
SUBSTITUTE HOUSE BILL 2877

State of Washington 52nd Legislature 1992 Regular Session

By House Committee on State Government (originally sponsored by Representatives Anderson, McLean, Sheldon, Bowman and Pruitt)

Read first time 02/07/92.

1 AN ACT Relating to the registration of geologists; adding a new
2 chapter to Title 18 RCW; prescribing penalties; and making an
3 appropriation.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** In order to safeguard life, health, and
6 property, and to promote the public welfare, the legislature finds that
7 it is in the public interest to regulate the profession of geology as
8 described in this chapter. No person may practice or offer to practice
9 the profession of geology or engineering geology unless registered or
10 exempted from registration as provided by this chapter.

11 NEW SECTION. **Sec. 2.** As used in this chapter, the following
12 terms shall have the meanings ascribed to them in this section:

13 "Board" means the board of registration for geologists.

1 "Department" means the department of licensing.

2 "Director" means the director of the department of licensing.

3 "Engineering geologist" means a geologist who, by reason of his or
4 her knowledge of engineering geology, acquired by education and
5 practical experience, is qualified to engage in the practice of
6 engineering geology.

7 "Engineering geology" means a specialty of geology affecting (1)
8 the planning, design, operation, and maintenance of civil engineering
9 works, (2) the development, protection, and remediation of ground and
10 surface water resources, and (3) other human activities where geologic
11 factors and conditions impact the public welfare or the safeguarding of
12 life, health, property, and the environment.

13 "Geologist" means a person who, by reason of his or her knowledge
14 of geology, mathematics, and the supporting physical and life sciences,
15 acquired by education and practical experience, is qualified to engage
16 in the practice of geology.

17 "Geology" means the science that includes treatment of the earth
18 and its origin and history, in general; the investigation of the
19 earth's constituent rocks, minerals, solids, fluids including surface
20 and underground waters, gases, and other materials; and the study of
21 natural agents, forces, and processes that cause changes in the earth.

22 "Practice of engineering geology" means performance of geological
23 service or work including but not limited to consultation,
24 investigation, evaluation, planning, surveying, mapping, and inspection
25 of geological work, and the responsible supervision thereof, the
26 performance of which is related to public welfare or the safeguarding
27 of life, health, property, and the environment, except as otherwise
28 specifically provided by this chapter; including, but not limited to,
29 the commonly recognized geologic practices of construction geology,
30 hydrogeology, environmental geology, and urban geology. Nothing herein

1 shall be construed to permit the practice of engineering by a
2 geologist, except such practice as is incidental to the practice of
3 geology or engineering geology and does not include the design of an
4 engineered structure.

5 "Practice of geology" means performance of geological service or
6 work including, but not limited to, consultation, investigation,
7 evaluation, planning, surveying, mapping, and inspection of geological
8 work, and the responsible supervision thereof, the performance of which
9 is related to public welfare or the safeguarding of life, health,
10 property, and the environment, except as otherwise specifically
11 provided by this chapter. A person shall be construed to practice or
12 offer to practice geology, within the meaning and intent of this
13 chapter, who practices any branch of the profession of geology; or who
14 by verbal claim, sign, advertisement, letterhead, card, or in any other
15 way represents himself or herself to be a geologist; or through the use
16 of some other title that implies that he or she is a geologist or that
17 he or she is registered under this chapter; or who holds himself or
18 herself out as able to perform or who does perform any geologic
19 services or work recognized by the board as the practice of geology.

20 "Registered engineering geologist" means a registered geologist who
21 has met the academic and experience qualifications in engineering
22 geology established pursuant to this chapter and has been issued a
23 certificate of registration in engineering geology by the board.

24 "Registered geologist" means a geologist who has met the academic
25 and experience qualifications established pursuant to this chapter and
26 who has been issued a certificate of registration as a geologist by the
27 board.

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

1 "Subordinate" means any person who assists in the practice of
2 geology by a registered geologist or an exempt person, without assuming
3 the responsible charge of the work.

4 NEW SECTION. **Sec. 3.** There is hereby created within the
5 department of licensing, the board of registration for geologists. The
6 board shall be composed of seven members, to be appointed by the
7 governor. Three of the members shall be geologists registered pursuant
8 to this chapter, and three of the members shall be engineering
9 geologists registered pursuant to this chapter. The seventh member
10 shall be a lay member of the general public with no family or business
11 connection to the practice of geology. Each member of the board shall
12 be a citizen of the United States, shall have been a resident of this
13 state for at least three years immediately preceding his or her
14 appointment, and shall be at least twenty-five years of age. In making
15 appointments to the board, the governor shall make every effort to see
16 that women, minorities, and geographic regions of the state are
17 appropriately represented. The members initially appointed to the
18 board shall be exempt from the registration requirement.

19 Members of the board shall be appointed for terms of four years,
20 except for the initial board appointments which shall be made as
21 follows: The first appointee shall serve a term of one year; the
22 second and third appointees shall serve terms of two years; the fourth
23 and fifth appointees shall serve terms of three years; and the sixth
24 and seventh appointees shall serve terms of four years. Members shall
25 serve on the board until the expiration of the term for which they were
26 appointed and until their successors have been appointed and qualified.
27 No member of the board may serve more than two consecutive full terms.
28 Vacancies in the membership of the board shall be filled for the
29 unexpired term by gubernatorial appointment.

1 The governor may remove or suspend any member of the board for any
2 of the following causes: (1) If the member is no longer qualified for
3 appointment to the board; (2) misconduct, incompetence, neglect of
4 official duties, or malfeasance; (3) commission of a felony or
5 violation of the provisions of this chapter resulting in disciplinary
6 action; or (4) an unexcused failure to attend at least one-half of the
7 regularly scheduled meetings held in a calendar year during the
8 member's term in office.

9 Each member of the board shall be compensated in accordance with
10 RCW 43.03.240 and shall be reimbursed for travel expenses incurred in
11 carrying out provisions of this chapter in accordance with RCW
12 43.03.050 and 43.03.060.

13 Each present and former member of the board, its agents, employees,
14 and members of committees duly appointed by the board under this
15 chapter to assist the board in carrying out its duties and
16 responsibilities, shall be exempt from civil liability for any act or
17 omission occurring while acting in an official capacity, and the
18 attorney general shall defend any such person in any action against the
19 board or such person arising from any such act or omission.

20 NEW SECTION. **Sec. 4.** (1) The board shall meet within sixty
21 days after appointment of its members. The board shall hold at least
22 two regular meetings each year. Special meetings shall be held at such
23 time as the rules of the board may provide and in accordance with the
24 notice requirements thereof. The board shall elect annually from its
25 membership, a chair, a vice-chair, and a secretary-treasurer, none of
26 whom shall hold that office for more than two consecutive one-year
27 terms. With the advice and approval of the director, the board may
28 employ personnel and arrange for assistance as it requires to carry out

1 its duties and responsibilities under this chapter. A majority of the
2 board shall constitute a quorum.

3 (2) The board shall adopt rules pursuant to chapter 34.05 RCW for
4 the administration of this chapter, the performance of its duties, the
5 governing of its proceedings, and the regulation of the practice of
6 geology and engineering geology in this state.

7 (3) The board shall have the following powers and duties:

8 (a) The board and the director shall jointly establish fees to be
9 charged applicants and registrants in connection with and to support
10 the administration and enforcement of this chapter. Fees shall be set
11 at a level adequate to pay the costs of administering this chapter. In
12 addition, additional fees shall be charged for the purpose of repaying
13 by June 30, 1997, the initial general fund appropriation for
14 administering this chapter;

15 (b) The board shall consider all applications for registration as
16 a geologist or an engineering geologist;

17 (c) The board shall prepare, administer, and grade, or cause to be
18 prepared, administered, and graded, oral and written examinations
19 required or established by this chapter. The board may adopt or
20 recognize, in whole or in part, examinations prepared, administered, or
21 graded by other organizations that the board determines are appropriate
22 measures of the qualifications of an applicant for registration in this
23 state as a geologist or an engineering geologist;

24 (d) The board shall issue certificates of registration as provided
25 in this chapter;

26 (e) The board shall renew and reissue certificates of registration
27 as provided in this chapter. As a condition of reissuance or renewal,
28 the board shall have the authority to require evidence of continued
29 competence in the practice of geology or engineering geology through
30 means such as but not limited to the review of qualifications and

1 experience, requirements for continuing professional education, or by
2 reexamination on a periodic or other basis;

3 (f) The board shall adopt and issue a code of professional conduct
4 that shall be binding upon all registrants and others permitted to
5 practice geology or engineering geology under the limitations of this
6 chapter; and

7 (g) The board may work with the boards of registration of other
8 states, and with other appropriate organizations and agencies, for the
9 purposes of developing uniform standards for the registration of
10 geologists and engineering geologists; establishing reciprocity and
11 temporary registration; developing regional or national examinations;
12 evaluating applicants; or other purposes consistent with this chapter.

13 (4) The board shall publish and maintain a roster showing the names
14 and places of business of all registered geologists, engineering
15 geologists, and firms or corporations practicing under certificates of
16 registration issued by the board.

17 NEW SECTION. **Sec. 5.** The board shall determine by rule what
18 information applicants must submit in support of an application for
19 registration as a geologist or an engineering geologist. The board
20 shall also determine by rule the requirements that an applicant must
21 meet in order to receive a certificate of registration as a geologist
22 or an engineering geologist. In determining these requirements, the
23 board shall consider an applicant's education and experience, and an
24 applicant's score on an examination established by the board for the
25 purpose of testing the applicant's knowledge of the fundamentals and
26 practice of geology or engineering geology. The board shall give due
27 consideration to the suggested qualifications for education,
28 experience, and testing outlined in the council of professional
29 geological organizations' suggested geologist practice act. The board

1 shall adopt rules for reexamination and partial reexamination for
2 applicants who have failed all or part of the board's required
3 examination.

4 In any individual case the board, by a two-thirds vote, may waive
5 any of the requirements for registration, except payment of the
6 applicable fees, upon written request of an applicant and upon a
7 showing of good cause. If the board determines that the applicant is
8 qualified for registration as a geologist or an engineering geologist,
9 the requirements waived and the basis for such waiver shall be recorded
10 in the applicant's record and in the proceedings of the board. An
11 applicant who applies for registration as a geologist or an engineering
12 geologist within one year after the effective date of this act shall be
13 considered qualified for registration without further written
14 examination if the applicant meets qualifications established by the
15 board. In establishing qualifications for parties applying within one
16 year after the effective date of this act, the board shall give due
17 consideration to the suggested qualifications for education,
18 experience, and testing outlined in the council of professional
19 geological organizations' suggested geologist practice act.

20 NEW SECTION. **Sec. 6.** The board may deny registration to an
21 applicant who fails to satisfy any of the requirements established
22 pursuant to this chapter, or if the board determines that there is
23 probable cause to believe that an applicant has violated this chapter
24 or comparable provisions in effect in any other state. The board shall
25 not issue a certificate of registration pending the disposition, in
26 this or another state, of any complaint alleging a violation of which
27 the board has notice.

28 An applicant who is denied registration shall be notified in
29 writing within thirty days of the board's decision, stating the reason

1 for the denial. Within thirty days after receipt of such notice, the
2 applicant may make written request for a review hearing before the
3 board. In the absence of a request for a hearing, the board's action
4 shall be final and conclusive.

5 The board shall refund the application fee of any applicant whose
6 application has been denied, less the cost of considering the
7 application, as determined by the board.

8 NEW SECTION. **Sec. 7.** The board shall issue a certificate
9 evidencing registration as a geologist or an engineering geologist to
10 an applicant whom the board feels has met the requirements established
11 pursuant to this chapter and who has paid the applicable fees. The
12 certificate shall show the full name of the registrant, shall have a
13 serial number, and shall be signed by an appropriate officer of the
14 board. The issuance by the board of a certificate of registration is
15 evidence of a certificate holder's right to practice geology or
16 engineering geology, so long as the certificate remains unrevoked or
17 unexpired.

18 Each registrant shall procure a seal or stamp of a design
19 established by the board, bearing the registrant's name, serial number,
20 and either the legend "registered geologist" or the legend "registered
21 engineering geologist." Geologic reports, documents, chain-of-custody
22 records, manifests, permits, affidavits, maps, plans, logs, sections,
23 or other public records prepared or issued by or under the supervision
24 of a registered geologist or a registered engineering geologist, shall
25 include the full name, signature, and serial number of the registrant
26 who prepared the document or under whose supervision the document was
27 prepared, and an impression of the registrant's seal or stamp, in
28 accordance with rules established by the board.

1 NEW SECTION. **Sec. 8.** The director has the following authority
2 in administering this chapter:

3 (1) The director shall have the authority to investigate complaints
4 of violations of this chapter and of unprofessional conduct by
5 registrants;

6 (2) The director shall have the authority to suspend or revoke any
7 certificate, and to impose sanctions or disciplinary actions for
8 violations of this chapter; and

9 (3) The director shall have the authority to administer oaths and
10 affirmations, and to issue subpoenas to compel the attendance of
11 witnesses and the production of evidence. The director shall also have
12 the authority to issue cease and desist orders and to seek injunctions
13 against violations of this chapter.

14 NEW SECTION. **Sec. 9.** A person, including but not limited to
15 consumers, registrants, corporations, organizations, and state and
16 local government agencies, may submit a written complaint to the
17 department charging a certificate holder or applicant with
18 unprofessional conduct and specifying the grounds for this charge. If
19 the director determines that the complaint merits investigation, or if
20 the director has reason to believe, without a formal complaint, that a
21 certificate holder or applicant may have engaged in unprofessional
22 conduct, the director shall investigate to determine if there has been
23 unprofessional conduct. A person who files a complaint under this
24 section in good faith is immune from suit in any civil action related
25 to the filing or contents of the complaint.

26 NEW SECTION. **Sec. 10.** The following acts are considered
27 unprofessional conduct and constitute grounds for disciplinary action,

1 or suspension or revocation of a certificate issued pursuant to this
2 chapter, as deemed appropriate by the director:

3 (1) The practice of any fraud or deceit in obtaining a certificate
4 of registration as a geologist or an engineering geologist;

5 (2) Incompetency, misconduct, fraud, gross negligence, or repeated
6 incidents of negligence in or related to the practice of geology or
7 engineering geology;

8 (3) Conviction of a felony or crime involving moral turpitude, or
9 the imposition of an administrative, civil, or criminal fine, or
10 sentence of imprisonment or probation in lieu thereof, for any
11 misdemeanor relating to or arising out of the practice of geology or
12 engineering geology;

13 (4) Using the seal or stamp of another, or using or allowing use of
14 one's seal or stamp on work not performed by or under the supervision
15 of the registrant, or otherwise aiding or abetting any person in the
16 violation of any provision of this chapter;

17 (5) Revocation, suspension, or denial of a certificate of
18 registration, or denial of a renewal of a certificate, by a board or
19 agency in another state operating a registration program for geologists
20 or engineering geologists similar to the provisions of this chapter;

21 (6) Dependence on or addiction to alcohol or any legal or illegal
22 drugs, to the extent that the dependence substantially interferes with
23 the individual's ability to assume responsible charge of and
24 responsibility for geological work; or

25 (7) Violation of any provision of this chapter or of a rule or
26 regulation adopted pursuant to this chapter, including violations of
27 the code of professional conduct adopted by the board.

1 NEW SECTION. **Sec. 11.** Upon a finding that a certificate holder
2 or applicant has committed unprofessional conduct, the director may
3 issue an order providing for one or any combination of the following:

4 (1) Denial of a certificate or denial of renewal of a certificate
5 of registration to practice geology or engineering geology;

6 (2) Permanent revocation of the certificate of registration of any
7 holder thereof;

8 (3) Suspension of the certificate of registration of any holder
9 thereof;

10 (4) Censure, reprimand, or issue of a public or private
11 admonishment;

12 (5) Imposition of limitations, conditions, or restrictions upon the
13 practice of an applicant or a certificate holder;

14 (6) Requiring a registrant's or applicant's participation in a peer
15 review program;

16 (7) Requiring a registrant to obtain remedial education and
17 training;

18 (8) Imposition of probation on a certificate holder;

19 (9) Requiring a certificate holder to pay restitution of
20 compensation or fees earned by a certificate holder; and

21 (10) Imposition of civil fines.

22 NEW SECTION. **Sec. 12.** Persons engaged in the following
23 activities shall not be required to register under this chapter:

24 (1) Geological work performed by an employee or subordinate of a
25 registrant under this chapter, so long as the work does not include
26 responsible charge of geological work and is performed under the direct
27 supervision of a registered geologist or a registered engineering
28 geologist, who shall be responsible for such work;

1 (2) Geological work performed by officers and employees of the
2 United States practicing solely as such officers and employees;

3 (3) Geological work performed exclusively in the exploration for
4 and development of energy resources and base, precious, and nonprecious
5 minerals, including sand, gravel, and aggregate;

6 (4) Geologic research conducted through academic institutions,
7 agencies of the federal or state governments, nonprofit research
8 institutions, or for-profit organizations, including submissions of
9 research to public agencies;

10 (5) Teaching in geology or related physical or natural sciences,
11 except for teaching in engineering geology as defined in this chapter;

12 (6)(a) The acquisition of engineering data involving soil, rock,
13 groundwater, and other earth materials; evaluation of the physical and
14 chemical properties of soil, rock, ground water, and other earth
15 materials; and utilization of these data in analysis, design, and
16 construction by professional engineers registered and licensed in this
17 state, and (b) similar geological work performed by persons or
18 organizations licensed or registered in any other profession or
19 occupation related to geology, provided such work is permitted under
20 the applicable licensing or registration law, and is incidental to the
21 practice or the profession or occupation for which licensure and
22 registration is required;

23 (7) Work customarily performed by such physical or natural
24 scientists and chemists, archaeologists, geographers, oceanographers,
25 and soil scientists; and

26 (8) The giving of testimony, or preparation and presentation of
27 exhibits or documents for the sole purpose of being placed in evidence
28 before any administrative or judicial tribunal or hearing, provided
29 that the testimony, exhibits, or documents do not imply that the person

1 is a registered geologist or a registered engineering geologist under
2 this chapter.

3 NEW SECTION. **Sec. 13.** The geologists licensing account is
4 created in the state treasury. All fees and fines collected under this
5 chapter shall be paid into the account. When appropriated by the
6 legislature, moneys in the account may be spent by the department of
7 licensing only for purposes of administering the provisions of this
8 chapter.

9 NEW SECTION. **Sec. 14.** This chapter shall be known and may be
10 cited as "The Washington registration of geologists act."

11 NEW SECTION. **Sec. 15.** Sections 1 through 14 of this act shall
12 constitute a new chapter in Title 18 RCW.

13 NEW SECTION. **Sec. 16.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 17.** The sum of seventy-five thousand
18 dollars, or as much thereof as may be necessary, is appropriated for
19 the biennium ending June 30, 1993, from the general fund to the
20 department of licensing for the purposes of administering the
21 registration of geologists act.