have one (1) engineer member from each of the
152 three (3) State Supreme Court districts, and two (2) engineer
153 members appointed from the state at large to serve the following

154 terms: the three (3) members first appointed from the three (3)
155 Supreme Court districts shall serve for four (4) years and the two
156 (2) members first appointed from the state at large shall serve
157 two (2) years, from the date of their appointment, or until their
158 successors are duly appointed and qualified, and the members
159 recommended by the Mississippi Association of Land Surveyors shall
160 be appointed from the state at large and serve for four (4) years,
161 or until their successors are duly appointed and qualified. Each
162 member of the board shall receive a certificate of appointment
163 from the Governor, and before beginning his term of office he
164 shall file with the Secretary of State the constitutional oath of
165 office. On the expiration of the term of any member, the Governor
166 shall in the manner hereinbefore provided appoint for a term of
167 four (4) years a registered professional engineer having the
168 qualifications required by Section 73-13-7, or a registered
169 professional land surveyor having the qualifications required by
170 Section 73-13-77 to take the place of the member of the board
171 whose term is about to expire. Each member shall hold office
172 until the expiration of the term for which such member is
173 appointed or until a successor shall have been duly appointed and
174 shall have qualified.

175 It shall not be considered the duty of the State of
176 Mississippi to provide office space and office equipment for the
177 board herein created.

178 No member of the board shall, during the term of his office
179 or thereafter, be required to defend any action for damages in any
180 of the courts of this state where it is shown that said damage
181 followed or resulted from any of the official acts of said board
182 in the performance of its powers, duties or authority as set forth
183 in this chapter. Any such action filed shall upon motion be
184 dismissed, at the cost of the plaintiff, with prejudice.

185 SECTION 4. Section 73-13-7, Mississippi Code of 1972, is
186 reenacted as follows:

187 73-13-7. Each member of the board shall be a citizen of the

188 United States and shall have been a resident of the state for at
189 least five (5) years prior to the appointment. He shall be at
190 least thirty-two (32) years of age, shall have been engaged in the
191 practice of engineering or land surveying, as the case may be, for
192 at least ten (10) years and shall have been in responsible charge
193 of important engineering or land surveying work, as the case may
194 be, for at least five (5) years. Each year of teaching
195 engineering or land surveying in a school or college shall be
196 equivalent to a year of responsible charge of engineering or land
197 surveying work. Not more than two (2) members of the board at any
198 time may be teachers of engineering in the universities or
199 colleges of the state. All members of the board shall be
200 registered professional engineers or registered professional land
201 surveyors, as the case may be.

202 SECTION 5. Section 73-13-9, Mississippi Code of 1972, is
203 reenacted and amended as follows:

204 73-13-9. Each member of the board shall receive per diem in
205 accordance with Section 25-3-69 when actually attending to the
206 work of the board or any of its committees, and shall be
207 reimbursed for traveling expenses in accordance with Section
208 25-3-41 in carrying out the provisions of Sections 73-13-1 through
209 73-13-105.

210 SECTION 6. Section 73-13-11, Mississippi Code of 1972, is
211 reenacted as follows:

212 73-13-11. The Governor may remove any member of the board
213 for misconduct, incompetency, neglect of duty, or for any other
214 sufficient cause. Vacancies in the membership of the board shall
215 be filled for the unexpired term by appointment by the Governor as
216 provided in Section 73-13-5.

217 SECTION 7. Section 73-13-13, Mississippi Code of 1972, is
218 reenacted as follows:

219 73-13-13. The board shall hold at least two (2) regular
220 meetings each year, in March and September. Special meetings
221 shall be held at such time as the regulations of the board may

222 provide. Notice of all meetings shall be given in such manner as
223 the regulations of the board may provide. The board shall elect
224 annually, at a regular or special meeting, the following officers:
225 a president, a vice president, and a secretary. A quorum of the
226 board shall consist of not less than four (4) members.

227 SECTION 8. Section 73-13-15, Mississippi Code of 1972, is
228 reenacted and amended as follows:

229 73-13-15. The board shall have the power to adopt and amend
230 all regulations and rules of procedure, not inconsistent with the
231 Constitution and laws of this state, which may be reasonably
232 necessary for the proper performance of its duties and the
233 regulations of the proceedings before it. The board shall adopt
234 and have an official seal. It shall not be required to post bond
235 on appeals. The board shall have the further power and authority
236 to:

237 (a) Establish standards of conduct and ethics;

238 (b) Institute proceedings in its own name;

239 (c) Promulgate rules restricting competitive bidding;

240 (d) Promulgate rules limiting or restricting

241 advertising;

242 (e) Promulgate rules requiring a demonstration of
243 continuing education * * *;

244 (f) Adopt and promulgate reasonable bylaws and rules
245 and regulations necessary or appropriate for the proper
246 fulfillment of its duties under state laws pertaining thereto;

247 (g) Provide for the enforcement of and to enforce the
248 laws of the State of Mississippi and, in particular, the
249 provisions of this chapter, and the bylaws, rules and regulations
250 of the board;

251 (h) Provide by appropriate rules and regulations,
252 within the provisions of this chapter, a system for taking the
253 disciplinary actions provided for in Section 73-13-37, including
254 the imposition of fines as provided therein; and

255 (i) Investigate, prosecute or initiate prosecution for

256 violation of the laws of this state pertaining to the practices of
257 engineering and land surveying, or matters affecting the rights
258 and duties or otherwise related thereto.

259 In carrying into effect the provisions of Sections 73-13-1
260 through 73-13-105, the board, under the hand of its president or
261 secretary and the seal of the board may subpoena witnesses and
262 compel their attendance, and also may require the production of
263 books, papers, documents, etc., in any case involving the
264 disciplinary actions provided for in Section 73-13-37 or 73-13-89
265 or practicing or offering to practice without registration. Any
266 member of the board may administer oaths or affirmations to
267 witnesses appearing before the board. If any person shall refuse
268 to obey any subpoena so issued, or shall refuse to testify or
269 produce any books, papers, or documents, the board may present its
270 petition to such authority as may have jurisdiction, setting forth
271 the facts, and thereupon such authority shall, in a proper case,
272 issue its subpoena to such person, requiring his attendance before
273 such authority and there to testify or to produce such books,
274 papers, and documents, as may be deemed necessary and pertinent by
275 the board. Any person failing or refusing to obey the subpoena or
276 order of the said authority may be proceeded against in the same
277 manner as for refusal to obey any other subpoena or order of the
278 authority.

279 SECTION 9. Section 73-13-17, Mississippi Code of 1972, is
280 reenacted and amended as follows:

281 73-13-17. (1) The board shall keep an account of all monies
282 derived from the operation of Sections 73-13-1 through 73-13-105.
283 All fees and any other monies received by the board shall be
284 deposited in a special fund that is created in the State Treasury
285 and shall be used for the implementation and administration of
286 Sections 73-13-1 through 73-13-105 when appropriated by the
287 Legislature for such purpose. The monies in the special fund
288 shall be subject to all provisions of the state budget laws that
289 are applicable to special fund agencies, and disbursements from

290 the special fund shall be made by the State Treasurer only upon
291 warrants issued by the State Fiscal Officer upon requisitions
292 signed by the executive director of the board and countersigned by
293 the secretary of the board. Any interest earned on this special
294 fund shall be credited by the State Treasurer to the fund and
295 shall not be paid into the State General Fund. Any unexpended
296 monies remaining in the special fund at the end of a fiscal year
297 shall not lapse into the State General Fund. The State Auditor
298 shall audit the financial affairs of the board and the
299 transactions involving the special fund at least once a year in
300 the same manner as for other special fund agencies.

301 (2) The executive director and the secretary of the board
302 shall give a surety bond satisfactory to the other members of the
303 board, conditioned upon the faithful performance of their duties.
304 The premium on said bond shall be regarded as a proper and
305 necessary expense of the board. When any member of the board or
306 any employee thereof is engaged on business of the board away from
307 the principal office of the board, he shall be entitled to receive
308 expenses as authorized in Section 25-3-41, and members of the
309 board shall be entitled to per diem in an amount not to exceed
310 that authorized in Section 25-3-69, all as approved by the board.

311 (3) The board shall employ an executive director and may
312 employ such clerical or other assistants as are necessary for the
313 proper performance of its work, and may make expenditures for any
314 purpose which in the opinion of the board are reasonably necessary
315 for the proper performance of its duties under Sections 73-13-1
316 through 73-13-105.

317 SECTION 10. Section 73-13-19, Mississippi Code of 1972, is
318 reenacted as follows:

319 73-13-19. The board shall keep a record of its proceedings
320 and a register of all applications for registration, which
321 register shall show (a) the name, age, and residence of such
322 applicant, (b) the date of the application, (c) the place of
323 business of such applicant, (d) his educational and other

324 qualifications, (e) whether or not an examination was required,
325 (f) whether the applicant was rejected, (g) whether a certificate
326 of registration was granted, (h) the date of the action of the
327 board, and (i) such other information as may be deemed necessary
328 by the board.

329 The records of the board shall be prima facie evidence of the
330 proceedings of the board set forth therein, and a transcript
331 thereof, duly certified by the executive director of the board
332 under seal, shall be admissible in evidence with the same force
333 and effect as if the original were produced.

334 Annually, on or before March 15, the board shall submit to
335 the Governor a report of its transactions of the preceding year,
336 and shall file with the Secretary of State a copy of such report
337 of the board, attested by affidavits of its president and its
338 secretary.

339 SECTION 11. Section 73-13-21, Mississippi Code of 1972, is
340 reenacted as follows:

341 73-13-21. A roster showing the names and places of business
342 or residence of all registered professional engineers and
343 registered professional land surveyors shall be prepared
344 biennially by the board. Copies of this roster shall be mailed to
345 each person so registered, placed on file with the Secretary of
346 State and furnished to the public on request.

347 Registrants upon retirement may file a request biennially to
348 be listed separately in the roster without payment of the renewal
349 fee.

350 SECTION 12. Section 73-13-23, Mississippi Code of 1972, is
351 reenacted and amended as follows:

352 73-13-23. (1) (a) The following shall be considered as
353 minimum evidence satisfactory to the board that the applicant is
354 qualified for registration as a professional engineer:

355 (i) Graduation in an * * * engineering curriculum
356 of four (4) years or more from a school or college approved by the
357 board as of satisfactory standing or graduation in an engineering,

358 engineering technology, or related science curriculum of four (4)
359 scholastic years from a school or college other than those
360 approved by the board plus a graduate degree in an engineering
361 curriculum from a school or college wherein the same engineering
362 curriculum at the undergraduate level is approved by the board as
363 of satisfactory standing; a specific record of four (4) years of
364 qualifying engineering experience indicating that the applicant is
365 competent to practice engineering (in counting years of
366 experience, the board at its discretion may give credit not in
367 excess of three (3) years for satisfactory graduate study in
368 engineering), and the successful passing of examinations in
369 engineering as prescribed by the board; or

370 (ii) A specific record of eight (8) years or more
371 of qualifying engineering experience subsequent to graduation from
372 high school, indicating that the applicant is competent to
373 practice engineering; and successfully passing examinations
374 designed to show knowledge and skill approximating that attained
375 through graduation in an approved four-year engineering
376 curriculum, and to show competence in the use of such knowledge
377 and skills in the practice of engineering. This subsection
378 (1)(a)(ii) shall stand repealed from and after January 1, 2000.

379 (b) In considering the qualifications of applicants,
380 engineering teaching may be construed as engineering experience.

381 (c) The satisfactory completion of each year of an
382 approved curriculum in engineering in a school or college approved
383 by the board as of satisfactory standing, without graduation,
384 shall be considered as equivalent to a year of experience in
385 subsection (1)(a)(ii) of this section. Graduation in a curriculum
386 other than engineering from a college or university of recognized
387 standing may be considered as equivalent to two (2) years of
388 experience under subsection (1)(a)(ii); however, no applicant
389 shall receive credit for more than four (4) years of experience
390 because of undergraduate educational qualifications. This
391 subsection (1)(c) shall stand repealed from and after January 1,

392 2000.

393 (d) The mere execution, as a contractor, of work
394 designed by a professional engineer, or the supervision of the
395 construction of such work as a foreman or superintendent shall not
396 be deemed to be the practice of engineering.

397 (e) Any person having the necessary qualifications
398 prescribed in Sections 73-13-1 through 73-13-45 to entitle him to
399 registration shall be eligible for such registration although he
400 may not be practicing his profession at the time of making his
401 application.

402 (f) No person shall be eligible for registration as a
403 professional engineer who is not of good character and reputation
404 or who presents claims in support of his application which contain
405 major discrepancies.

406 (2) The following shall be considered as minimum evidence
407 satisfactory to the board that the applicant is qualified for
408 enrollment as an engineer intern:

409 (a) Graduation in an * * * engineering curriculum of
410 four (4) scholastic years or more from a school or college
411 approved by the board as of satisfactory standing or graduation in
412 an engineering, engineering technology, or related science
413 curriculum of four (4) scholastic years from a school or college
414 other than those approved by the board plus a graduate degree in
415 an engineering curriculum from a school or college wherein that
416 same engineering curriculum at the undergraduate level is approved
417 by the board as of satisfactory standing; and

418 (b) Successfully passing a written examination in the
419 fundamental engineering subjects.

420 SECTION 13. Section 73-13-25, Mississippi Code of 1972, is
421 reenacted and amended as follows:

422 73-13-25. Applications for enrollment as an engineer intern
423 or for registration as a professional engineer shall be on the
424 forms prescribed and furnished by the board, shall contain
425 statements made under oath, showing the applicant's education and

426 detailed summary of the applicant's qualifying experience.
427 Applications for registration or reregistration as a professional
428 engineer shall also contain not less than five (5) references, of
429 whom three (3) or more shall be engineers having personal
430 knowledge of the applicant's engineering experience.

431 The application fee for registration * * * as a professional
432 engineer shall be determined by the board but shall not exceed
433 Seventy-five Dollars (\$75.00), which fee shall accompany the
434 application.

435 The application fee for enrollment as an engineer intern
436 shall be determined by the board but shall not exceed Twenty-five
437 Dollars (\$25.00), which fee shall accompany the application.
438 Whenever an applicant is cited to an examination or reexamination,
439 an additional fee equal to the actual cost of the examination
440 shall be paid by the applicant.

441 Each application or filing made under this section shall
442 include the Social Security number(s) of the applicant in
443 accordance with Section 93-11-64, Mississippi Code of 1972.

444 SECTION 14. Section 73-13-27, Mississippi Code of 1972, is
445 reenacted as follows:

446 73-13-27. Examinations shall be required for enrollment as
447 an engineer intern and for registration as a professional
448 engineer. The examinations shall be held at such time and place
449 as the board may determine.

450 The scope of the examinations and the methods and procedure
451 shall be prescribed by the board with special reference to the
452 applicant's ability to design and supervise engineering works so
453 as to insure the safety of life, health and property.

454 SECTION 15. Section 73-13-29, Mississippi Code of 1972, is
455 reenacted and amended as follows:

456 73-13-29. The board shall issue a certificate of
457 registration upon payment of registration fee as provided for in
458 Sections 73-13-1 through 73-13-45, to any applicant who, in the
459 opinion of the board, has satisfactorily met all the requirements

460 of said sections. In the case of a registered engineer, the
461 certificate shall authorize the "practice of engineering." In the
462 case of an engineer intern, the certificate shall state that the
463 applicant has successfully passed the examination in fundamental
464 engineering subjects required by the board and has been enrolled
465 as an "engineer intern_." * * * Certificates shall show the full
466 name, shall have a serial number, and shall be signed by the
467 president and the secretary of the board under seal of the board.

468 The issuance of a certificate of registration by this board
469 shall be prima facie evidence that the person named therein is
470 entitled to all the rights and privileges of a registered
471 professional engineer while the said certificate remains unrevoked
472 or unexpired.

473 Before engaging in the practice of the profession, each
474 registrant hereunder shall upon registration obtain a seal of the
475 design authorized by the board, bearing the registrant's name and
476 the legend, "registered professional engineer." Plans,
477 specifications * * * and reports prepared by a registrant shall be
478 stamped with the seal by the registrant during the life of the
479 registrant's certificate, but it shall be unlawful for anyone to
480 stamp or seal any documents with the seal after the certificate of
481 the registrant named thereon is expired or * * * revoked, or while
482 the certificate is suspended. It shall be unlawful for anyone
483 other than the registrant to whom the seal has been issued to
484 stamp or seal any document utilizing such seal.

485 SECTION 16. Section 73-13-31, Mississippi Code of 1972, is
486 reenacted and amended as follows:

487 73-13-31. Certificates of registration shall expire on the
488 last day of the month of December following their issuance or
489 renewal and shall become invalid on that date unless renewed. It
490 shall be the duty of the board to notify every person registered
491 under Sections 73-13-1 through 73-13-105, of the date of the
492 expiration of his certificate and the amount of the fee that shall
493 be required for its renewal for one (1) year. Such notice shall

494 be sent by first class mail to the last known address of the
495 registrant at least one (1) month in advance of the date of the
496 expiration of said certificate. Renewal may be effected at any
497 time during the month of December by the payment of a fee, as
498 determined by the board, not to exceed Fifty Dollars (\$50.00). A
499 person who is registered as a professional engineer and as a
500 professional land surveyor may effect both renewals by the payment
501 of a fee not to exceed Seventy-five Dollars (\$75.00). The failure
502 on the part of any registrant to renew his certificate annually in
503 the month of December as required above, shall not deprive such
504 person of the right of renewal, but the fee to be paid for the
505 renewal of a certificate after the month of December shall be
506 increased ten percent (10%) for each month, or fraction of a month
507 that payment of renewal is delayed; provided, however, that the
508 maximum fee for delayed renewal shall not exceed five (5) times
509 the normal renewal fee. A state agency or any of the state's
510 political subdivisions, such as a county or municipality, may pay
511 the renewal fee of any registrant who is a full-time employee;
512 provided, however, that any registrant who permits his/her renewal
513 fee to be paid from any public funds shall not perform engineering
514 or land surveying services for a fee or other emoluments for the
515 public or for any other public entity. If a registrant fails to
516 renew his certificate within five (5) years from the date of
517 expiration, he must pay the back fees and be reexamined by the
518 board in principles and practice before his certificate will be
519 reissued. The reexamination requirement may be waived by the
520 board provided the applicant has continued to practice in another
521 jurisdiction from the date of expiration of his certificate.

522 SECTION 17. Section 73-13-33, Mississippi Code of 1972, is
523 reenacted as follows:

524 73-13-33. All professional engineers, registered in
525 accordance with the provisions of Chapter 56 of the Laws of
526 Mississippi of 1928, Extraordinary Session, and as amended under
527 Senate Bill No. 383, Chapter 131, Laws of 1940, and whose

528 certificates of registration are in effect at the time of passage
529 of Sections 73-13-1 through 73-13-45, shall be entitled to all the
530 rights and privileges of a registered professional engineer as
531 provided for in those sections, while the said certificate remains
532 unrevoked or unexpired.

533 SECTION 18. Section 73-13-35, Mississippi Code of 1972, is
534 reenacted as follows:

535 73-13-35. The board may, upon application therefor and the
536 payment of a fee in accordance with Section 73-13-25, issue a
537 certificate of registration as a professional engineer to any
538 person who holds a certificate of qualification or registration
539 issued to him by proper authority of any state or territory or
540 possession of the United States, or of any country, provided that
541 the applicant's qualifications meet the requirements of Sections
542 73-13-1 through 73-13-45 and the rules established by the board.

543 SECTION 19. Section 73-13-37, Mississippi Code of 1972, is
544 reenacted and amended as follows:

545 73-13-37. (1) The board, upon satisfactory proof and in
546 accordance with the provisions of this chapter and the
547 implementing regulations of the board pertaining thereto, is
548 authorized to take the disciplinary actions provided for
549 hereinafter against any person, including nonregistrants, for any
550 of the following reasons:

551 (a) Violating any of the provisions of Sections 73-13-1
552 through 73-13-45 or the implementing bylaws, rules, regulations,
553 or standards of ethics or conduct duly adopted and promulgated by
554 the board pertaining to the practice of engineering;

555 (b) Fraud, deceit or misrepresentation in obtaining a
556 certificate of registration;

557 (c) Gross negligence, malpractice or incompetency;

558 (d) Any professional misconduct, as defined by the
559 board through bylaws, rules and regulations, and standards of
560 conduct and ethics;

561 (e) Practicing or offering to practice engineering on

562 an expired certificate or while under suspension or revocation of
563 certificate unless said suspension or revocation be abated through
564 probation, as provided for hereinafter;

565 (f) Addiction to or dependence on alcohol or other
566 habit-forming drugs or being an habitual user of alcohol,
567 narcotics, barbiturates, amphetamines, hallucinogens, or other
568 drugs having similar effect.

569 (2) Any person may prefer charges against any other person,
570 including nonregistrants, for committing any of the acts set forth
571 in subsection (1). Such charges shall be sworn to, either upon
572 actual knowledge or upon information and belief, and shall be
573 filed with the board. In the event any person certified under
574 Sections 73-13-1 through 73-13-45 is expelled from membership in
575 any Mississippi professional engineering society or association,
576 the board shall thereafter cite said person to appear at a hearing
577 before the board and to show cause why disciplinary action should
578 not be taken against him.

579 The board shall investigate all charges filed with it and,
580 upon finding reasonable cause to believe that the charges are not
581 frivolous, unfounded or filed in bad faith, may, in its
582 discretion, cause a hearing to be held, at a time and place fixed
583 by the board, regarding the charges and may compel the accused by
584 subpoena to appear before the board to respond to said charges.

585 No disciplinary action taken hereunder may be taken until the
586 accused has been furnished both a statement of the charges against
587 him and notice of the time and place of the hearing thereof, which
588 shall be personally served on or mailed by registered or certified
589 mail, return receipt requested, to the last-known business or
590 residence address of the accused not less than thirty (30) days
591 prior to the date fixed for the hearing.

592 (3) At any hearing held hereunder, the board shall have the
593 power to subpoena witnesses and compel their attendance and may
594 also require the production of books, papers, documents, etc., as
595 provided elsewhere in this chapter. The board is authorized to

596 designate or secure a hearing officer to conduct the hearing. All
597 evidence shall be presented under oath, which may be administered
598 by any member of the board, and thereafter the proceedings may, if
599 necessary, be transcribed in full by the court reporter and filed
600 as part of the record in the case. Copies of such transcriptions
601 may be provided to any party to the proceedings at a cost to be
602 fixed by the board.

603 All witnesses who shall be subpoenaed and who shall appear in
604 any proceedings before the board shall receive the same fees and
605 mileage as allowed by law in judicial civil proceedings, and all
606 such fees shall be taxed as part of the costs in the case.

607 Where in any proceeding before the board any witness shall
608 fail or refuse to attend upon subpoena issued by the board, shall
609 refuse to testify or shall refuse to produce any books and papers,
610 the production of which is called for by the subpoena, the
611 attendance of such witness and the giving of his testimony and the
612 production of the books and papers shall be enforced by any court
613 of competent jurisdiction of this state in the manner provided for
614 the enforcement of attendance and testimony of witnesses in civil
615 cases in the courts of this state.

616 The accused shall have the right to be present at the hearing
617 in person, by counsel or other representative, or both. The board
618 is authorized to continue or recess the hearing as may be
619 necessary.

620 (4) At the conclusion of the hearing, the board may either
621 decide the issue at that time or take the case under advisement
622 for further deliberation. The board shall render its decision not
623 more than ninety (90) days after the close of the hearing, and
624 shall forward to the last-known business or residence address of
625 the accused, by certified or registered mail, return receipt
626 requested, a written statement of the decision of the board.

627 If a majority of the board finds the accused guilty of the
628 charges filed, the board may: (a) issue a public or private
629 reprimand; (b) require the guilty party to complete a course,

630 approved by the board, in ethics; (c) suspend or revoke the
631 certificate of the accused, if the accused is a registrant; or (d)
632 in lieu of or in addition to such reprimand, course completion,
633 suspension or revocation, assess and levy upon the guilty party a
634 monetary penalty of not less than One Hundred Dollars (\$100.00)
635 nor more than Five Thousand Dollars (\$5,000.00) for each
636 violation.

637 (5) A monetary penalty assessed and levied under this
638 section shall be paid to the board upon the expiration of the
639 period allowed for appeal of such penalties under this section, or
640 may be paid sooner if the guilty party elects. Money collected by
641 the board under this section shall be deposited to the credit of
642 the board's special fund in the State Treasury.

643 When payment of a monetary penalty assessed and levied by the
644 board in accordance with this section is not paid when due, the
645 board shall have the power to institute and maintain proceedings
646 in its name for enforcement of payment in the chancery court of
647 the county and judicial district of residence of the guilty party
648 and if the guilty party be a nonresident of the State of
649 Mississippi, such proceedings shall be in the Chancery Court of
650 the First Judicial District of Hinds County, Mississippi.

651 (6) When the board has taken a disciplinary action under
652 this section, the board may, in its discretion, stay such action
653 and place the guilty party on probation for a period not to exceed
654 one (1) year upon the condition that the guilty party shall not
655 further violate either the laws of the State of Mississippi
656 pertaining to the practice of engineering or the bylaws, rules and
657 regulations, or standards of conduct and ethics promulgated by the
658 board.

659 (7) The board, in its discretion, may assess and tax any
660 part or all of the costs of any disciplinary proceedings conducted
661 under this section against either the accused, the charging party,
662 or both, as it may elect.

663 (8) The power and authority of the board to assess and levy

664 the monetary penalties provided for in this section shall not be
665 affected or diminished by any other proceeding, civil or criminal,
666 concerning the same violation or violations except as provided in
667 this section.

668 (9) The board, for sufficient cause, may reissue a revoked
669 certificate of registration whenever a majority of the board
670 members vote to do so.

671 (10) Any person aggrieved by an action of the board denying
672 or revoking his certificate of registration or re-registration as
673 a professional engineer or his certificate of enrollment as an
674 engineer intern, or who is aggrieved by the action of the board as
675 a result of disciplinary proceedings conducted under this section
676 may appeal therefrom to the chancery court of either the county
677 wherein the appellant resides or the Chancery Court of the First
678 Judicial District of Hinds County, at the election of the
679 appellant. If the appellant is a nonresident of this state, the
680 appeal shall be made to the Chancery Court of the First Judicial
681 District of Hinds County. Such appeal shall be perfected before
682 the board by the filing with the board of a notice of appeal to
683 the chancery court. The court shall require a bond in an amount
684 not to exceed One Thousand Dollars (\$1,000.00) conditioned to pay
685 all costs which may be adjudged against the appellant. The notice
686 of appeal shall be filed not later than thirty (30) days after the
687 decision of the board is forwarded to the guilty party, as
688 provided hereinabove.

689 All appeals perfected hereunder shall act as a supersedeas,
690 and shall be made to the chancery court solely upon the record
691 made before the board during the disciplinary hearing. When the
692 appeal shall have been properly perfected as provided herein, the
693 board shall cause the record of the proceedings conducted before
694 it to be compiled, certified and filed with the chancery court.
695 The briefing schedule shall be the same as for appeals to the
696 Supreme Court. The chancery court shall be required to rule on
697 the case within sixty (60) days of the close of briefing. All

698 procedures and penalties provided for in this section shall apply
699 to nonregistrants as well as registrants.

700 (11) In addition to the reasons specified in subsection (1)
701 of this section, the board shall be authorized to suspend the
702 certificate of registration of any person for being out of
703 compliance with an order for support, as defined in Section
704 93-11-153. The procedure for suspension of a certificate for
705 being out of compliance with an order for support, and the
706 procedure for the reissuance or reinstatement of a certificate
707 suspended for that purpose, and the payment of any fees for the
708 reissuance or reinstatement of a certificate suspended for that
709 purpose, shall be governed by Section 93-11-157 or 93-11-163, as
710 the case may be. Actions taken by the board in suspending a
711 certificate when required by Section 93-11-157 or 93-11-163 are
712 not actions from which an appeal may be taken under this section.

713 Any appeal of a suspension of a certificate that is required by
714 Section 93-11-157 or 93-11-163 shall be taken in accordance with
715 the appeal procedure specified in Section 93-11-157 or 93-11-163,
716 as the case may be, rather than the procedure specified in this
717 section. If there is any conflict between any provision of
718 Section 93-11-157 or 93-11-163 and any provision of this chapter,
719 the provisions of Section 93-11-157 or 93-11-163, as the case may
720 be, shall control.

721 (12) Any board member whose objectivity in a disciplinary
722 proceeding is impaired shall either recuse himself from sitting as
723 a member of the board in a formal disciplinary hearing in that
724 proceeding or be disqualified therefrom. In the event a
725 disciplinary proceeding is brought against a member or former
726 member of the board, no member of the board who has served
727 concurrently with the respondent in the disciplinary proceeding
728 shall sit as a member of the board in a formal disciplinary
729 hearing in that proceeding. If, after recusal or disqualification
730 of board members as provided herein, there does not remain a
731 quorum of the board to sit for a disciplinary hearing, the board

732 shall have the power to select, in accordance with duly
733 promulgated regulations of the board, substitute panel members
734 from slates of candidates established by the Mississippi
735 Engineering Society and the Mississippi Association of
736 Professional Surveyors to the extent necessary to achieve the
737 number of panel members equivalent to a quorum of the board.
738 Substitute panel members must meet the qualifications of board
739 members as provided in Section 73-13-7 and shall receive
740 compensation as provided for board members in Section 73-13-9.

741 SECTION 20. Section 73-13-39, Mississippi Code of 1972, is
742 reenacted and amended as follows:

743 73-13-39. Any person who shall practice, or offer to
744 practice, engineering in this state without being registered in
745 accordance with the provisions of Sections 73-13-1 through
746 73-13-45, or any person presenting or attempting to use as his own
747 the certificate of registration or seal of another, or any person
748 who shall give any false or forged evidence of any kind to the
749 board or to any member thereof in obtaining a certificate of
750 registration, or any person who shall falsely impersonate any
751 other registrant of like or different name, or any person who
752 shall attempt to use an expired or revoked certificate of
753 registration, or any person who shall violate any of the
754 provisions of Sections 73-13-1 through 73-13-45, shall be guilty
755 of a misdemeanor, and shall, upon conviction, be sentenced to pay
756 a fine of not less than One Hundred Dollars (\$100.00), nor more
757 than One Thousand Dollars (\$1,000.00), or suffer imprisonment for
758 a period not exceeding three (3) months, or both. The criminal
759 penalties provided for in this section may be assessed in addition
760 to those civil penalties provided for in Section 73-13-37.

761 Unless registered in accordance with the provisions of
762 Sections 73-13-1 through 73-13-45, no person shall:

763 (a) Directly or indirectly employ, use, cause to be
764 used or make use of any of the following terms or any
765 combinations, variations or abbreviations thereof as a

766 professional, business or commercial identification, title, name,
767 representation, claim, asset or means of advantage or benefit:
768 "engineer," "professional engineer," "licensed engineer,"
769 "registered engineer," "registered professional engineer,"
770 "licensed professional engineer," "engineered," "engineering"; or

771 (b) Directly or indirectly employ, use, cause to be
772 used or make use of any letter, abbreviation, word, symbol,
773 slogan, sign or any combinations or variations thereof which in
774 any manner whatsoever tends or is likely to create any impression
775 with the public or any member thereof that any person is qualified
776 or authorized to practice engineering; or

777 (c) Receive any fee or compensation or the promise of
778 any fee or compensation for performing, offering or attempting to
779 perform any service, work, act or thing which is any part of the
780 practice of engineering.

781 Any person, firm, partnership, association or corporation
782 which shall do, offer or attempt to do any one or more of the acts
783 or things set forth in items (a) through (c) of the preceding
784 paragraph shall be conclusively presumed and regarded as engaged
785 in the practice of engineering.

786 It shall be the duty of all duly constituted officers of the
787 law of this state, or any political subdivision thereof, to
788 enforce the provisions of Sections 73-13-1 through 73-13-45 and to
789 prosecute any persons violating same. The Attorney General of the
790 state or his assistant shall act as legal advisor of the board in
791 carrying out the provisions of Sections 73-13-1 through 73-13-45.

792 SECTION 21. Section 73-13-41, Mississippi Code of 1972, is
793 reenacted and amended as follows:

794 73-13-41. (1) Sections 73-13-1 through 73-13-45 shall not
795 be construed to prevent or to affect:

796 (a) The practice of any other legally recognized
797 profession or trade, such as: (i) engineers employed by
798 contractors to supervise work on which a registered engineer is
799 engaged; and (ii) architects who are registered under the

800 provisions of Chapter 1 of this Title; * * *

801 (b) The work of an employee or a subordinate of a
802 person holding a certificate of registration under this act,
803 provided such work does not include final designs or decisions and
804 is done under the responsibility, checking and supervision of a
805 person holding a certificate of registration under Sections
806 73-13-1 through 73-13-45; * * *

807 (c) The practice of officers and employees of the
808 government of the United States while engaged within this state in
809 the practice of engineering for said government; or

810 (d) The performance of engineering services by any
811 regular full-time employee of a manufacturing, research and
812 development, or other industrial corporation, provided:

813 (i) Such services are rendered on or in connection
814 with existing fixed works, equipment, systems, processes or
815 facilities owned, operated, or leased by such corporation and/or
816 its affiliates;

817 (ii) Such services are not rendered to third
818 parties;

819 (iii) Such services do not consist of original
820 plant design, original system design, or original process design,
821 other than routine system extensions that do not compromise the
822 integrity of the original design;

823 (iv) Such services comply with all requirements
824 specified by the employee's company or corporation; and

825 (v) All fixed works, equipment, systems, processes
826 or facilities modified by such services undergo a safety review
827 that confirms:

828 1. The construction and equipment conform to
829 design specifications; and

830 2. Safety, operating, maintenance and
831 emergency procedures are in place to safeguard life, health and
832 property;

833 (vi) Such services are not required to be

834 performed, approved, or certified by a professional engineer
835 pursuant to law or regulation, whether federal, state, or local,
836 other than Section 73-13-1 through 73-13-45 hereof or any
837 applicable rules or regulations promulgated by the Mississippi
838 State Board of Registration for Professional Engineers and Land
839 Surveyors.

840 It is further stated that this subsection (d) is intended to
841 codify the policy and practices of the board at the time of
842 enactment of this House Bill No. 861, 1999 Regular Session, and
843 that any ambiguities in this subsection should be construed in
844 accordance with this intent.

845 (e) The performance of engineering services with
846 respect to utility facilities by any public utility subject to
847 regulation by the Mississippi Public Service Commission, the
848 Federal Communications Commission, the Federal Energy Regulatory
849 Commission, or the Nuclear Regulatory Commission, including its
850 parents, affiliates, subsidiaries; or by the officers and regular
851 full-time employees of any such public utility, including its
852 parents, affiliates or subsidiaries, provided that they are
853 engaged solely and exclusively in performing service for such
854 public utility and/or its parents, affiliates or subsidiaries, and
855 as long as such services comply with all standard operating
856 procedures and requirements specified by the employee's company or
857 corporation. This exemption shall not extend to: (i) the
858 practice of engineering performed by public utilities or their
859 officers or employees when such services are rendered to
860 nonaffiliated third parties in exchange for compensation other
861 than that received from their employer, or the use of any name,
862 title or words which tend to convey the impression that a
863 nonregistrant is offering engineering services to the public; and
864 (ii) services which are required to be performed, approved or
865 certified by a professional engineer pursuant to law or regulation
866 whether federal, state or local, other than Sections 73-13-1
867 through 73-13-45 hereof or any applicable rules or regulations

868 promulgated by the Mississippi State Board of Registration for
869 Professional Engineers and Land Surveyors.

870 It is further stated that this subsection (e) is intended to
871 codify the policy and practices of the board at the time of
872 enactment of this House Bill No. 861, 1999 Regular Session, and
873 that any ambiguities in this subsection should be construed in
874 accordance with this intent.

875 (2) In addition to the exemptions provided in subsection
876 (1), there is hereby granted and reserved to the board the
877 authority to exempt from Sections 73-13-1 through 73-13-45 by
878 regulation specific engineering tasks or functions performed by
879 regular full-time employees of manufacturing, public utility,
880 research and development, or other industrial corporations
881 rendered in the course and scope of their employment, on a
882 case-by-case basis, if, in the opinion of the board, the public
883 health and welfare is not endangered nor the engineering
884 profession diminished.

885 SECTION 22. Section 73-13-43, Mississippi Code of 1972, is
886 reenacted and amended as follows:

887 73-13-43. A corporation, firm or partnership may engage in
888 the practice of professional engineering in this state, providing
889 the person or persons connected with such corporation or
890 partnership in charge of the designing, or supervision, which
891 constitutes such practice, is or are registered as herein required
892 of professional engineers. Any corporation, firm or partnership
893 engaged in offering engineering services to the public must have
894 at least one (1) registered professional engineer as a principal
895 officer or partner of the firm who has management responsibility
896 for such practice. A corporation, firm or partnership, when
897 performing engineering services to the public for a fee or other
898 emoluments, shall include in each agreement for such services the
899 name and registration number of the professional engineer who will
900 bear the primary responsibility for the engineering work involved.

901 The same exemptions shall apply to corporations, firms and

902 partnerships as apply to individuals under Sections 73-13-1
903 through 73-13-45.

904 SECTION 23. Section 73-13-45, Mississippi Code of 1972, is
905 reenacted as follows:

906 73-13-45. (1) (a) Neither the state, nor any of its
907 political subdivisions, such as a county, city or town, shall
908 award construction contracts of any public work involving the
909 practice of engineering or architecture unless the plans,
910 specifications and estimates have been prepared and such work
911 supervised by a registered professional engineer or architect;
912 provided, that nothing in this subsection shall be held to apply
913 to such public work wherein the expenditure does not exceed Fifty
914 Thousand Dollars (\$50,000.00); and provided further, that nothing
915 in this subsection shall apply to any municipality wherein such
916 public work is not financed in whole or in part through the
917 issuance of bonds and let to public contract.

918 (b) The state and any of its political subdivisions,
919 such as a county, city or town, may engage in construction of
920 public buildings involving the practice of engineering or
921 architecture and using political subdivision work forces without
922 the supervision of a registered professional engineer or
923 architect, provided that the total cost of the public building
924 does not exceed One Hundred Thousand Dollars (\$100,000.00). This
925 paragraph (1)(b) shall not supersede any rules and regulations
926 promulgated by the State Department of Health and the Department
927 of Environmental Quality.

928 (2) (a) In the awarding of public contracts for
929 professional engineering services, preference shall be given to
930 resident professional engineers over those nonresident
931 professional engineers domiciled in a state having laws which
932 grant a preference to the professional engineers who are residents
933 of that state. Nonresident professional engineers shall be
934 awarded Mississippi public contracts only on the same basis as the
935 nonresident professional's state awards contracts to Mississippi

936 professional engineers under similar circumstances. When a
937 nonresident professional engineer submits a proposal for a public
938 project, he shall attach thereto a copy of his resident state's
939 current statute, resolution, policy, procedure or executive order
940 pertaining to such state's treatment of nonresident professional
941 engineers. Resident professional engineers actually domiciled in
942 Mississippi, be they corporate, individuals or partnerships, shall
943 be granted preference over nonresidents in the awarding of
944 contracts in the same manner and to the same extent as provided by
945 the laws of the state of domicile of the nonresident. As used in
946 this section, the term "resident professional engineer" includes a
947 nonresident person, firm or corporation that has been qualified to
948 do business in this state and has maintained a permanent full-time
949 office in the State of Mississippi for not less than two (2) years
950 prior to submitting a proposal for a public project, and the
951 subsidiaries and affiliates of such a person, firm or corporation.

952 (b) The provisions of this subsection shall not apply
953 to any contract for any project upon which federal funds would be
954 withheld because of the preference requirements of this
955 subsection.

956 (c) Any contract, agreement or arrangement for
957 professional engineering services negotiated, made or entered
958 into, directly or indirectly, by the state, counties,
959 municipalities or any political subdivision thereof, or by any
960 special districts, which is in any way in violation of the
961 provisions of this subsection is hereby declared to be void as
962 contrary to the public policy of this state and shall not be given
963 effect or enforced by any court of this state or by any of its
964 officers or employees.

965 (d) Nothing in this subsection shall affect the
966 validity of any contract in existence prior to July 1, 1989.

967 (e) For purposes of this section, the term
968 "professional engineering services" means those within the scope
969 of the practice of professional engineering as defined by Sections

970 73-13-1 through 73-13-45, or those performed by any registered
971 professional engineer in connection with professional employment
972 or practice.

973 SECTION 24. Section 73-13-71, Mississippi Code of 1972, is
974 reenacted and amended as follows:

975 73-13-71. (a) The term "board," as used in Sections
976 73-13-71 through 73-13-105, shall mean the State Board of
977 Registration for Professional Engineers and Land Surveyors as
978 provided for in Section 73-13-5 of this chapter.

979 (b) The term "professional land surveyor," as used in
980 Sections 73-13-71 through 73-13-105, shall mean a person who
981 engages in the practice of land surveying as hereinafter defined,
982 whether in an individual capacity, or in behalf of or as an
983 employee of any state, county, or municipal authority of the State
984 of Mississippi.

985 (c) The term "land surveyor intern," as used in
986 Sections 73-13-71 through 73-13-105, shall mean a candidate for
987 registration as a professional land surveyor who has successfully
988 passed the fundamentals of land surveying examination, has met the
989 requirements of the board for enrollment, has received from the
990 board a certificate stating that he has successfully passed this
991 portion of the professional land surveying examinations and has
992 been enrolled as a land surveyor intern.

993 (d) The practice of "land surveying," within the
994 meaning and intent of Sections 73-13-71 through 73-13-105, is
995 surveying of areas for their correct determination and description
996 and for conveyancing, or for the establishment or re-establishment
997 of land boundaries and the platting of lands and subdivisions
998 thereof, and such other duties as traditional or sound surveying
999 practices would direct.

1000 SECTION 25. Section 73-13-73, Mississippi Code of 1972, is
1001 reenacted and amended as follows:

1002 73-13-73. No person shall practice land surveying without
1003 having first been duly and regularly registered by the State Board

1004 of Registration for Professional Engineers and Land Surveyors as a
1005 professional land surveyor as required by Sections 73-13-71
1006 through 73-13-105, nor shall any person practice land surveying
1007 whose authority to practice is revoked by the said board.

1008 Duties within the practice of land surveying, which must be
1009 performed by or under the direct supervision of a professional
1010 land surveyor and each map or drawing of which must be stamped
1011 with the seal of said registrant as provided in Section 73-13-83,
1012 include the following: property and boundary surveys; subdivision
1013 surveys and plats; public land surveys; easement surveys;
1014 right-of-way surveys; lease surveys; and all other surveys that
1015 require the establishment of property boundaries.

1016 Duties within both the practice of land surveying and the
1017 practice of engineering, which must be performed by or under the
1018 direct supervision of a professional land surveyor or a
1019 professional engineer and each map, drawing or report of which
1020 must be stamped with the seal of said registrant as provided in
1021 Sections 73-13-29 and 73-13-83, include, but are not limited to,
1022 the following: topographic surveys; surveys for record drawing
1023 (as-built surveys excluding the location of property boundaries);
1024 profiles and cross-sections; quantity surveys; cartographic
1025 surveys; hydrographic surveys; geodetic surveys; and mine surveys.

1026 SECTION 26. Section 73-13-75, Mississippi Code of 1972, is
1027 reenacted and amended as follows:

1028 73-13-75. The Mississippi State Board of Registration for
1029 Professional Engineers and Land Surveyors is hereby authorized and
1030 empowered to examine applicants for registration to practice land
1031 surveying; to register and issue certificates of registration to
1032 all applicants whom it deems qualified to practice land surveying
1033 in accordance with Sections 73-13-71 through 73-13-105; and to
1034 revoke certificates of registration for just cause as provided for
1035 in Sections 73-13-71 through 73-13-105.

1036 SECTION 27. Section 73-13-77, Mississippi Code of 1972, is
1037 reenacted as follows:

1038 73-13-77. (1) The following shall be considered as minimum
1039 evidence satisfactory to the board that the applicant is qualified
1040 for registration as a professional land surveyor:

1041 (a) The successful completion of a curriculum of two
1042 (2) scholastic years or more from a school or college approved by
1043 the board as of satisfactory standing, including the completion of
1044 approved courses in surveying and related subjects; a specific
1045 record of three (3) years of qualifying land surveying experience
1046 indicating that the applicant is competent to practice land
1047 surveying; and successfully passing examinations in surveying
1048 prescribed by the board; or

1049 (b) A specific record of seven (7) years' or more
1050 experience in land surveying work of a character satisfactory to
1051 the board and indicating that the applicant is competent to
1052 practice land surveying; and successfully passing examinations in
1053 surveying prescribed by the board.

1054 No person shall be eligible for registration as a
1055 professional land surveyor who is not of good character and
1056 reputation.

1057 (2) The following shall be considered as minimum evidence
1058 satisfactory to the board that the applicant is qualified for
1059 certification as a land surveyor intern:

1060 (a) The successful completion of two (2) scholastic
1061 years or more from a school or college approved by the board as of
1062 satisfactory standing, including the completion of approved
1063 courses in land surveying and related subjects, and successfully
1064 passing an examination in the fundamentals of land surveying; or

1065 (b) A specific record of three (3) years or more of
1066 qualifying land surveying experience, and successfully passing an
1067 examination in the fundamentals of land surveying.

1068 SECTION 28. Section 73-13-79, Mississippi Code of 1972, is
1069 reenacted and amended as follows:

1070 73-13-79. Application for enrollment as a land surveyor
1071 intern or for registration as a professional land surveyor shall

1072 be on forms prescribed and furnished by the board, shall contain
1073 statements made under oath showing the applicant's education and a
1074 detailed summary of the applicant's qualifying experience.
1075 Applications for registration or reregistration as a professional
1076 land surveyor shall also contain not less than five (5)
1077 references, of whom three (3) or more shall be professional land
1078 surveyors having personal knowledge of the applicant's land
1079 surveying experience.

1080 The application fee for registration * * * as a professional
1081 land surveyor shall be determined by the board but shall not
1082 exceed Seventy-five Dollars (\$75.00), which fee shall accompany
1083 the application.

1084 The application fee for enrollment as a land surveyor intern
1085 shall be determined by the board, but shall not exceed Twenty-five
1086 Dollars (\$25.00), which fee shall accompany the application.

1087 Whenever an applicant is cited to an examination or
1088 reexamination, an additional fee equal to the actual cost of the
1089 examination shall be paid by the applicant.

1090 SECTION 29. Section 73-13-81, Mississippi Code of 1972, is
1091 reenacted as follows:

1092 73-13-81. Examinations shall be required for enrollment as a
1093 land surveyor intern and registration as a professional land
1094 surveyor. The examinations shall be held at such time and place
1095 as the board may determine.

1096 The scope of the examinations and the methods and procedures
1097 shall be prescribed by the board with special reference to the
1098 applicant's ability to exercise direct control and personal
1099 supervision of all land surveying functions.

1100 The board shall cite applicants to examinations in accordance
1101 with its rules and regulations.

1102 SECTION 30. Section 73-13-83, Mississippi Code of 1972, is
1103 reenacted and amended as follows:

1104 73-13-83. The board shall issue a certificate, upon payment
1105 of the required fee, to any applicant who, in the opinion of the

1106 board, has satisfactorily met all the requirements therefor. In
1107 the case of registered professional land surveyors, the
1108 certificate shall authorize the "practice of land surveying." In
1109 the case of a land surveyor intern, the certificate shall state
1110 that the applicant has successfully passed the examination in
1111 fundamental land surveying subjects required by the board and has
1112 been enrolled as a "land surveyor intern * * *." Certificates
1113 shall show the full name of the professional land surveyor or land
1114 surveyor intern, shall have a serial number and shall be signed by
1115 the president and the secretary of the board under seal of the
1116 board.

1117 The issuance of a certificate of registration by this board
1118 shall be prima facie evidence that the person named therein is
1119 entitled to all the rights and privileges of a registered
1120 professional land surveyor, while the said certificate remains
1121 unrevoked or unexpired.

1122 Each person registering as a professional land surveyor after
1123 June 30, 1991, shall, upon registration, obtain a seal of the
1124 design authorized by the board, bearing the registrant's name and
1125 the legend "Registered Professional Land Surveyor." Each person
1126 registering as a professional land surveyor after June 30, 1991,
1127 who is also registered as a professional engineer in accordance
1128 with Sections 73-13-1 through 73-13-45 may also obtain one (1)
1129 seal bearing the registrant's name and the legend "Registered
1130 Professional Engineer and Professional Land Surveyor." Any person
1131 who, before July 1, 1991, was registered under this chapter as a
1132 land surveyor or as both a professional engineer and a land
1133 surveyor may continue to use the seal or seals that he obtained
1134 and that were authorized by the board to be used by such person
1135 before July 1, 1991. Plats, maps and reports prepared by a
1136 registrant shall be stamped with the seal during the life of the
1137 registrant's certificate, but it shall be unlawful for anyone to
1138 stamp or seal any documents with the seal after the certificate of
1139 the registrant named thereon has expired or * * * been revoked or

1140 suspended. It shall be unlawful for anyone other than the
1141 registrant to whom the seal has been issued to stamp or seal any
1142 documents utilizing such seal.

1143 SECTION 31. Section 73-13-85, Mississippi Code of 1972, is
1144 reenacted and amended as follows:

1145 73-13-85. Certificates of registration shall expire on the
1146 last day of the month of December following their issuance or
1147 renewal and shall become invalid on that date unless renewed. It
1148 shall be the duty of the board to notify every person registered
1149 under Sections 73-13-71 through 73-13-105 of the date of the
1150 expiration of his certificate and the amount of the fee that shall
1151 be required for its renewal for one (1) year; such notice shall be
1152 sent by first class mail to the last known address of the
1153 registrant at least one (1) month in advance of the date of the
1154 expiration of said certificate. Renewal may be effected at any
1155 time during the month of December by the payment of a fee not to
1156 exceed Fifty Dollars (\$50.00). A person who is registered as a
1157 professional land surveyor and as a professional engineer may
1158 effect both renewals by the payment of a single fee not to exceed
1159 Seventy-five Dollars (\$75.00). The failure on the part of any
1160 registrant to renew his certificate annually in the month of
1161 December as required above shall not deprive such person of the
1162 right of renewal, but the fee to be paid for the renewal of a
1163 certificate after the month of December shall be increased ten
1164 percent (10%) for each month that payment of renewal is delayed;
1165 however, the maximum fee for delayed renewal shall not exceed five
1166 (5) times the normal renewal fee.

1167 If the registrant shall fail to renew his certificate within
1168 five (5) years from the date of expiration, he must pay the back
1169 fees and be reexamined by the board in principles and practice
1170 before his certificate will be reissued. The reexamination may be
1171 waived by the board provided the applicant has continued to
1172 practice under another jurisdiction from the date of expiration of
1173 his certificate.

1174 SECTION 32. Section 73-13-87, Mississippi Code of 1972, is
1175 reenacted and amended as follows:

1176 73-13-87. The board may, upon application therefor and the
1177 payment of a fee to be determined by the board, but not to exceed
1178 Seventy-five Dollars (\$75.00), issue a certificate of registration
1179 as a professional land surveyor to any person who holds a
1180 certificate of registration issued to him by the proper authority
1181 of any state or territory or possession of the United States, or
1182 of any country, provided that the applicant's qualifications meet
1183 the requirements of Sections 73-13-71 through 73-13-105 and the
1184 rules established by the board.

1185 SECTION 33. Section 73-13-89, Mississippi Code of 1972, is
1186 reenacted and amended as follows:

1187 73-13-89. The powers and duties of the board regarding
1188 disciplinary actions against any person, including nonregistrants
1189 accused of violating any of the laws of the State of Mississippi
1190 regarding the practice of land surveying or the rules,
1191 regulations, bylaws, or standards of conduct and ethics pertaining
1192 thereto as duly promulgated by the board, as well as the
1193 procedures for conducting said disciplinary proceedings, the penal
1194 sanctions available to the board in the event the charges are
1195 established, and the procedures for appeal from such actions of
1196 the board shall be the same as those set forth in Sections
1197 73-13-37 and 73-13-39 regarding actions against persons charged
1198 with similar violations related to the practice of engineering.

1199 SECTION 34. Section 73-13-93, Mississippi Code of 1972, is
1200 reenacted as follows:

1201 73-13-93. Any person who may feel aggrieved by an action of
1202 the board denying or revoking his certificate of registration or
1203 re-registration as a professional land surveyor or enrollment as
1204 land surveyor intern may appeal therefrom to the chancery court of
1205 the county of residence of such person and, after full hearing,
1206 the court shall make such order sustaining or reversing the action
1207 of the board as to it may seem just and proper. However, in case

1208 of a nonresident licensee or applicant, such appeal shall be taken
1209 or made to the Chancery Court of the First Judicial District of
1210 Hinds County, Mississippi.

1211 Actions taken by the board in suspending a certificate of
1212 registration when required by Section 93-11-157 or 93-11-163 are
1213 not actions from which an appeal may be taken under this section.

1214 Any appeal of a suspension of a certificate that is required by
1215 Section 93-11-157 or 93-11-163 shall be taken in accordance with
1216 the appeal procedure specified in Section 93-11-157 or 93-11-163,
1217 as the case may be, rather than the procedure specified in this
1218 section.

1219 SECTION 35. Section 73-13-95, Mississippi Code of 1972, is
1220 reenacted and amended as follows:

1221 73-13-95. Any person who shall practice, or offer to
1222 practice, land surveying in this state without being registered in
1223 accordance with the provisions of Sections 73-13-71 through
1224 73-13-105, or any person presenting or attempting to use as his
1225 own the certificate of registration or the seal of another, or any
1226 person who shall give any false or forged evidence of any kind to
1227 the board or to any member thereof in obtaining a certificate of
1228 registration, or any person who shall falsely impersonate any
1229 other registrant of like or different name, or any person who
1230 shall attempt to use an expired or revoked certificate of
1231 registration, or any person who shall violate any of the
1232 provisions of Sections 73-13-71 through 73-13-105, shall be guilty
1233 of a misdemeanor, and shall, upon conviction, be sentenced to pay
1234 a fine of not less than One Hundred Dollars (\$100.00), nor more
1235 than One Thousand Dollars (\$1,000.00), or suffer imprisonment for
1236 a period of not exceeding three (3) months, or both. The criminal
1237 penalties provided for in this section may be assessed in addition
1238 to those civil penalties provided for in Section 73-13-37.

1239 Unless registered in accordance with the provisions of
1240 Sections 73-13-71 through 73-13-105, no person shall:

1241 (a) Directly or indirectly employ, use, cause to be

1242 used or make use of any of the following terms or any combination,
1243 variations or abbreviations thereof as a professional, business or
1244 commercial identification, title, name, representation, claim,
1245 asset or means of advantage or benefit: "surveyor," "professional
1246 surveyor," "licensed surveyor," "registered surveyor," "registered
1247 professional surveyor," "licensed professional surveyor,"
1248 "surveyed," "surveying," "professional land surveyor," or
1249 "registered professional land surveyor";

1250 (b) Directly or indirectly employ, use, cause to be
1251 used or make use of any letter, abbreviation, word, symbol,
1252 slogan, sign or any combinations or variations thereof, which in
1253 any manner whatsoever tends or is likely to create any impression
1254 with the public or any member thereof that any person is qualified
1255 or authorized to practice land surveying; or

1256 (c) Receive any fee or compensation or the promise of
1257 any fee or compensation for performing, offering or attempting to
1258 perform any service, work, act or thing which is any part of the
1259 practice of land surveying.

1260 Any person, firm, partnership, association or corporation
1261 which shall do, offer or attempt to do any one or more of the acts
1262 or things set forth in items (a) through (c) of the preceding
1263 paragraph shall be conclusively presumed and regarded as engaged
1264 in the practice of land surveying.

1265 It shall be the duty of all duly constituted officers of the
1266 law of this state, or any political subdivision thereof, to
1267 enforce the provisions of Sections 73-13-71 through 73-13-105 and
1268 to prosecute any persons violating same. The Attorney General of
1269 the state or his assistant shall act as legal adviser of the board
1270 and render such legal assistance as may be necessary in carrying
1271 out the provisions of Sections 73-13-71 through 73-13-105.

1272 SECTION 36. Section 73-13-97, Mississippi Code of 1972, is
1273 reenacted and amended as follows:

1274 73-13-97. Sections 73-13-71 through 73-13-105 shall not be
1275 construed to prevent or to affect:

1276 (a) Other professions or trades. The practice of any
1277 other legally recognized profession or trade; or

1278 * * *

1279 (b) Employees and subordinates. The work of an
1280 employee or a subordinate of a person holding a certificate of
1281 registration under Sections 73-13-71 through 73-13-105 * * *;
1282 providing such work does not include final decisions and is done
1283 under the direct responsibility, checking and supervision of a
1284 person holding a certificate of registration under Sections
1285 73-13-71 through 73-13-105 * * *; or

1286 (c) Government officers and employees. The practice of
1287 officers and employees of the government of the United States
1288 while engaged within this state in the practice of land surveying
1289 for said government; or

1290 (d) Certain elected or appointed county surveyors. A
1291 county surveyor as provided for in Section 135 of the Mississippi
1292 Constitution, and Sections 19-27-1 through 19-27-35 implementing
1293 the constitutional provision, who holds the office of county
1294 surveyor by either election or appointment, shall be exempt,
1295 through December 31, 1983, from the provisions of Sections
1296 73-13-71 through 73-13-105 insofar as his statutory duties within
1297 the boundaries of the county in which he is duly elected or
1298 appointed are concerned. From and after January 1, 1984, such
1299 surveyor shall not be exempt from the provisions of Sections
1300 73-13-71 through 73-13-105 unless he held the office of county
1301 surveyor by either election or appointment on December 31, 1983.

1302 (e) Employees of public service and/or utility
1303 companies. The work or practice of a regular employee of a public
1304 service company or public utility, by rendering to such company
1305 land surveying service in connection with its facilities which are
1306 subject to regulation, supervision and control in order to
1307 safeguard life, health and property by the Public Service
1308 Commission of this state, shall be exempt so long as such person
1309 is thus actually and exclusively employed and no longer.

1310 SECTION 37. Section 73-13-99, Mississippi Code of 1972,
1311 which provides for the repeal of Sections 73-13-1 through 73-13-45
1312 and Sections 73-13-71 through 73-13-97, Mississippi Code of 1972,
1313 is repealed.

1314 SECTION 38. A corporation, firm or partnership may engage in
1315 the practice of professional land surveying in this state,
1316 providing the person or persons in charge of the supervision,
1317 which constitutes such practice, is or are registered as herein
1318 required of professional land surveyors. Any corporation, firm or
1319 partnership engaged in the practice of professional land surveying
1320 in this state must have at least one (1) registered land surveyor
1321 as a principal officer or partner of the firm, who has management
1322 responsibility for said practice. A corporation, firm or
1323 partnership, when performing land surveying services to the public
1324 for a fee or other emoluments, shall include in each agreement for
1325 such services the name and registration number of the professional
1326 land surveyor who will bear the primary responsibility for the
1327 land surveying work involved. The same exemptions shall apply to
1328 corporations, firms and partnerships as apply to individuals under
1329 Sections 73-13-71 through 73-13-105.

1330 SECTION 39. Section 73-13-103, Mississippi Code of 1972, is
1331 amended as follows:

1332 73-13-103. (1) For the purposes of this section, the term
1333 "surveyor" means a registered professional land surveyor as
1334 defined in Section 73-13-71, and any person who is employed by or
1335 under the direct supervision of a professional land surveyor
1336 registered under Sections 73-13-71 through 73-13-105.

1337 (2) A surveyor may enter in or upon public or private lands
1338 or waters, except buildings, while in the lawful performance of
1339 surveying duties without criminal liability for trespass; however,
1340 a surveyor shall make a good faith attempt to announce and
1341 identify himself and his intentions before entering upon private
1342 property and must present documentation sufficient to identify him
1343 as a surveyor to anyone requesting such identification.

1344 (3) The provisions of this section do not relieve a surveyor
1345 from any civil liability that otherwise is actionable at law or in
1346 equity, and do not relieve a surveyor from criminal liability for
1347 trespass if the entry in or upon the property extends beyond the
1348 property or area that is necessary to actually perform the
1349 surveying duties.

1350 (4) Surveyors shall be personally liable for any damage
1351 caused to private property when exercising entry under this
1352 section. No cause of action shall lie against a landowner for
1353 damages to a surveyor while on such lands unless the damage is
1354 caused by the intentional tortious conduct of landowner or his
1355 agent.

1356 SECTION 40. Section 38 of this act shall be codified as
1357 Section 73-13-105, Mississippi Code of 1972.

1358 SECTION 41. This act shall take effect and be in force from
1359 and after July 1, 1999.