

MAINE STATE LEGISLATURE

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(New Title)
New Draft of: H. P. 608, L. D. 805

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2000

H. P. 1570

House of Representatives, June 4, 1973

Reported by Mr. Silverman from the Committee on State Government and printed under Joint Rules No. 18.

E. LOUISE LINCOLN, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Relating to the Certification and Regulation of Geologists and Soil
Scientists.

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

Sec. 1. R. S., T. 32, c. 73, additional. Title 32 of the Revised Statutes is amended by adding a new chapter 73 to read as follows:

CHAPTER 73

GEOLOGISTS AND SOIL SCIENTISTS

SUBCHAPTER I

GENERAL PROVISIONS

§ 4901. Title

This chapter may be cited as the "Geologists and Soil Scientists Certification Act."

§ 4902. Definitions

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

1. Board. "Board" shall mean the State Board of Certification for Geologists and Soil Scientists.

2. Certified geologist. "Certified geologist" means a person entitled under this chapter to take and use the title.

3. Certified soil scientist. "Certified soil scientist" means a person entitled under this chapter to take and use the title.

4. Geologist. "Geologist" means a person engaged in the practice of geology.

5. Geology. "Geology" means that science which treats of the earth as a whole; the investigation of its composition, its size, shape and relationships between consolidated and unconsolidated rock units in the regolith and bedrock; and the applied aspects of utilizing knowledge of the earth and its constituents; including its consolidated and unconsolidated rock units, its minerals, liquids, gases and other materials for the benefit of mankind.

6. Pedology. "Pedology" shall mean that 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, the collection of natural bodies on the earth's surface, supporting plants, with a lower limit at the deeper of either the unconsolidated mineral or organic material lying within the zone of rooting of the native perennial plants; or where horizons impervious to roots have developed the upper few feet of the earth's crust having properties differing from the underlying rock material as a result of interactions between climate, living organisms, parent material and relief.

7. Practice of geology. "Practice of geology" means the performance of geological work or service for the public, including, but not limited to, consultation, investigation, surveys, evaluation planning, mapping or inspection of geological work, wherein the performance is related to the public welfare of the safeguarding of life, health, property and the environment.

8. Practice of soil science. "Practice of soil science" shall be held to mean any professional service which requires the application of pedological principles and data. Such professional service includes identification and mapping of soils according to the standards of the National Cooperative Soil Survey, consultation or evaluation.

9. Qualified soil scientist. "Qualified 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 the practice of soil science as defined.

10. Qualified geologist. "Qualified geologist" means a person who possesses the qualifications specified for certification, except that he is not certified.

11. Responsible charge of work. "Responsible charge of work" means the independent control and direction by the use of initiative, skill and independent judgment of work or the supervision of such work.

12. Subordinate. "Subordinate" means any person who assists a certified geologist or soil scientist without assuming the responsible charge of work.

§ 4903. Other legally recognized professions not affected

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

§ 4904. Corporations, partnerships and associations

This chapter does not prohibit one or more geologists or soil scientists from practicing through the medium of a sole proprietorship, partnership or corporation. In such partnership or corporation whose primary activity consists of geological services, at least one partner or officer shall be a certified geologist. In such partnership or corporation whose primary activity consists of soil science services, at least one partner or officer shall be a certified soil scientist.

§ 4905. Application

Any person, except as in this chapter specifically exempted, who shall practice or offer to practice geology or soil science for the public in this State is subject to this chapter.

§ 4906. 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 geologist or 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 or 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 geologist or soil scientist, if he shall have filed with the commission an application for a certification 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 person exempted from registration by subsections 1 and 2 ; provided his practice does not include responsible charge of work 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 geologist or soil scientist for said government.

§ 4907. Board

The State Board of Certification for Geologists and Soil Scientists shall be within the Department of Conservation (Forestry). The board shall consist of 6 members, including the State Geologist, ex officio, the State Soil Scientist with the Maine Soil and Water Conservation Commission, ex officio and 4 members appointed by the Governor, with the approval of the Executive Council, 2 of whom shall be certified geologists and 2 of whom shall be certified soil scientists. The State Geologist and the State Soil Scientist shall serve as cochairmen.

1. Qualifications. Each member of the board shall be a citizen of the United States and shall have been a resident of this State for at least 5 years immediately preceding his appointment. Each of the first appointed geologist members of the board shall have at least 8 years active experience and shall be a practicing geologist. Each of the first appointed soil scientist members of the board shall have at least 8 years active experience in the practice of the profession of soil scientist or in any closely related profession the essence of which involves a knowledge of soil investigations. Each subsequent member of the board shall be certified under this chapter.

2. Term. The term of office shall be 5 years. 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. The terms of appointed members of the initial board shall be for 5 years, 4 years, 3 years and 2 years. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term. No person shall serve as a member of the board for more than 2 consecutive terms, excepting the State Geologist and the State Soil Scientist. A board member may be removed for cause by the Governor with the advice and consent of the Executive Council.

3. Compensation. Each member of the board shall receive expenses as provided for all state employees.

4. Meetings; reports. The board shall meet annually and at such other times as it may determine. A public announcement shall be made prior to such meetings. The board shall submit an annual report to the Governor each September 1st covering its activities, a fiscal statement and a membership roster.

§ 4908. Powers and duties

The board, pursuant to the general statutes, may adopt, amend or repeal rules and regulations to carry out this chapter and may receive and expend moneys derived from fees and other sources.

1. Register. The board shall prepare annually a list of the names and addresses of every person who is certified by it and a list of every person whose certification has been suspended or revoked within the previous year.

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

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

- A. Name, age, residence. The name, age and residence of each applicant;
- B. Date of application. The date of the application;
- C. Place of business. The place of business of each applicant;
- D. Qualifications. His educational and other qualifications;
- E. Examination. Whether or not an examination was required;
- F. Rejection. Whether the applicant was rejected;
- G. Certificate. Whether a certificate as registered professional soil scientist was granted;
- H. Date of board's action. The date of the action of the board;
- I. Other information. Such other information as may be deemed necessary by the board.

3. Liaison. The board shall establish relations with bodies which regulate the practice of geology and the practice of soil science, or closely related disciplines, or which certify geologist or soil scientists in other states, and may establish relations with such bodies in other counties for the purposes of achieving uniformly high professional standards and mutual recognition of certification.

§ 4909. Certification procedure

An application for certification as a geologist or soil scientist shall be made to the board on a form prescribed by it and shall be accompanied by the application fee fixed by this chapter.

An applicant for certification as a geologist or soil scientist shall have all the following qualifications:

1. Be of high ethical professional standards;
2. Be qualified, by either education or experience, or both, as a geologist or soil scientist pursuant to the rules and regulations for certification to be established by the board;
3. Sit for and pass an examination before the board or its authorized representatives. Such examination will be held at certain specified times and of such scope as prescribed by the board.

Generally, the examinations shall test the applicant's knowledge basic to geology or soil science and his ability to apply that knowledge and to assume responsible charge in the professional practice of geology or soil science.

An applicant for certification shall meet all the requirements of this chapter and, in addition, shall have 3 years in the practice of geology or soil science as defined by this chapter and in the rules and regulations of the board to be provided.

An applicant failing in an examination may be examined again upon filing a new application and the payment of the application fee fixed by this chapter.

The board, upon application therefor, on its prescribed form and upon the payment of the application and certification fees fixed by this chapter, may issue a certificate as a geologist or soil scientist without written examination to any person holding a certificate as a geologist or soil scientist issued to him by any state or country having similar requirements, when the applicant's qualifications meet the other requirements of this chapter and the rules established by the board.

A qualified geologist or soil scientist practicing geology or soil science at the time of the effective date of this chapter may be certified upon approval of the board, if he applies to the board prior to April 30, 1974.

In determining the qualifications of an applicant for certification, a majority vote of the board is required.

Any applicant who has passed the examination or has otherwise qualified as a geologist or soil scientist upon payment of the certification fee fixed by this chapter, shall have a certificate as a geologist or soil scientist as appropriate.

Any applicant who is denied certification or authorization shall, in writing, be so notified and informed of the reason therefor. Within 30 days after receipt of notice, such applicant may make written request to the board for a hearing which, if granted, shall be conducted under the Administrative Hearing Code.

§ 4910. Expiration

A certificate as a geologist or soil scientist expires at 12 p.m. on December 31st of each even-numbered year. A certificate may be renewed by applying to the board in writing prior to the expiration date and by paying the renewal fee prescribed by this chapter.

§ 4911. Renewal

Certificates as a geologist or a soil scientist which are not renewed within 5 years after expiration may not be renewed, restored, reinstated or reissued thereafter. The holder of such certificate may apply for and obtain a new certificate if:

1. No fact, circumstance or condition exists which, if the certificate were issued, would justify its revocation or suspension;

2. He takes and passes the examination which would be required of him if he were then applying for the certificate for the first time.

§ 4912. Fees

The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule.

1. The fee for filing each application for certification as a geologist or soil scientist is \$25.

2. The initial and renewal fees for certification as a geologist or soil scientist shall be fixed at \$15.

§ 4913. Complaints

The board may receive and investigate complaints against certified geologists or soil scientists and persons granted temporary authorizations pursuant to this chapter and make findings thereon.

§ 4914. Investigations

The board shall have the duty and authority to investigate violations of this chapter.

§ 4915. Enforcement

It shall be the duty of the respective officers charged with the enforcement of laws and ordinances to prosecute all persons charged with the violation of any of the provisions of this chapter.

It shall be the duty of the secretary of the board, under the direction of the board, to aid such officers in the enforcement of this chapter.

§ 4916. Use of name

After April 30, 1974, it shall be unlawful for anyone other than a geologist or a soil scientist certified under this chapter to sign or endorse as a certified geologist or soil scientist any plans, specifications, plats, reports or other documents, or to use in any manner the title "certified geologist" or "certified soil scientist."

§ 4917. Violation

It is unlawful for anyone to sign or endorse plans, specifications, plats, reports or other documents after the certificate of the individual named thereon has expired or has been suspended or revoked, unless the certificate has been renewed or reissued.

§ 4918. Plans prepared

All geologic plans, specifications, reports of documents, which shall enter the public record shall be prepared by a certified geologist, or by a subordinate under his direction. In addition, such documents shall be signed by him which shall indicate his responsibility for them.

§ 4919. Penalty

Every person found guilty under this chapter of a misdemeanor and for each offense of which he is convicted shall be punished by a fine of not more than \$500 or by imprisonment not to exceed 3 months, or by both.

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 Certification for Geologists and 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 Cosmetology, 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.

STATEMENT OF FACT

The purpose of this bill is to introduce qualifying criteria in presently unregulated professional fields in which unqualified individuals may injure the public. The bill would benefit the safety, health and property of the people of Maine, as related to engineering, ground and surface waters, mining, surface materials, geologic hazards, marine and terrestrial processes, further development of the science of geology and other geologic matters of concern to the people of the State. Similarly, the bill provides that soil investigations work will be done by qualified soil scientists. The increased public demand for soil scientists due to requirements imposed by various regulatory agencies is going beyond the availability of state and federally employed soil scientists, requiring the use of privately employed soil scientists.