

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2182

H. P. 1993

House of Representatives, February 5, 1976

Speaker laid before the House and referred to Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Ault of Wayne.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT Concerning the Geologist and Soil Scientist Certification Act.

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

Sec. 1. 32 MRSA § 4905, as enacted by PL 1973, c. 558, § 1, is amended by adding at the end the following new paragraph:

This State and its political subdivisions, such as county, city or legally constituted boards, districts, commissions or authorities shall contract for geological or pedological services only with persons certified under this chapter.

Sec. 2. 32 MRSA § 4907, first ¶, as enacted by PL 1973, c. 558, § 1, is repealed and the following enacted in place thereof:

The State Board of Certification for Geologists and Soil Scientists is created and shall administer this chapter and its office shall be within the Department of Conservation. The board shall consist of 7 members to be appointed by the Governor, 3 of whom shall be geologists of the following professional categories: one academic geologist, one state government geologist, one independent consultant geologist or salaried company geologist; 3 of whom shall be soil scientists of the following professional categories: one academic soil scientist, one the State Soil Scientist with the Maine Soil and Water Conservation Commission, ex officio and one independent consultant or salaried company soil scientist; and one member who shall represent the public. No person shall be eligible for appointment to this board unless certified under this chapter, with the exception of the public member.

Sec. 3. 32 MRSA § 4907, sub-§ 2, as enacted by PL 1973, c. 558, § 1, is repealed and the following enacted in place thereof:

2. **Term.** The term of office shall be 5 years, except for the members of the initial board, whose terms shall be 5 years, 4 years, 3 years and 2 years. As a member's term expires, he shall be replaced by a person of such background that the nature of the board shall remain as defined above. Vacancies occurring prior to the expiration of the specified 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. A board member shall hold office until the expiration of the term for which he has been appointed and until his successor has been appointed and qualified. A board member may be removed for cause by the Governor.

Sec. 4. 32 MRSA § 4907, sub-§ 4, as enacted by PL 1973, c. 558, § 1, is repealed and the following enacted in place thereof:

4. **Meetings; reports.** The board shall meet annually and at such other times as it may determine. A public announcement of such meetings shall be published in the newspapers of record of the State.

The board shall every 2 years elect a chairman, who shall be a member of the board. No chairman shall succeed himself. Four members shall constitute a quorum.

Sec. 5. 32 MRSA § 4908, as enacted by PL 1973, c. 558, § 1, is amended by adding at the end of the first paragraph the following new paragraphs:

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 of a certified geologist or certified soil scientist, or in a case of practicing or offering to practice geology or soil science without certification. 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 court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the court.

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 "Certified Geologists and Soil Scientists Fund." The board may employ such clerical help, other assistants or professional consultants as are necessary for the proper performance of its duties under this chapter. 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.

Sec. 6. 32 MRSA § 4908, sub-§ 4 is enacted to read:

4. Code of ethics. The board shall cause to be prepared and shall adopt a code of professional conduct which shall be made known in writing to each applicant and registrant. Each applicant will subscribe to this code of ethics by signature with his application for certification. Registrants shall subscribe to this code by signature upon application for renewal of certification.

The code of ethics shall be published in the register provided in subsection 1. This publication shall constitute due notice to all registrants. The board may revise and amend this code of ethics from time to time and shall forthwith notify each registrant in writing of its revision. This notification shall be acknowledged by the registrants by signature to the revised code.

Sec. 7. 32 MRSA 4909, sub-§ 2, as enacted by PL 1973, c. 559, § 1, is repealed and the following enacted in place thereof:

2. Geologist examination requirements. As a geologist, to qualify to sit for the examination for certification, an applicant must:

A. Be a graduate of an accredited college or university with a major in geological sciences, or have completed 30 credits in geological sciences at an accredited college or university, or have at least 7 years of professional geological work which shall include either a minimum of 3 years of professional geological work under the supervision of a qualified geologist or a minimum of 5 years of responsible charge of geological work; and

B. Have acquired 7 years of experience in responsible charge of geological work, toward which an undergraduate degree with 30 credit hours or more in geological science courses shall count as 2 years of training and each year of graduate study in the geological sciences shall count as $\frac{1}{2}$ year of training, up to a maximum of 2 years of credit.

C. Credit toward the experience requirement shall be subject to the evaluation of the board. Applicants with less than 30 credit hours in geological science courses may be given proportional work-experience credits for such academic credit hours as they may have acquired.

Sec. 8. 32 MRSA § 4909, sub-§ 2-A is enacted to read:

2-A. Soil scientist examination requirements. As a soil scientist, to qualify to sit for the examination for certification, an applicant must:

A. Be a graduate of an approved 4-year college curriculum leading to a Baccalaureate Degree, in which the applicant has successfully completed a minimum of 15 credit hours of soil or soil related courses of a pedological nature; and have a specific record of an additional 3 years or more of experience in soil science of a grade and character which indicates to the board that he may be competent to practice as a soil scientist and be otherwise qualified. Teaching pedological courses in a college or university offering an approved 4-year soil science or agronomic curriculum shall be considered as experience in soils investigations.

"Additional 3 years of experience" does not imply a sequence of getting a degree and then getting experience. Experience time shall not be granted for time while enrolled in courses, but summer employment shall be counted even though a degree may not have been obtained.

Actual field experience in an acceptable apprenticeship program shall count as experience time.

Each degree beyond the Bachelor's Degree shall be counted as one year of experience.

Soil related courses will amount to only 20% of the required 15 credits for a maximum of 3 credits.

Sec. 9. 32 MRSA § 4910, first sentence, as enacted by PL 1973, c. 558, § 1, is amended to read:

A certificate as a geologist or soil scientist expires at 12 p.m. on December 31st of each even numbered year.

Sec. 10. 32 MRSA § 4912, sub-§ 2, as enacted by PL 1973, c. 558, § 1, is amended to read:

2. The initial and annual renewal fees for certification as a geologist or soil scientist shall be fixed at ~~\$25~~ \$15.

Sec. 11. 32 MRSA § 4912, sub-§ 3, is enacted to read:

3. Fees for examination shall be established by the board to cover the cost of such examination.

Sec. 12. 32 MRSA § 4913, sub-§§ 1-4, are enacted to read:

1. The board may, in its discretion, suspend, revoke or refuse to renew the certificate of any registrant who is found guilty of:

A. The practice of any fraud or deceit in obtaining a certificate of registration;

B. Any gross negligence, incompetence or misconduct in the practice of geology or soil science;

C. Any felony or any crime adversely affecting the ethical standards of the professions regulated by this chapter; or

D. The commission of any unlawful act as set forth in this chapter.

2. Any person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against any certified geologist or 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.

3. 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.

4. The time and place for the hearing shall be fixed by the board and a copy of the charges along 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 the 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 witnesses and evidence in his own defense. The proceedings of the hearing shall be recorded and, as necessary, transcribed in accordance with the rules and regulations to be adopted by the board.

If, after a hearing, a majority of the board vote in favor of sustaining the charges, the board shall suspend, refuse to renew or revoke the certificate of that certified geologist or soil scientist. After the hearing, the findings of the board shall be made known no more than 10 days after the conclusion of the hearing.

The board, for reasons it may deem sufficient, may reissue, following a previous revocation or nonrenewal, a certificate as a certified geologist or soil scientist to any person whose certificate has been revoked, provided 5 members vote in favor of the reissuance.

Following the actions of the board in cases of revocation, suspension or reissuance of the certification, suspension or reissuance of the certification of any person public notice shall be published in the newspapers of record in the county of residence of the registrant.

In cases of revocation or suspension of certification, an appeal to the Superior Court in the county of the appellant on matters of law only must be instituted within 60 days of issuance of the decision of the board.

A new certificate to replace one revoked may be issued subject to the rules of the board and a fee of \$5 shall be paid.

Sec. 13. 32 MRSA § 4915, 2nd ¶, as enacted by PL 1973, c. 558, § 1, is amended to read:

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

Sec. 14. 33 MRSA § 4918, as last amended by PL 1975, c. 623, § 51-D, is further amended by adding after the first paragraph the following paragraph:

All pedological maps, reports or documents which shall enter the public record shall be prepared by a certified soil scientist or by a subordinate under his direction. In addition, such documents shall be signed and sealed by the certified soil scientist which shall indicate his responsibility for them.

STATEMENT OF FACT

This bill revises the Geologist and Soil Scientist Certification Act.