



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**  
**HB4138**

Introduced 1/16/2004, by Kevin Joyce

**SYNOPSIS AS INTRODUCED:**

225 ILCS 325/3	from Ch. 111, par. 5203
225 ILCS 325/4	from Ch. 111, par. 5204
225 ILCS 325/24	from Ch. 111, par. 5224

Amends the Professional Engineering Practice Act of 1989. Provides that nothing in the Act shall be construed to prohibit any individual from exercising their rights pursuant to the National Labor Relations Act and the Labor Management Relations Act. Provides that nothing in the Act shall be construed to prohibit any professional engineer or any professional engineering company from lawfully obtaining work, even if such work had previously been let to or performed by a competitor professional engineering company. Makes changes in provisions related to grounds for disciplinary action. Effective immediately.

LRB093 16362 AMC 42000 b

1 AN ACT concerning professional regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Professional Engineering Practice Act of  
5 1989 is amended by changing Sections 3, 4, and 24 as follows:

6 (225 ILCS 325/3) (from Ch. 111, par. 5203)

7 (Section scheduled to be repealed on January 1, 2010)

8 Sec. 3. Application of the Act; Exemptions.

9 (a) Nothing in this Act shall be construed to prevent the  
10 practice of structural engineering as defined in the Structural  
11 Engineering Practice Act of 1989 or the practice of  
12 architecture as defined in the Illinois Architecture Practice  
13 Act of 1989 or the regular and customary practice of  
14 construction contracting and construction management as  
15 performed by construction contractors.

16 (b) Nothing in this Act shall prevent:

17 (1) Employees, including project representatives, of  
18 professional engineers lawfully practicing as sole owners,  
19 partnerships or corporations under this Act, from acting  
20 under the direct supervision of their employers.

21 (2) The employment of owner's representatives by the  
22 owner during the constructing, adding to, or altering of a  
23 project, or any parts thereof, provided that such owner's  
24 representative shall not have the authority to deviate from  
25 the technical submissions without the prior approval of the  
26 professional engineer for the project.

27 (3) The practice of officers and employees of the  
28 Government of the United States while engaged within this  
29 State in the practice of the profession of engineering for  
30 the Government.

31 (4) Services performed by employees of a business  
32 organization engaged in utility, industrial or

1 manufacturing operations, or by employees of laboratory  
2 research affiliates of such business organization which  
3 are rendered in connection with the fabrication or  
4 production, sale, and installation of products, systems,  
5 or nonengineering services of the business organization or  
6 its affiliates.

7 (5) Inspection, maintenance and service work done by  
8 employees of the State of Illinois, any political  
9 subdivision thereof or any municipality.

10 (6) The activities performed by those ordinarily  
11 designated as chief engineer of plant operation, chief  
12 operating engineer, locomotive, stationary, marine, power  
13 plant or hoisting and portable engineers, electrical  
14 maintenance or service engineers, personnel employed in  
15 connection with construction, operation or maintenance of  
16 street lighting, traffic control signals, police and fire  
17 alarm systems, waterworks, steam, electric, and sewage  
18 treatment and disposal plants, or the services ordinarily  
19 performed by any worker regularly employed as a locomotive,  
20 stationary, marine, power plant, or hoisting and portable  
21 engineer or electrical maintenance or service engineer for  
22 any corporation, contractor or employer.

23 (7) The activities performed by a person ordinarily  
24 designated as a supervising engineer or supervising  
25 electrical maintenance or service engineer who supervises  
26 the operation of, or who operates, machinery or equipment,  
27 or who supervises construction or the installation of  
28 equipment within a plant which is under such person's  
29 immediate supervision.

30 (8) The services, for private use, of contractors or  
31 owners in the construction of engineering works or the  
32 installation of equipment.

33 (c) No officer, board, commission, or other public entity  
34 charged with the enforcement of codes and ordinances involving  
35 a professional engineering project shall accept for filing or  
36 approval any technical submissions that do not bear the seal

1 and signature of a professional engineer licensed under this  
2 Act.

3 (d) Nothing contained in this Section imposes upon a person  
4 licensed under this Act the responsibility for the performance  
5 of any of the foregoing functions unless such person  
6 specifically contracts to provide it.

7 (e) Nothing in this Act shall be construed to prohibit any  
8 individual from exercising their rights pursuant to the  
9 National Labor Relations Act, 29 U.S.C. 151, et seq., and the  
10 Labor Management Relations Act, 29 U.S.C. 141, et seq.,  
11 including the right to self-organization, the right to form,  
12 join, or assist labor organizations, the right to bargain  
13 collectively through representatives of their own choosing,  
14 and the right to engage in other concerted activities for the  
15 purpose of collective bargaining or other mutual aid or  
16 protection as provided in 29 U.S.C. 157, et seq.

17 (f) Nothing in this Act shall be construed to prohibit any  
18 professional engineer or any professional engineering company  
19 from lawfully obtaining work, even if such work had previously  
20 been let to or performed by a competitor professional  
21 engineering company. This includes accepting work previously  
22 performed by a competitor, regardless of the reason the  
23 competitor is no longer performing such work and regardless of  
24 whether the existence of a labor dispute played any role in the  
25 competitor's losing the performance of certain work.

26 (Source: P.A. 91-91, eff. 1-1-00.)

27 (225 ILCS 325/4) (from Ch. 111, par. 5204)

28 (Section scheduled to be repealed on January 1, 2010)

29 Sec. 4. Definitions. As used in this Act:

30 (a) "Approved engineering curriculum" means an engineering  
31 curriculum or program of 4 academic years or more which meets  
32 the standards established by the rules of the Department.

33 (b) "Board" means the State Board of Professional Engineers  
34 of the Department of Professional Regulation, previously known  
35 as the Examining Committee.

1 (c) "Department" means the Department of Professional  
2 Regulation.

3 (d) "Design professional" means an architect, structural  
4 engineer or professional engineer practicing in conformance  
5 with the Illinois Architecture Practice Act of 1989, the  
6 Structural Engineering Practice Act of 1989 or the Professional  
7 Engineering Practice Act of 1989.

8 (e) "Director" means the Director of Professional  
9 Regulation.

10 (f) "Direct supervision/responsible charge" means work  
11 prepared under the control of a licensed professional engineer  
12 or that work as to which that professional engineer has  
13 detailed professional knowledge.

14 (g) "Engineering college" means a school, college,  
15 university, department of a university or other educational  
16 institution, reputable and in good standing in accordance with  
17 rules prescribed by the Department, and which grants  
18 baccalaureate degrees in engineering.

19 (h) "Engineering system or facility" means a system or  
20 facility whose design is based upon the application of the  
21 principles of science for the purpose of modification of  
22 natural states of being.

23 (i) "Engineer intern" means a person who is a candidate for  
24 licensure as a professional engineer and who has been enrolled  
25 as an engineer intern.

26 (j) "Enrollment" means an action by the Department to  
27 record those individuals who have met the Board's requirements  
28 for an engineer intern.

29 (k) "License" means an official document issued by the  
30 Department to an individual, a corporation, a partnership, a  
31 professional service corporation, a limited liability company,  
32 or a sole proprietorship, signifying authority to practice.

33 (l) "Negligence in the practice of professional  
34 engineering" means the failure to exercise that degree of  
35 reasonable professional skill, judgment and diligence normally  
36 rendered by professional engineers in the practice of

1 professional engineering.

2 (m) "Professional engineer" means a person licensed under  
3 the laws of the State of Illinois to practice professional  
4 engineering.

5 (n) "Professional engineering" means the application of  
6 science to the design of engineering systems and facilities  
7 using the knowledge, skills, ability and professional judgment  
8 developed through professional engineering education, training  
9 and experience.

10 (o) "Professional engineering practice" means the  
11 consultation on, conception, investigation, evaluation,  
12 planning, and design of, and selection of materials to be used  
13 in, administration of construction contracts for, or site  
14 observation of, an engineering system or facility, where such  
15 consultation, conception, investigation, evaluation, planning,  
16 design, selection, administration, or observation requires  
17 extensive knowledge of engineering laws, formulae, materials,  
18 practice, and construction methods. A person shall be construed  
19 to practice or offer to practice professional engineering,  
20 within the meaning and intent of this Act, who practices, or  
21 who, by verbal claim, sign, advertisement, letterhead, card, or  
22 any other way, is represented to be a professional engineer, or  
23 through the use of the initials "P.E." or the title "engineer"  
24 or any of its derivations or some other title implies licensure  
25 as a professional engineer, or holds himself out as able to  
26 perform any service which is recognized as professional  
27 engineering practice.

28 Examples of the practice of professional engineering  
29 include, but need not be limited to, transportation facilities  
30 and publicly owned utilities for a region or community,  
31 railroads, railways, highways, subways, canals, harbors, river  
32 improvements; irrigation works; aircraft, airports and landing  
33 fields; waterworks, piping systems and appurtenances, sewers,  
34 sewage disposal works; plants for the generation of power;  
35 devices for the utilization of power; boilers; refrigeration  
36 plants, air conditioning systems and plants; heating systems

1 and plants; plants for the transmission or distribution of  
2 power; electrical plants which produce, transmit, distribute,  
3 or utilize electrical energy; works for the extraction of  
4 minerals from the earth; plants for the refining, alloying or  
5 treating of metals; chemical works and industrial plants  
6 involving the use of chemicals and chemical processes; plants  
7 for the production, conversion, or utilization of nuclear,  
8 chemical, or radiant energy; forensic engineering,  
9 geotechnical engineering including, subsurface investigations;  
10 soil classification, geology and geohydrology, incidental to  
11 the practice of professional engineering; energy analysis,  
12 environmental design, hazardous waste mitigation and control;  
13 recognition, measurement, evaluation and control of  
14 environmental systems and emissions; automated building  
15 management systems; or the provision of professional  
16 engineering site observation of the construction of works and  
17 engineering systems. Nothing contained in this Section imposes  
18 upon a person licensed under this Act the responsibility for  
19 the performance of any of the foregoing functions unless such  
20 person specifically contracts to provide it.

21 (p) "Project representative" means the professional  
22 engineer's representative at the project site who assists in  
23 the administration of the construction contract.

24 (q) "Registered" means the same as "licensed" for purposes  
25 of this Act.

26 (r) "Related science curriculum" means a 4 year program of  
27 study, the satisfactory completion of which results in a  
28 Bachelor of Science degree, and which contains courses from  
29 such areas as life, earth, engineering and computer sciences,  
30 including but not limited to, physics and chemistry. In the  
31 study of these sciences, the objective is to acquire  
32 fundamental knowledge about the nature of its phenomena,  
33 including quantitative expression, appropriate to particular  
34 fields of engineering.

35 (s) "Rules" means those rules promulgated pursuant to this  
36 Act.

1 (t) "Seal" means the seal in compliance with Section 14 of  
2 this Act.

3 (u) "Site observation" is visitation of the construction  
4 site for the purpose of reviewing, as available, the quality  
5 and conformance of the work to the technical submissions as  
6 they relate to design.

7 (v) "Support design professional" means a professional  
8 engineer practicing in conformance with the Professional  
9 Engineering Practice Act of 1989, who provides services to the  
10 design professional who has contract responsibility.

11 (w) "Technical submissions" means designs, drawings, and  
12 specifications which establish the standard of quality for  
13 materials, workmanship, equipment, and the construction  
14 systems, studies, and other technical reports prepared in the  
15 course of a design professional's practice.

16 (x) "Labor organization" means a labor organization as  
17 defined by the National Labor Relations Act, 29 U.S.C. 151, et  
18 seq.

19 (y) "Labor dispute" means any dispute between a labor  
20 organization and any employer, as further described by the  
21 National Labor Relations Act, 29 U.S.C. 151, et seq., or any  
22 National Labor Relations Board or other precedent interpreting  
23 the National Labor Relations Act

24 (Source: P.A. 91-91, eff. 1-1-00; 91-92, eff. 1-1-00; 92-16,  
25 eff. 6-28-01; 92-145, eff. 1-1-02.)

26 (225 ILCS 325/24) (from Ch. 111, par. 5224)

27 (Section scheduled to be repealed on January 1, 2010)

28 Sec. 24. Rules of professional conduct; disciplinary or  
29 administrative action.

30 (a) The Department shall adopt rules setting standards of  
31 professional conduct and establish appropriate penalty for the  
32 breach of such rules.

33 (a-1) The Department may, singularly or in combination,  
34 refuse to issue, restore, or renew a license or registration,  
35 revoke or suspend a license or registration, or place on



1 probation, reprimand, or impose a civil penalty not to exceed  
2 \$10,000 upon any person, corporation, partnership, or  
3 professional design firm licensed or registered under this Act  
4 for any one or combination of the following:

5 (1) Material misstatement in furnishing information to  
6 the Department.

7 (2) Failure to comply with any provisions of this Act  
8 or any of its rules.

9 (3) Conviction of any crime under the laws of the  
10 United States, or any state or territory thereof, which is  
11 a felony, whether related to practice or not, or conviction  
12 of any crime, whether a felony, misdemeanor, or otherwise,  
13 an essential element of which is dishonesty or which is  
14 directly related to the practice of engineering.

15 (4) Making any misrepresentation for the purpose of  
16 obtaining licensure, or in applying for restoration or  
17 renewal; or practice of any fraud or deceit in taking any  
18 examination to qualify for licensure under this Act.

19 (5) Purposefully making false statements or signing  
20 false statements, certificates, or affidavits to induce  
21 payment.

22 (6) Negligence, incompetence or misconduct in the  
23 practice of professional engineering as a licensed  
24 professional engineer or in working as an engineer intern.

25 (7) Aiding or assisting another person in violating any  
26 provision of this Act or its rules.

27 (8) Failing to provide information in response to a  
28 written request made by the Department within 30 days after  
29 receipt of such written request.

30 (9) Engaging in dishonorable, unethical or  
31 unprofessional conduct of a character likely to deceive,  
32 defraud or harm the public. This item (9) shall not  
33 prohibit a professional engineering company from obtaining  
34 work, even where such work may have been previously bid to  
35 or performed by a competitor professional engineering  
36 company. This includes, but is not limited to, obtaining

1 work previously performed by a competitor where any labor  
2 dispute played any role in the competitor's losing of such  
3 business.

4 (10) Habitual intoxication or addiction to the use of  
5 drugs.

6 (11) Discipline by the United States Government,  
7 another state, District of Columbia, territory, foreign  
8 nation or government agency, if at least one of the grounds  
9 for the discipline is the same or substantially equivalent  
10 to those set forth in this Act.

11 (12) Directly or indirectly giving to or receiving from  
12 any person, firm, corporation, partnership or association  
13 any fee, commission, rebate or other form of compensation  
14 for any professional services not actually or personally  
15 rendered.

16 (13) A finding by the Board that an applicant or  
17 registrant has failed to pay a fine imposed by the  
18 Department, a registrant whose license has been placed on  
19 probationary status has violated the terms of probation, or  
20 a registrant has practiced on an expired, inactive,  
21 suspended, or revoked license.

22 (14) Signing, affixing the professional engineer's  
23 seal or permitting the professional engineer's seal to be  
24 affixed to any technical submissions not prepared as  
25 required by Section 14 or completely reviewed by the  
26 professional engineer or under the professional engineer's  
27 direct supervision.

28 (15) Physical illness, including but not limited to  
29 deterioration through the aging process or loss of motor  
30 skill, which results in the inability to practice the  
31 profession with reasonable judgment, skill or safety.

32 (16) The making of a statement pursuant to the  
33 Environmental Barriers Act that a plan for construction or  
34 alteration of a public facility or for construction of a  
35 multi-story housing unit is in compliance with the  
36 Environmental Barriers Act when such plan is not in

1 compliance.

2 (17) Failing to file a return, or to pay the tax,  
3 penalty or interest shown in a filed return, or to pay any  
4 final assessment of tax, penalty or interest as required by  
5 a tax Act administered by the Illinois Department of  
6 Revenue, until such time as the requirements of any such  
7 tax Act are satisfied.

8 (18) Abusing this Act, or attempting to use this Act  
9 for purposes outside those central to the practice of  
10 professional engineering as defined by this Act. This  
11 includes but is not limited to, attempting to use this Act  
12 in an effort to interfere with union organizing, employees'  
13 choice of a labor organization as their representative, or  
14 the pursuit of business opportunities of any competitor  
15 company also licensed under this Act.

16 (a-5) In enforcing this Section, the Board upon a showing  
17 of a possible violation may compel a person licensed to  
18 practice under this Act, or who has applied for licensure or  
19 certification pursuant to this Act, to submit to a mental or  
20 physical examination, or both, as required by and at the  
21 expense of the Department. The examining physicians shall be  
22 those specifically designated by the Board. The Board or the  
23 Department may order the examining physician to present  
24 testimony concerning this mental or physical examination of the  
25 licensee or applicant. No information shall be excluded by  
26 reason of any common law or statutory privilege relating to  
27 communications between the licensee or applicant and the  
28 examining physician. The person to be examined may have, at his  
29 or her own expense, another physician of his or her choice  
30 present during all aspects of the examination. Failure of any  
31 person to submit to a mental or physical examination, when  
32 directed, shall be grounds for suspension of a license until  
33 the person submits to the examination if the Board finds, after  
34 notice and hearing, that the refusal to submit to the  
35 examination was without reasonable cause.

36 If the Board finds a person unable to practice because of

1 the reasons set forth in this Section, the Board may require  
2 that person to submit to care, counseling, or treatment by  
3 physicians approved or designated by the Board as a condition,  
4 term, or restriction for continued, reinstated, or renewed  
5 licensure to practice; or, in lieu of care, counseling, or  
6 treatment, the Board may recommend to the Department to file a  
7 complaint to immediately suspend, revoke, or otherwise  
8 discipline the license of the person. Any person whose license  
9 was granted, continued, reinstated, renewed, disciplined, or  
10 supervised subject to such terms, conditions, or restrictions  
11 and who fails to comply with such terms, conditions, or  
12 restrictions shall be referred to the Director for a  
13 determination as to whether the person shall have his or her  
14 license suspended immediately, pending a hearing by the Board.

15 (b) The determination by a circuit court that a registrant  
16 is subject to involuntary admission or judicial admission as  
17 provided in the Mental Health and Developmental Disabilities  
18 Code, as now or hereafter amended, operates as an automatic  
19 suspension. Such suspension will end only upon a finding by a  
20 court that the patient is no longer subject to involuntary  
21 admission or judicial admission, the issuance of an order so  
22 finding and discharging the patient, and the recommendation of  
23 the Board to the Director that the registrant be allowed to  
24 resume practice.

25 (Source: P.A. 91-92, eff. 1-1-00; 92-145, eff. 1-1-02.)

26 Section 99. Effective date. This Act takes effect upon  
27 becoming law.