

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 430

H. P. 280

House of Representatives, January 30, 1973

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Martin of Eagle Lake.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT** Establishing the Profession and Regulation of Soil Scientists  
in Maine

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Be it enacted by the People of the State of Maine, as follows:

**Sec. 1. R. S., T. 32, c. 62-B, additional.** Title 32 of the Revised Statutes is amended by adding a new chapter 62-B to read as follows:

**CHAPTER 62-B**

**SOIL SCIENTISTS**

**SUBCHAPTER I**

**GENERAL PROVISIONS**

§ 4200. Definitions

As used in this chapter, unless a different meaning appears from the context, the following words shall have the following meanings.

1. Board. "Board" shall mean the State Board of Registration for Professional Soil Scientists.

2. Pedology. "Pedology" shall mean the aspect of soil science which involves, among others, the nature, properties, formation, classification, functioning, behavior and response to use and management of soils; it shall include the mapping and identification of soils, and the interpretation of soil properties. Pedology centers on soils as the biochemically weathered part of the earth's crust. Soil shall be taken as defined in the Soil Taxonomy

of the National Cooperative Soil Survey, prepared by the Soil Survey Staff of the Soil Conservation Service, U.S.D.A., Washington, D. C.

3. Practice of soil investigation. "Practice of soil investigation" shall be held to mean any professional service which requires the application of pedological principles and data. Such professional service includes identification and mapping according to the standards of the National Cooperative Soil Survey, consultation, or evaluation in connection with any public or private works or projects wherein the public welfare or the safeguarding of life, health or property is concerned or involved.

4. Professional soil scientist. "Professional soil scientist" shall mean a person who, by reason of his knowledge of pedology, the biological and physical sciences, acquired by professional education and practical experience, is qualified to engage in soil investigations as defined.

§ 4200-A. Other legally recognized professions not affected

This chapter shall not be construed to affect or prevent the practice of any other legally recognized profession.

§ 4200-B. Corporations, partnerships and associations

A firm, copartnership, corporation or joint stock association may engage in the practice of professional soil investigations in this State, provided only such practice is carried on by professional soil scientists.

§ 4200-C. Exemptions

The following persons shall be exempt from this chapter:

1. Nonresident practicing less than 30 days. A person not a resident of and having no established place of business in this State, practicing or offering to practice herein the profession of soil scientist when such practice does not exceed in the aggregate more than 30 days in any calendar year, provided such person is legally qualified by registration to practice the said profession in his own state or county in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter;

2. Nonresident becoming resident or persons practicing more than 30 days. A person not a resident of and having no established place of business in this State, or who has recently become a resident thereof, practicing or offering to practice herein for more than 30 days in any calendar year the profession of soil scientist, if he shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this chapter. Such exemption shall continue only for such time as the board requires for the consideration of the application for registration, provided such a person is legally qualified to practice said profession in his own state or county in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter;

3. Certain employees. An employee or a subordinate of a person holding a certificate of registration under this chapter, or an employee of a per-

son exempted from registration by subsections 1 and 2; provided his practice does not include responsible charge or evaluation;

4. State of Maine and United States Government employees. Officers and employees of the State of Maine and the Government of the United States while engaged within this State in the practice of the profession of soil scientist for said government.

#### § 4200-D. Violations

Any person who shall practice or offer to practice the profession of soil scientist in this State without being registered or exempted in accordance with this chapter, or any person presenting or attempting to use as his own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked certificate of registration, or any person who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than \$500 nor more than \$1,000 per violation, or by imprisonment for not more than 3 months, or by both. All soil investigations work performed by such persons from the time of violation until the time of conviction shall be considered void, and such persons shall be held liable for all damages to property resulting from work conducted according to their recommendations.

It shall be the duty of all constituted officers of the law of this State or any political subdivision thereof to enforce this chapter and to prosecute any persons violating same. The Attorney General or his assistant shall act as legal advisor of the board and render such legal assistance as may be necessary in carrying out this chapter.

## SUBCHAPTER II

### STATE BOARD OF REGISTRATION

#### § 4200-E. Appointment; term

A state Board of Registration for Professional Soil Scientists shall be established to administer this chapter. The board shall consist of 5 individuals whose professions are that of soil scientists or are closely related to said profession, and who shall be appointed by the Governor, with the advice and consent of the Council, from among nominees recommended by the Maine Soil and Water Conservation Commission. The State Soil Scientist with the Maine Soil and Water Conservation Commission shall automatically serve as executive secretary to said board but not be a voting member thereof.

The term of office shall be 5 years, and the appointments shall be made so that the term of one member of the board shall expire each year. Each member shall hold office until the expiration of the term for which such

member is appointed or until a successor shall have been duly appointed. Any board member may succeed himself to another term of office if duly reappointed.

#### § 4200-F. Qualifications

Each member of the board shall be a citizen of the United States and a resident of this State, shall have been engaged in the practice of the profession of soil scientist or in the practice of any closely related profession the essence of which involves a knowledge of soil investigations.

#### § 4200-G. Compensation and expenses

No publicly employed member of the board, except as provided in section 4200-K, shall receive any compensation for his services as a member of the board, but shall be reimbursed for all actual travelling and incidental expenses necessarily incurred in carrying out this chapter. A per diem rate of \$25 will be paid to each non-publicly employed board member, in addition to the reimbursement for all actual travelling and incidental expenses necessarily incurred in carrying out this chapter. No clerical expenses shall be allowed any member of the board, except as provided in section 4200-K.

#### § 4200-H. Removal; vacancies

The Governor, with the advice and consent of the Council, may remove any member of the board for misconduct, incompetency, neglect of duty or for any other sufficient cause. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor as provided in section 4200-E.

#### § 4200-I. Organization and meetings

The board shall hold at least 2 regular meetings each year. Special meetings shall be held at such time as the bylaws of the board may provide. Notice of all meetings shall be given in such manner as the bylaws may provide.

The board shall elect or appoint annually a chairman and vice-chairman. A quorum of the board shall consist of not less than 3 members.

#### § 4200-J. Powers

The board shall have the power to make all bylaws and rules, not inconsistent with this chapter and the Constitution and laws of this State, which may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt and have an official seal.

In carrying into effect this chapter, the board may, under the hand of its chairman and the seal of the board, subpoena witnesses and compel their attendance, and may require the production of books, records, papers and documents in a case involving the revocation of a certificate of registration as a professional soil scientist or in a case of practicing or offering to practice the profession of soil scientist without registration. Any member of the

board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued or shall refuse to testify or produce any books, papers or documents, the board may present its complaint to the Superior Court, setting forth the facts, and thereupon such court shall, in a proper case, issue its subpoena to such person, requiring his attendance before such court and there to testify or to produce such books, papers and documents as may be deemed necessary and pertinent by the court. Any person failing or refusing to obey the subpoena or order of the said court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the court.

#### § 4200-K. Receipts and disbursements

The secretary of the board shall receive and account for all moneys derived under this chapter and shall pay the same, as provided by law, to the Treasurer of State, who shall keep such moneys in a separate fund to be known as the "Professional Soil Scientists' Fund." The secretary of the board shall receive a salary and allowance for clerical hire as recommended by the board, in addition to the expenses provided for in section 4200-G. The board may make other expenditures from this fund, upon itemized vouchers approved by the chairman of the board, which in the opinion of the board are reasonably necessary for the proper performance of its duties under this chapter.

#### § 4200-L. Records and reports

The board shall keep a record of its proceedings and a register of all applications for certificates as professional soil scientists. Such register shall show the following:

1. Name, age, residence. The name, age and residence of each applicant;
2. Date of application. The date of the application;
3. Place of business. The place of business of each applicant;
4. Qualifications. His educational and other qualifications;
5. Examination. Whether or not an examination was required;
6. Rejection. Whether the applicant was rejected;
7. Certificate. Whether a certificate as registered professional soil scientist was granted;
8. Date of board's action. The date of the action of the board;
9. Other information. Such other information as may be deemed necessary by the board.

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

Not later than August 1st of each year, the board shall submit to the Governor a report of its transactions of the preceding fiscal year ending June 30th and shall transmit to him a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

§ 4200-M. Roster of registered soil scientists

A roster showing the names and places of business of all registered professional soil scientists shall be prepared by the secretary of the board during the month of January of each year. Copies of this roster shall be mailed to each person so registered, placed on file with the Secretary of State and the clerk of courts of each county and furnished to the public upon request.

### SUBCHAPTER III

### REGISTRATION

§ 4200-N. Registration required

In order to safeguard life, health and property, any person practicing or offering to practice the profession of soil scientist shall be required to submit evidence that he is qualified to so practice and shall be registered as provided. It shall be unlawful for any person to practice or to offer to practice the profession of soil scientist in the State or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a professional soil scientist, unless such person has been duly registered or exempted under this chapter.

§ 4200-O. Qualifications

To be eligible for registration as a professional soil scientist, an applicant must be of good character and reputation and shall submit 3 references with his application for registration as a professional soil scientist, all of which references shall have personal knowledge of and ability to assess the applicant's technical ability and experience.

The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional soil scientist.

1. Registration by endorsement. A person holding a certificate of registration to engage in the practice of soil scientist, on the basis of comparable written examinations, issued to him by a proper authority of a state, territory or possession of the United States, the District of Columbia, or of any foreign country, who in the opinion of the board, meets the requirements of this chapter, based on verified evidence, may, upon application, be registered without further examination. A person having been certified as soil scientist by the Soil Science Society of America and having 3 years of practical experience, based on verified evidence as shown by an oral examination may, upon application, be registered without further examination.

2. Graduation, experience and examination. A graduate of an approved 4-year college curriculum, leading to a Bachelor of Science degree, in which the applicant has successfully completed a minimum of 15 credit hours of

soil or soil-related courses which cover basic soil properties, soil formation and classification, soil conservation, soil physics, and other pedologically-related subject matter; and with a specific record of an additional 3 years or more of experience in soil investigations work of a grade and character which indicates to the board that the applicant may be competent to practice soil investigations, shall be admitted to a 4-hour written examination in the fundamentals of soil science and a 4-hour field examination in the identification and description of soil landscapes, profiles and specific properties. Upon passing such examination, the applicant shall be granted a certificate of registration to practice soil investigations in this State, provided he is otherwise qualified.

3. Long established practice. An applicant with an experience record of at least 8 years of actual practice in pedology, and of a grade and character which indicates to the board that the applicant may be competent to practice soil investigations, and is otherwise qualified, may, at the discretion of the board, be registered to practice soil investigations in this State.

4. Teaching. Teaching pedologic courses in a college or university offering an approved 4-year soil science or agronomic curriculum should be considered as experience in soil investigations.

5. Practice at time of application. Any person having the necessary qualifications prescribed in this chapter to entitle him to registration shall be eligible for such registration though he may not be practicing as a professional soil scientist at the time of making his application.

#### § 4200-P. Application; fees

Application for registration as a professional soil scientist shall be on a form prescribed and furnished by the board; shall contain statements made under oath, showing the applicant's education and a detailed summary of his technical experience, and shall contain references as set forth in section 4200-O, none of whom may be members of the board.

The registration fee for professional soil scientists shall be established by the board in an amount not to exceed \$25,  $\frac{1}{2}$  of which shall accompany the application.

Should the board deny the issuance of a certificate to any applicant, the fee paid shall be retained as an application fee.

#### § 4200-Q. Examinations

Written examinations shall be held at such times and places as the board shall determine. Examinations required on the fundamentals of soil science may be taken as provided in section 4200-O. The 4-hour field examination in the recognition and description of soil landscapes, profiles and specific properties may not be taken until the applicant has completed a period of soil investigation experience as set forth in section 4200-O.

The passing grade on any examination shall not be less than 70%. A candidate failing one examination may apply for reexamination, which may



be granted upon payment of a fee established by the board. Any candidate for registration having an average grade of less than 50% may not apply for reexamination for one year.

§ 4200-R. Certificates; seals

The board shall issue a certificate of registration, upon full payment of registration fee as provided for in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. The certificate shall authorize the practice of "professional soil scientist." Certificates of registration shall show the full name of the registrant, shall have a serial number and shall be signed by the chairman and the secretary of the board under the seal of the board.

The issuance of a certificate of registration by the board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered professional soil scientist while the said certificate remains unrevoked or unexpired.

Each registrant upon registration may obtain a seal of the design authorized by the board, bearing the registrant's name and the legend "registered professional soil scientist." Plans, maps and reports issued by a registrant shall be stamped with the said seal, as prescribed in the rules of the board, during the life of the registrant's certificate, but it shall be unlawful for anyone to stamp or seal any document with said seal after the certificate of the registrant named thereon has expired or has been revoked, unless said certificate shall have been renewed or reissued.

§ 4200-S. Revocation and reissuance

The board shall have the power to revoke the registration of a registered professional soil scientist who is found guilty of the following:

1. Fraud or deceit. The practice of any fraud or deceit in obtaining a certificate of registration as professional soil scientist;

2. Negligence or misconduct. Any gross negligence, incompetency or misconduct in the practice of professional soil investigations as a registered professional soil scientist.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against any registered professional soil scientist. Such charges shall be in writing, and shall be sworn to by the person making them, and shall be filed with the secretary of the board.

All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within 3 months after the date on which they shall have been preferred.

The time and place for said hearing shall be fixed by the board and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or sent by registered mail to the last known address of such registrant, at least 30 days before the date set for the hearing. At any hearing, the accused registrant shall have the right to appear personally

and by counsel, to cross-examine witnesses appearing against him and to produce evidence and witnesses in his own defense.

If, after such hearing, 4 or more members of the board vote in favor of finding the accused guilty, the board shall revoke the certificate of registration of such registered professional soil scientist.

The board, for reasons it may deem sufficient, may reissue a certificate of registration as a professional soil scientist to any person whose certificate has been revoked, provided 3 or more members of the board vote in favor of such reissuance. A new certificate of registration as a professional soil scientist, to replace any certificate revoked, lost, destroyed or mutilated, may be issued, subject to the rules of the board, and a charge of \$5 shall be made for such issuance.

#### § 4200-T. Expiration and renewals

Certificates of registration shall expire on the last day of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered under this chapter of the date of expiration of his certificate and the amount of the fee that shall be required for its renewal for one year. Such notice shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee designated by the board, which shall not exceed \$5 nor be less than \$3. The failure on the part of any registrant to renew his certificate annually in the month of December as required shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased by \$1 for each month or fraction of a month that payment of renewal is delayed. The maximum fee for delayed renewal shall not exceed twice the normal renewal fee.

#### § 4200-U. Exemptions for expiration and renewal fees

Any person holding a valid certificate of registration under this chapter on the date of entering full-time employment in the Armed Forces of the Government of the United States shall be exempt, for the duration of such employment, from the payment of all renewal fees and his certificate of registration shall remain in full force and effect until the next regular renewal date following the termination of such employment.

#### § 4200-V. Reciprocity

The board may, upon application and the payment of a fee established by the board as provided in section 4200-P, issue a certificate of registration as a professional soil scientist to any person whose qualifications meet the requirements of section 4200-O, subsection 1.

Sec. 2. R. S., T. 5, § 151, amended. The first sentence of section 151 of Title 5 of the Revised Statutes, as repealed and replaced by section 7 of chapter 544 of the public laws of 1967 and as amended, is further amended to read as follows:

All money received by the Treasurer of State from the Board of Registration in Medicine, the Board of Examiners in Physical Therapy, the Board of Examiners of Psychologists, the State Board of Nursing, the Board of Examiners of Applicants for Admission to the Bar, the Board of Accountancy, the Board of Veterinary Examiners, the Board of Osteopathic Examination and Registration, the State Board of Funeral Service, the State Board of Registration and Examination in Optometry, the Board of Dental Examiners, the State Board of Registration for Professional Engineers, **the State Board of Registration for Professional Soil Scientists**, the State Board of Licensure of Administrators of Medical Care Facilities other than Hospitals, the State Board of Architects, the Electricians' Examining Board, the Oil Burnermen's Licensing Board, the Penobscot Bay and River Pilotage Commission, the State Board of Barbers, State Board of Hairdressers, State Board of Registration for Land Surveyors, State Board of Social Worker Registration, the Examiners of Podiatrists, the Board of Chiropractic Examination and Registration and the Board of Commissioners of the Profession of Pharmacy shall constitute a fund, which shall be a continuous carrying account for the payment of the compensation and expenses of the members, the expenses of the board and for executing the law relating to each board respectively, and so much thereof as may be required is appropriated for said purposes.

**Sec. 3. Savings clause.** Soil scientists who desire to be registered as professional soil scientists without being required to take and pass the examinations as described in Title 32, section 4200-O, subsection 2 may be so registered providing the following conditions are met.

1. All applicants must have, or have had, duties encompassing the practice of soil investigations as defined in Title 32, section 4200, subsection 3.

2. All applicants must meet the requirements for education and experience as stated in Title 32, section 4200-O, subsection 2. Teaching experience will count equally toward the 3-year experience requirement as other types of experience in soil investigations, but must be of the type stated in Title 32, section 4200-O, subsection 4.

3. To qualify under this clause, all applicants must apply to the State Board of Registration for Professional Soil Scientists within one year of the effective date of this Act.

4. The board shall review all applications coming under this clause and approve them only if the applicants are qualified for registration according to the provisions stated in this clause.

**Sec. 4. Appropriation.** There is appropriated from the General Fund to the Soil and Water Conservation Commission the sum of \$9,000 to initiate the purposes of this Act. Such appropriation will cover capital and all other expenditures, anticipated travel expenses and anticipated secretarial and clerical expenses until such time as revenues are received from applications. The breakdown of the appropriation shall be as follows:

1973-74

SOIL AND WATER CONSERVATION COMMISSION

Personal Services	(1)	\$4,500
All Other		3,000
Capital Expenditures		1,500
		<hr/>
		\$9,000

At such time that the Professional Soil Scientists' Fund accumulates a balance of \$9,000, the sum of \$9,000 shall be returned to the General Fund.

STATEMENT OF FACT

The purpose of this bill is to provide a means by which individuals may qualify and become registered as professional soil scientists. Qualified soil scientists are needed in this State to perform soil investigations work in an amount which cannot now be handled by soil scientists under state and federal employment. Due to requirements imposed by the Department of Environmental Protection, the Department of Health and Welfare (State Plumbing Code), the Land Use Regulation Commission, and others, citizens of this State are requesting, by necessity, soil investigations work; this bill will provide the means for qualifying personnel to handle the increasing number of requests.