

HOUSE BILL REPORT

ESSB 6455

As Passed House - Amended:

March 3, 2000

Title: An act relating to the regulation of geologists.

Brief Description: Providing for the licensing of geologists.

Sponsors: Senate Committee on Commerce, Trade, Housing & Financial Institutions (originally sponsored by Senators Gardner, Winsley, Fraser, Shin, Kohl-Welles, Brown, Costa, Fairley and Jacobsen).

Brief History:

Committee Activity:

Commerce & Labor: 2/22/00.

Floor Activity:

Passed House - Amended: 3/3/00, 95-3.

Floor Activity:

Passed Senate: 2/14/00, 36-12.

House Amended.

Passed House: 3/3/00, 95-3.

Brief Summary of Engrossed Substitute Bill

- Beginning July 1, 2001, requires licensure of geologists and specialty geologists, under a program administered by the Department of Licensing with advice of the State Geologist Licensing Board.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority/Minority Report: None. (Bill removed from committee on 3/1/00)

Staff: Andrea Leder (786-7093) and Chris Cordes (786-7103).

Background:

Washington does not certify or license persons practicing geology. A person is not prohibited from representing himself or herself as a geologist without having any

specific qualifications or training in geology. According to the National Association of State Boards of Geology, 26 states and Puerto Rico have some form of registration, certification, or licensing for persons practicing as geologists.

After natural disasters, such as those resulting from weather-related damage, the President may declare a federal disaster area. The federal Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 requires states to develop mitigation plans following a presidential disaster declaration. The act's stated intention is for states to apply mitigation in the rebuilding process so that future losses from a disaster can be eliminated or reduced. A recent Washington state mitigation plan raised the issue of licensing geologists in its discussion of development in areas vulnerable to landslides. The *Washington State Hazard Mitigation Strategy, January 2000*, a mitigation plan developed by the Emergency Management Division, Washington State Military Department, states that geo-technical reports lack consistency, have a tendency to be narrow in scope, and are rendered by individuals whose qualifications have not been established by the state through licensing or certification. The plan includes a "high priority" recommendation that persons performing geo-technical evaluations should be licensed or that minimum standards should be established through professional engineering organizations.

Licensing programs administered by the Department of Licensing must be self-supporting. The licensing fees established must defray the cost of administering the program.

Summary of Bill:

Beginning July 1, 2001, a person practicing geology or a geology specialty for others in this state, or using the title "licensed geologist" or similar title, must be licensed by the Department of Licensing. The department administers the geologists' licensing program with the advice of the State Geologist Licensing Board.

"The practice of geology for others" includes preparing reports or documents for the state or its political subdivisions, or performing geological services by any person or entity, when the reports generated are disseminated in such a manner that the public may reasonably be expected to rely on the reports.

State Geologist Licensing Board. The State Geologist Licensing Board is created, consisting of seven members. Six members are appointed by the director of the Department of Licensing, including five practicing geologists. For the initial appointments, these five individuals must each have at least 10 years experience in the practice of geology. Subsequent appointees must be licensed geologists, with two representing licensed geology specialties. The final appointee is a member of the public who has no connection to the geology profession. An ex officio member, the

seventh person on the board is the supervisor of geology for the Department of Natural Resources. Board members serve four-year staggered terms.

The board responsibilities include:

- establishing minimum qualifications for license applicants;
- designating specialties of geology to be licensed;
- approving the adoption of the examinations and the method of their administration;
- establishing and reviewing standards of professional conduct and practice consistent with those for engineers and land surveyors; and
- conducting practice reviews and disciplinary hearings.

Authority of the Department of Licensing director. The director of the Department of Licensing is responsible for:

- adopting rules approved by the board for the licensing program and licensing fees;
- adopting and administering examinations approved by the board;
- entering into contracts for services necessary for enforcement;
- adopting standards of professional conduct and practice approved by the board; and
- employing the necessary investigative, administrative, and clerical staff for the program.

The director also has specific powers related to conducting investigations, hearings, and proceedings.

Minimum requirements for licensure as a geologist. Each applicant for a geologist license must:

- graduate from a board-approved course of study in geology or satisfy educational equivalents as determined by the board;
- have at least five years of experience after completion of the academic requirements;
- pass the examination accepted by the board; and
- be of good moral and ethical character as attested to by letters of references submitted by the applicant or as otherwise determined by the board.

To be licensed in a geological specialty, an applicant must:

- be a licensed geologist in the state;
- have completed advanced study related to the specialty and the study is acceptable to the board;
- have a minimum of five years of experience in the specialty obtained after completion of the academic requirements; and
- pass the examination accepted by the board.

Exceptions from the examination requirements. An applicant who applies for a geologist license within one year after the licensing requirements take effect is considered qualified and does not need to take a written examination if he or she has a minimum of five years of professional practice in geology, and has graduated from an approved four-year institution of higher education with either a major in geology or the number of geology course hours defined by the board to qualify as a geologist or engineering geologist.

An applicant who applies for licensing in a specialty within one year after that specialty is recognized by the board is considered qualified for licensing in that specialty and does not need to take a written examination if he or she is qualified for licensing as a geologist in this state and has at least five years of professional practice experience in the applicant's specialty.

Provisions relevant to all licenses. A geologist or specialty geologist license must be renewed periodically as determined by the director. Each license holder must obtain a seal of the design authorized by the director. The seal must be stamped on geological reports, plans, and other technical documents prepared by or under the responsible charge of the license holder.

The director may investigate complaints or initiate investigations without a complaint when there is reason to believe that a licensee may have engaged in unprofessional conduct. A complainant, the director, and the board are immune from suit in a civil action related to the complaint or disciplinary proceedings.

The director may revoke, suspend, or limit a license, may issue a censure or reprimand, or may issue civil fines up to \$5,000, for unprofessional conduct. Prohibited acts which constitute grounds for disciplinary action or the denial, suspension, or revocation of a license are detailed, including knowingly violating the licensing requirements; incompetency, fraud, or repeated negligence in the practice of geology; conviction of a gross misdemeanor or felony or commission of an act of moral turpitude, dishonesty, or corruption; false or fraudulent advertising; or failure to cooperate with the director or interfering with an investigation.

Licensing fees. The director must adopt fees to support the licensing program. However, in accordance with Initiative 695, the director's authority to set fees is submitted to a vote of the people in the next general election.

The Geologists' Account is created in the custody of the state treasurer. All fees and fines related to the geologists' licensing program are paid into the account. An appropriation is not required for expenditures from the account.

Exemptions from the licensing requirements. A license is not required for:

- geological work performed by employees or subordinates of state licensed geologists or specialty geologists, or by United States officers and employees practicing in their official capacity;
- work performed exclusively in the exploration for energy and mineral resources, as long as there is no substantial impact on public health, safety, and welfare;
- geological research;
- teaching of geology or related physical or natural sciences;
- certain practices of engineering and other licensed professions;
- general scientific work customarily performed by physical and natural scientists; and
- testimony or preparation and presentation of information, so long as providing the testimony or information does not imply that the person is licensed by the state.

Reciprocity with other states. The director may issue a geologist or specialty geologist license, without an examination, to any person who holds a license or certificate issued by any state, territory, foreign country, or the District of Columbia, if the applicant's qualifications meet this state's requirements.

Civil infractions. It is a class 1 civil infraction to practice or offer to practice geology or a geological specialty without being licensed, to present or attempt to use the certificate of licensing or seal of another, to give false or forged evidence of any kind to the director or the director's authorized representative in obtaining a license, to falsely impersonate any other licensee, or to attempt to use the expired or revoked certificate of licensing.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Bill: The bill takes effect July 1, 2001, except for section 24, requiring a vote of the people, which takes effect 90 days after the session in which the bill is passed.

Testimony For: Geologists should be licensed in Washington just as other professions are required to be licensed. This licensing program is modeled after similar licensing programs administered by the Department of Licensing. The public needs a way to identify qualified geological experts. This is a critical consumer protection issue. Washington is the only Pacific Rim state that does not license geologists, and Washington is one of the most geologically active. While larger firms requiring geologist services have the expertise on staff to screen contractors, smaller firms usually do not have the expertise or knowledge for screening potential contractors and ensuring competency. The decisions made as a result of advice from geologists involve millions of dollars and the impacts may not be known for years.

Since some projects require work be done by licensed geologists, many Washington geologists go to Oregon to be licensed in order to keep the work in Washington. To promote reciprocity with other states that have geologist licensing programs, the number of years of experience required should be increased from four to five. While this is a fee-supported program, there are substantial up-front costs, which are not funded, to make sure the program is ready for implementation on July 1, 2001. If voters do not authorize the adoption of licensing fees at the next general election, the department can come back to the Legislature next session for further direction on this program.

Testimony Against: None.

Testified: Senator Gardner, prime sponsor; Mike Ryherd, Glenn Wyatt, and Ken Neal, Association of Engineering Geologists; John Silko, Lone Rock Resources; Alan Rathbun and George Twiss, Department of Licensing; Britt Nederhood; and Donn Charnley.