

failing to pass an examination would not be entitled to demand a special examination, should he compete in any subsequent regular examination, he would not be deemed to have used up or forfeited his right to preference, but rather it would be a continuing right still available to him.

OFFICIAL OPINION NO. 33

April 3, 1952.

Mr. Ferdinand Jehle, Secretary,
State Board of Registration,
Professional Engineers and Land Surveyors,
State House,
Indianapolis, Indiana.

Dear Mr. Jehle:

I have your request for an official opinion which reads as follows:

- “1. According the provisions of Chapter 124 of the Acts of 1931 as last amended by Chapter 124 of the Acts of 1943, are applicants for an original registration as a Professional Engineer or Land Surveyor required to present any evidence of payment of poll and personal property taxes?”
- “2. If the answer to the first question is in the affirmative, then are applicants for an annual renewal of the original registration required to present any evidence of payment of poll and personal property taxes?”

Section 42-102 Burns' 1951 Supp., same being Section 1, Chapter 124, Acts 1931, as last amended by Section 1, Chapter 124, Acts 1943, provides in part as follows:

“It shall be unlawful for any board, officer or person to issue any license, as hereinafter defined, to any person who is a resident of this State, unless the applicant for such license shall, at the time when he applies for such license, and in addition to all other require-

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ments prescribed by law, submit a receipt or other evidence showing that such applicant has paid his poll and personal property taxes in full which accrued and fell due and payable during the year previous to the year in which such license is issued or to be issued

* * *

Section 42-103 Burns' 1933, same being Section 2 of Chapter 124 of the Acts of 1931, provides as follows:

"The term 'license' as used in this Act shall be construed to mean and include motor vehicle registration licenses, certificates of title showing the ownership of any motor vehicle, licenses authorizing persons to drive or operate motor vehicles on the public highways, either as chauffeurs or otherwise; *licenses to practice any profession, trade or occupation for the practice of which a state license as (is) required by law.*" (Our emphasis.)

The question then resolves itself as to whether the action of the State Board of Registration for Professional Engineers and Land Surveyors under Section 63-1531, Burns' 1951 Replacement, same being Section 15, Chapter 148, Acts 1935 as amended by Section 7, Chapter 262, Acts of 1947 is the giving of a license. Said Section reads as follows:

"The board shall issue a certificate of registration, upon the payment of the registration fee prescribed in this act (§§ 63-1517—63-1553), to any applicant who, in the opinion of the board, has satisfactorily met all requirements of this act. In the case of a registered professional engineer, the certificate shall authorize the 'practice of professional engineering' and in the case of a registered land surveyor, the certificate shall authorize the practice of 'land surveying.' In the case of an engineer-in-training, the certificate shall state that the applicant had successfully passed the examination in fundamental engineering subjects, required by the board and has been enrolled as an engineer-in-training. Every such certificate shall show the full name of registrant, and shall have a serial number. Every certificate of registration of a professional engi-

neer or land surveyor shall be signed by each member and by the secretary of the board, under seal of the board and each certification as an engineer-in-training shall be signed by the chairman and the secretary of the board, under the seal of the board. The issuance of any certificate by the board under this act shall be evidence that a person named therein is entitled to all the rights and privileges of a registered professional engineer, or of a registered land surveyor, or an engineer-in-training, as the case may be, while such certificate remains unrevoked or unexpired."

It is noted that in the above quoted section of the statute that the giving of a "certificate" authorizes the "practice of professional engineering" and the practice of "land surveying." There can be no doubt that the issuing of a "certificate" constitutes a "license" as defined in Section 42-103, Burns' 1933.

Although Chapter 148, Acts 1935 as amended is a later act than Chapter 124, Acts 1931 as amended, it does not appear from the language of either act that there is any inconsistency or repugnancy of any subject-matter. The 1935 Act does not attempt in any manner to repeal any portion of the 1931 Act nor does it specifically say that the provision of the 1931 Act will not apply. Unless it could be determined that the two acts are repugnant, there could be no implied repeal of the former act. The Indiana Supreme Court in the case of Freyermuth *et al.* v. State *ex rel.* Burns (1936), 210 Ind. 235, 2 N. E. 2d 399, said:

"It has been repeatedly affirmed by the decisions of this court that implied repeals are only recognized and upheld when the later act is so repugnant to the earlier as to render the repugnancy or conflict between them irreconcilable. A court will always, if possible, adopt that construction which, under the particular circumstances in a given case, will permit both laws to stand and be operative."

Therefore, it is my opinion that the State Board of Registration for Professional Engineers and Land Surveyors must require that all applicants present evidence that they have paid

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their poll and personal taxes for the year prior to the year in which such license may be issued. This opinion is distinguished from Attorney General's Opinion No. 29, 1947. In that opinion it was the opinion of the Attorney General that the Board of Medical Registration did not issue the license to practice medicine but that the county clerk issued such license. Therefore, the acts of that board were merely that of reviewing the professional qualifications of that applicant but said board in no way issued any license.

To answer your second question, Section 63-1533 Burns' 1951 Replacement appears to give the answer. That section is in part as follows:

"Certificates of registration shall expire on the last day of the month of July following the date of their issuance or renewal, and shall be invalid from that date unless renewed. * * *"

Webster's New International Dictionary, Second Edition defines "renew" as "to make new again." Thus, the renewal of a license is the granting of a new license and the provisions of Section 42-102 Burns' 1951 Supp. would apply to the granting of a license each year.

OFFICIAL OPINION NO. 34

April 14, 1952.

Honorable Otto K. Jensen,
State Examiner,
State Board of Accounts,
304 State House,
Indianapolis 4, Indiana.

Dear Sir:

Your letter of March 11, 1952 has been received and reads as follows:

"Your official opinion no. 61, July 23, 1951, directed to this department, held the applicable and controlling statute for the operation of the offices of Justice of the Peace and Constable of Calumet Township, Lake