

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 826

Short Title: Licensing of Soil Scientists.

(Public)

Sponsors: Representatives Culp; Bowen, Brawley, Buchanan, Cansler, Carpenter, Cocklereece, Dickson, Eddins, Hayes, Hurley, Kiser, McCombs, Mitchell, Preston, Rayfield, Redwine, Warner, Weatherly, and G. Wilson.

Referred to: State Government.

April 11, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE LICENSING OF SOIL SCIENTISTS.

3 The General Assembly of North Carolina enacts:

4 Section 1. The General Statutes are amended by adding a new Chapter to read:

5 **"CHAPTER 89F.**

6 **"NORTH CAROLINA SOIL SCIENTIST LICENSING ACT.**

7 **"§ 89F-1. Short title.**

8 This Chapter may be cited as the North Carolina Soil Scientist Licensing Act.

9 **"§ 89F-2. Purpose.**

10 The purposes of this Chapter are to protect life, property, health, and public welfare
11 through the regulation of the practice of soil science in the State of North Carolina; to
12 define the practice of soil science as a profession, establishing minimum professional
13 standards of ethical conduct, professional responsibility, and required education and
14 experience; and to prevent abuses of the practice of soil science by untrained or
15 unprincipled individuals.

16 **"§ 89-3. Definitions.**

17 As used in this Chapter, unless the context otherwise requires:

18 (1) 'Board' means the North Carolina Board for Licensing of Soil Scientists.

- 1 (2) 'Good moral character' means character as tends to ensure the faithful
2 discharge of the duties of the licensed soil scientist.
- 3 (3) 'License' means a certificate issued by the Board recognizing the
4 individual named in this certificate as meeting the requirements for
5 licensing under this Chapter.
- 6 (4) 'Professional soil scientist' means a person who is licensed as a soil
7 scientist under this Chapter.
- 8 (5) 'Public practice of soil science' means any service or work, the adequate
9 performance of which requires education in the physical, chemical, and
10 biological sciences, as well as soil science; training and experience in
11 the application of special knowledge of these sciences to the use and
12 management of soils by accepted principles and methods; investigation,
13 evaluation, and consultation, in which the performance is related to the
14 public welfare for safeguarding of life, health, property, and the
15 environment, except as specifically exempted. 'Public practice of soil
16 science' includes, but is not limited to, the preparation of soil scientists'
17 reports for: subsurface ground absorption systems, including infiltration
18 galleries; land application of residuals such as sludge, septage, and other
19 wastes; spray irrigation of wastewater; soil remediation at conventional
20 rates; land application of agricultural products; and processing residues,
21 bioremediation, and volatilization; soil erodibility and sedimentation;
22 identification of hydric soil; and redoxomorphic features.
- 23 (6) 'Qualified soil scientist' means a person who possesses all of the
24 qualifications specified in this Chapter for licensing, except that he or
25 she is not licensed.
- 26 (7) 'Responsible charge of work' means the independent control and
27 direction by the use of initiative, skill, and independent judgment of soil
28 science work or the supervision of such work.
- 29 (8) 'Soil' means the site or environmental setting consisting of soil material,
30 saprolite, weathered materials, and soil rock interface. 'Soil' includes
31 the solid materials, waters, gases, and other biological, chemical, and
32 contaminant materials in the soil environment.
- 33 (9) 'Soil science' means the science dealing with soils as an environmental
34 resource. 'Soil science' includes soil characterization, classification, and
35 mapping, and the physical, chemical, hydrologic, mineralogical,
36 biological, and microbiological analysis of soil per se, and to its
37 assessment, analysis, modeling, testing, evaluation, remediation,
38 reclamation, and management and use for the benefit of mankind. 'Soil
39 science' does not include service or creative works, the adequate
40 performance of which requires extensive geological or engineering
41 education, training, and experience.
- 42 (10) 'Soil scientist' or 'professional soil scientist' means a person who is
43 trained and educated in soil science.

1 (11) 'Soil scientist-in-training' means a person who has taken and
2 successfully passed the portion of the professional examination covering
3 fundamental or academic soil science subjects, prior to his or her
4 completion of the number of years of experience in soil science work as
5 required by this Chapter.

6 (12) 'Subordinate' means any person who assists a professional soil scientist
7 in the practice of soil science without assuming the responsible charge
8 of work.

9 **"§ 89F-4. North Carolina Board for Licensing of Soil Scientists.**

10 (a) The North Carolina Board for Licensing of Soil Scientists is created. The
11 North Carolina Board for Licensing of Soil Scientists shall administer the provisions of
12 this Chapter in compliance with Chapter 150B of the General Statutes.

13 (b) The Board shall consist of six members to be appointed as follows:

14 (1) One member appointed by the Governor, which member shall be a soil
15 scientist employed by a federal, State, or local government agency.

16 (2) One member appointed by the Governor, which member shall be a soil
17 scientist employed by an institution of higher education.

18 (3) One member appointed by the Speaker of the House of Representatives,
19 which member shall be a soil scientist who is privately employed.

20 (4) One member appointed by the Speaker of the House of Representatives,
21 which member shall be a member of the public who is not a soil
22 scientist.

23 (5) One member appointed by the President Pro Tempore of the Senate,
24 which member shall be a soil scientist who is privately employed.

25 (6) One member appointed by the President Pro Tempore of the Senate,
26 which member shall be a member of the public who is not a soil
27 scientist.

28 (c) A majority shall constitute a quorum for the transaction of Board business.
29 Each member shall be selected from two nominees submitted by the Board for each
30 appointment under subdivisions (1) through (6) of subsection (b) of this section.

31 (d) The Board may remove any member only for neglect of duty, malfeasance,
32 violating a provision of this Chapter, conviction of a felony or other crime, or moral
33 turpitude.

34 (e) Each member of the Board shall be a citizen of the United States and shall
35 have been a resident of this State for at least six months immediately preceding his or her
36 election.

37 (f) Members shall serve for three-year terms. No member shall serve more than
38 two consecutive three-year terms without an interruption in service of at least one year.

39 (g) Each term of service on the Board shall expire on the thirty-first day of January
40 of the year in which the term expires. The Board shall appoint a person for the remainder
41 of the unexpired term, if a vacancy occurs.

1 (h) An ex officio member of the Board shall function as liaison with the Soil
2 Science Society of North Carolina. This member will be appointed annually by the
3 president of the Soil Science Society of North Carolina.

4 (i) Members of the Board may receive compensation for their services and be
5 reimbursed annually for expenses incurred in the performance of duties required by this
6 Chapter at the rates prescribed in G.S. 138-5, subject to the availability of funds.

7 (j) The Board may employ the necessary personnel for the performance of its
8 functions and shall fix their compensation within the limits of funds available to the
9 Board.

10 **"§ 89F-5. Duties of the Board.**

11 (a) The Board shall:

12 (1) Administer and enforce the provisions of this Chapter.

13 (2) Elect from its membership a Chair, a Vice-Chair, and a Secretary-
14 Treasurer, and adopt rules to govern its proceedings.

15 (3) Examine and pass on the qualifications of all applicants for licensing
16 under this Chapter and issue a license to each successful applicant.

17 (4) Hold a meeting within 30 days after its members are first elected and
18 thereafter shall hold at least two regular meetings each year.

19 (5) Establish and receive fees as required by this Chapter. In establishing
20 fees, the Board shall consider exemptions from fees or a reduction in
21 licensing fees for those persons otherwise qualified for licensing under
22 this Chapter, but who perform soil science work or services less than 15
23 days per year.

24 (6) Adopt rules that establish standards or approve reasonable standards for
25 licensing and renewal of licenses of soil scientists, including adopting
26 examination materials and accreditation standards of any duly
27 professionally recognized accrediting agency.

28 (7) Establish reasonable standards for continuing professional education for
29 soil scientists. No examination shall be required for a renewal of a
30 license.

31 (8) Have any other powers and duties as are necessary to implement the
32 provisions of this Chapter and adopt any rules needed to implement this
33 Chapter.

34 (b) The Board may adopt a seal which may be affixed to all licenses issued by the
35 Board.

36 (c) The Boards may authorize expenditures deemed necessary to carry out the
37 provisions of this Chapter and all expenses shall be paid upon the warrant of the Board
38 Secretary-Treasurer. The Board Secretary-Treasurer shall deposit funds received by the
39 Board in one or more funds in the banks or other financial institutions carrying deposit
40 insurance and authorized to do business in North Carolina. Interest earned on such funds
41 may remain in the funds account and may be expended as authorized by the Board to
42 carry out the provisions of this Chapter. Expenditures shall not exceed the revenues of

1 the Board during any fiscal year. The Board may procure personal property in
2 accordance with the provisions of Article 3 of Chapter 143 of the General Statutes.

3 **"§ 89F-6. Corporate, partnership, or sole proprietorship practice of soil science.**

4 (a) A corporation or partnership may engage in the practice of soil science in this
5 State. The person connected with the corporation, partnership, or sole proprietorship in
6 responsible charge of work must be registered as a professional soil scientist under this
7 Chapter. The exemptions to registration that apply to individuals under this Chapter
8 apply to corporations and partnerships. All such corporations shall be subject to the
9 provisions of Chapter 55B of the General Statutes.

10 **"§ 89F-7. Exemptions.**

11 (a) Subject to subsection (b) of this section, any person who publicly practices or
12 offers to publicly practice soil science in this State is subject to the provisions of this
13 Chapter.

14 (b) The following persons are exempt from the provisions of this Chapter:

15 (1) Persons engaged solely in teaching soil science or engaged solely in soil
16 science research in this State unless he or she performs soil scientist
17 work and services for which a license is required under this Chapter.

18 (2) Officers and employees of the United States, the State, or counties who
19 practice solely in the capacity of this employment.

20 (3) Officers and employees of companies engaged in the practice of soil
21 science, when the officers and employees practice soil science solely in
22 the capacity of their employment and who do not offer their professional
23 services to the public for hire.

24 (4) A subordinate to a soil scientist licensed under this Chapter or a soil
25 scientist-in-training insofar as the subordinate or soil scientist-in-
26 training acts solely in such capacity. The subordinate or the soil
27 scientist-in-training shall not practice soil science for others and shall
28 not describe or represent himself or herself as a soil scientist.

29 **"§ 89F-8. Limitations.**

30 This Chapter shall not prevent:

31 (1) The practice of any profession or trade for which a license is required
32 under any other law of this State.

33 (2) Registered professional engineers from lawfully practicing soil
34 mechanics, foundation engineering, or other professional engineering
35 practices for which a license is required pursuant to Chapter 89C of the
36 General Statutes.

37 (3) Architects licensed pursuant to Chapter 83A of the General Statutes or
38 licensed landscape architects licensed pursuant to Chapter 89A of the
39 General Statutes from lawfully practicing architecture or landscape
40 architecture.

41 (4) Geologist licensed pursuant to Chapter 89E of the General Statutes from
42 practicing geology.

1 (5) The public practice of soil science by a person not a resident of, and
2 having no established place of business in, this State, when such
3 practice does not exceed in the aggregate more than 30 days in any
4 calendar year, provided:

5 a. Such person is duly licensed to practice such profession in
6 another state where the requirements for a license are not less
7 than those specified in this Chapter for obtaining the license
8 required for such work; and

9 b. Such nonresident shall file with the Board within 10 days of
10 entering this State for commencing such work, a statement giving
11 his or her name, residence, the number of his or her license and
12 by what authority issued, and, upon the completion of the work, a
13 statement of the time engaged in such work within the State.

14 (6) The practice of a person not a resident and having no established place
15 of business in this State, or the practice of a person who has recently
16 become a resident of this State, or practicing or offering to practice in
17 this State for more than 30 days in any calendar year the profession of
18 soil science, if:

19 a. He or she is licensed in another state or is a qualified soil
20 scientist;

21 b. If he or she has filed an application for a license with the Board
22 and has paid the fee.

23 Such practice is a provisional practice of soil sciences and shall continue
24 only for such reasonable time as the Board requires to consider the
25 applicant for licensing as a soil scientist under this Chapter.

26 **"§ 89F-9. Applications.**

27 An application for a license as a soil scientist shall be made under oath, shall show the
28 applicant's education and a summary of the applicant's soil science experience, and shall
29 show any other relevant criteria as determined by the Board. The Board may establish a
30 reasonable application fee and a reasonable renewal fee.

31 **"§ 89F-10. Minimum qualifications.**

32 (a) To be eligible for a license as a soil scientist in North Carolina, an applicant
33 shall satisfy the following minimum qualifications:

34 (1) Be of good moral and ethical character as attested to by four letters of
35 reference, two of which shall be written by qualified soil scientists, and
36 an agreement signed by the applicant to adhere to the Code of
37 Professional Conduct or as otherwise determined by the Board.

38 (2) Hold at least a bachelor of science degree from an accredited college or
39 university with a minimum of 30 semester hours or 45 quarter hours in
40 agricultural, biological, physical, or earth sciences and at least 15
41 semester hours or an equivalent number of quarter hours in soil science.
42 Educational equivalents may be determined by the Board.

1 (3) Successfully pass an examination established by the Board, which
2 examination shall be designed to demonstrate whether the applicant has
3 the necessary knowledge and requisite skill to exercise the
4 responsibilities of the public practice of soil science.

5 (4) Subject to subsection (b) of this section, have at least three years of
6 professional soil science work under the supervision of a qualified soil
7 scientist or a minimum of three cumulative years work in responsible
8 charge of work satisfactory to the Board.

9 (b) Completion of advanced degrees in soil science may be substituted for a
10 portion of the experience requirement. The Board may, in its discretion, grant one year
11 of professional experience for a masters of science degree and two years of professional
12 experience for a doctoral degree. The Board may consider, in lieu of the above
13 professional soil science work required under subdivision (4) of subsection (a) of this
14 section, the cumulative total of professional soil science work or soil research of persons
15 teaching upper level soil science courses at the college or university level, so long as this
16 work or research can be demonstrated to the Board to be of a sufficiently responsible
17 nature to be equivalent to the professional soil science work.

18 (c) Applicants who meet all licensing requirements except for the experience
19 requirements may be recognized as a soil scientist-in-training. Upon completion of the
20 experience requirement, the soil scientist-in-training may apply for full licensing as a soil
21 scientist.

22 (d) The Board shall determine whether the applicant demonstrated that the
23 applicant performed the work experience in a responsible position. The adequacy of the
24 required supervision and the experience shall be determined by the Board in accordance
25 with standards established by the Board by rule.

26 **"§ 89F-11. Examinations.**

27 (a) Examinations shall be formulated and conducted by the Board at the time and
28 place as determined by the Board, but shall be held at least annually.

29 (b) The Board shall establish examination fees.

30 **"§ 89F-12. Comity.**

31 A person who holds a license to engage in the practice of soil science on the basis of
32 comparable licensing requirements issued to that person by a proper authority by another
33 state, by a territory, or by a possession of the United States or the District of Columbia,
34 and who, as determined by the Board, meets the requirements of this Chapter based upon
35 verified evidence, may, upon application, be licensed without taking an examination
36 pursuant to G.S. 89F-10(a)(3).

37 **"§ 89F-13. Issuance, renewal, and replacement of licenses.**

38 (a) The Board shall issue a license upon payment of a license fee established by
39 the Board to any applicant who has satisfactorily met all the requirements of this Chapter.
40 Licenses shall state the full name of the registrant, shall have a serial number, and shall
41 be signed by the Chair and Secretary-Treasurer of the Board, under the seal of the Board.
42 The issuance of a license by the Board shall be prima facie evidence that the person

1 named on the license is entitled to all the rights and privileges of a licensed soil scientist
2 for the period the license remains in full force and effect.

3 (b) Unless a license is renewed, a license shall expire at such interval as may be
4 determined by the Board. All applications for renewal shall be filed with the Board.
5 Applications for renewal shall be accompanied by a renewal fee established by the Board.
6 A license that has expired for failure to renew may be restored after application and
7 payment of a restoration fee established by the Board so long as the applicant satisfies all
8 other provisions of this Chapter.

9 (c) If a license is lost, destroyed, or mutilated, the Board may issue a replacement
10 license subject to rules adopted by the Board and the payment a fee established by the
11 Board.

12 **"§ 89F-14. Seals; requirements.**

13 Upon the issuance of a license, each soil scientist shall obtain from the Secretary-
14 Treasurer at a cost prescribed by the Board, a seal bearing the licensee's name and the
15 legend 'Licensed Soil Scientist-State of North Carolina'. All drawings, reports, or other
16 soil science papers or documents involving soil science work that are prepared or
17 approved by a licensed soil scientist or a subordinate under his or her direction shall be
18 signed by the soil scientist and impressed with the seal. The impression of the seal
19 indicates his or her responsibility for the soil science work.

20 **"§ 89F-15. Records.**

21 (a) The Board shall keep a public record of its proceedings and a register of all
22 applications for licensing.

23 (b) The register under subsection (a) of this section shall show:

24 (1) The name, the age, and the residency of each applicant.

25 (2) The date of application.

26 (3) The place of business of the applicant.

27 (4) The applicant's education and other qualifications.

28 (5) Whether or not an examination was required.

29 (6) Whether the applicant was licensed.

30 (7) Whether a license was granted.

31 (8) The dates of any actions by the Board.

32 (9) Such other information as may be deemed necessary by the Board.

33 All official records of the Board or affidavits by the Secretary-Treasurer as to the content
34 of these records shall be prima facie evidence of all matters required to be kept in the
35 registers.

36 (c) The Board shall treat as confidential and not subject to disclosure, except to the
37 extent required by law or by rule of the Board, individual test scores and applications and
38 material relating to the applications.

39 **"§ 89F-16. Roster of licensed professional soil scientists.**

40 The Secretary-Treasurer of the Board shall keep a record and shall publish annually a
41 roster showing the names and places of business and residence addresses of all soil
42 scientists licensed under this Chapter. Copies of this roster shall be made available to the

1 public upon request and payment of a reasonable fee, established by the Board, for
2 copying.

3 **"§ 89F-17. Code of professional conduct.**

4 The Board shall prepare and adopt by rule a code of professional conduct that shall be
5 made known in writing to every licensee and applicant for licensing under this Chapter
6 and that shall be published by the Board. Publication of the code of professional conduct
7 is due notice to all licensees of its contents. The Board may revise and amend this code
8 of professional conduct. Prior to adoption of any revision or amendments, all licensed
9 members and the public shall receive due notice and an opportunity to be heard.

10 **"§ 89F-18. Complaints.**

11 Any person may file written charges of violations of this Chapter or any rules adopted
12 pursuant to this Chapter with the Board against any licensee. Any charges or allegations
13 shall be in writing, shall be sworn to by the person making them, and shall be filed with
14 the Secretary-Treasurer of the Board. The Board shall investigate reasonably, all valid
15 complaints.

16 **"§ 89F-19. Prohibitions; unlawful acts.**

17 (a) It is unlawful for any person other than a licensed soil scientist or a subordinate
18 under the soil scientist's direction to conduct or participate in any public practice of soil
19 science or prepare any soil science reports, maps, or documents related to the public
20 welfare or the safeguarding of life, health, property, or the environment.

21 (b) It is unlawful for any person to publicly practice, or offer to publicly practice,
22 soil science in this State, or to use in connection with his or her name, or otherwise
23 assume, or advertise, any title or description tending to convey the impression that he or
24 she is a licensed soil scientist, unless that person has been duly licensed or is exempted
25 under the provisions of this Chapter.

26 (c) It is unlawful for anyone other than a soil scientist licensed under this Chapter
27 to stamp or seal any plans, plats, reports, or other documents with the seal or stamp of a
28 licensed soil scientist, or use in any manner the title 'soil scientist', unless that person is
29 licensed under this Chapter.

30 (d) It is unlawful for any person to affix his or her signature to, or to stamp or seal,
31 any plans, plats, reports, or other documents after the licensing of the person named
32 thereon has expired or has been suspended or revoked.

33 **"§ 89F-20. Disciplinary procedures.**

34 The Board may, consistent with the provisions of Chapter 150B of the General
35 Statutes, refuse to grant or to renew, suspend, or revoke the license of any person licensed
36 under this Chapter who:

- 37 (1) Has violated the provisions of this Chapter or a rule adopted by the
38 Board,
- 39 (2) Who has been convicted of a misdemeanor under this Chapter,
- 40 (3) Who has been convicted of a felony, or
- 41 (4) Who has been found by the Board to have been guilty of gross
42 unprofessional conduct, dishonest practice, incompetence, fraud, deceit

1 in obtaining a license, or in aiding or abetting by fraud or deceit another
2 person's obtaining a license.

3 In lieu of revoking a license, the Board may enter a probationary order and assess a
4 civil penalty not to exceed one thousand dollars (\$1000).

5 "**§ 89F-21. Reissuance of license.**

6 The Board may, by a vote of the quorum, reissue a license to any person whose
7 license has been revoked if the Board finds, after written application by the applicant, that
8 there is good cause to justify the reissuance of the license.

9 "**§ 89F-22. Misdemeanor.**

10 Any person who:

11 (1) Willfully practices soil science publicly; or offers to practice soil
12 science publicly for other natural or corporate persons in this State
13 without being licensed in accordance with the provisions of this
14 Chapter;

15 (2) Presents or attempts to use as his or her own license or the seal of
16 another soil scientist;

17 (3) Gives any false or forged evidence in the course of applying for a
18 license under this Chapter;

19 (4) Falsely impersonates any other licensed soil scientist;

20 (5) Attempts to use an expired or revoked license, or practice at any time
21 while the license is suspended or revoked;

22 (6) Violates the provisions of this Chapter;

23 shall be guilty of a misdemeanor and subject to a fine of not more than five hundred
24 dollars (\$500.00), imprisonment of not more than six months, or both.

25 "**§ 89F-23. Injunctive relief.**

26 The Board may seek injunctive relief to enjoin and restrain any natural or corporate
27 person from violating this Chapter. The Board shall not be required to post bond in
28 connection with obtaining either provisional, preliminary, or permanent injunctive relief.

29 "**§ 89F-24. Legal advisor.**

30 The Attorney General or his designee shall act as legal advisor to the Board.

31 "**§ 89F-25. Venue.**

32 Actions brought pursuant to this Chapter shall be brought in the superior court of the
33 county in which the Board maintains its offices and records."

34 Sec. 2. Notwithstanding the provisions of G.S. 89F-10, as enacted in Section 1
35 of this act, the Board shall waive the examination for licensure for applicants who apply
36 for licensure under Chapter 89F of the General Statutes, as enacted in Section 1 of this
37 act, no later than one year after the initial Board is appointed and who otherwise satisfy
38 the licensing requirements of Chapter 89F of the General Statutes.

39 Sec. 3. Notwithstanding the provisions of G.S. 87F-4, as enacted in Section 1
40 of this act, the Board of the North Carolina Registry of Certified Professional in Soils
41 shall submit two nominees for each appointment to the North Carolina Board for
42 Licensing of Soil Scientists, and the initial members appointed pursuant to G.S. 89F-
43 4(b)(4) and G.S. 89F-4(b)(6) shall serve one-year terms, initial members appointed

1 pursuant to G.S. 89F-4(b)(1) and G.S. 87F-4(b)(2) shall serve two-year terms, and initial
2 members appointed pursuant to G.S. 87F-4(b)(3) and G.S. 87F-4(b)(5) shall serve for
3 three-year terms.

4 Sec. 4. G.S. 89F-19, as enacted in Section 1 of this act, becomes effective
5 January 1, 1997. The remainder of this act becomes effective January 1, 1996.