

Senate Bill 95

By: Senators Harp of the 29th, Kemp of the 46th, Stephens of the 27th, Hudgens of the 47th and Seabaugh of the 28th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Code Section 31-3-35 of the Official Code of Georgia Annotated, relating to
2 functions of county boards of health, so as to change certain provisions relating to
3 registration of persons performing soil investigations and preparing soil reports; to amend
4 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
5 so as to regulate the practice of soil science; to provide for a short title; to provide for
6 legislative purpose; to define certain terms; to provide for inapplicability; to provide for the
7 State Licensing Board for Professional Soil Scientists; to provide for board powers and
8 duties; to provide for administration; to provide for certain records; to provide for filing and
9 service of documents; to provide for applications; to provide for eligibility; to provide for
10 licensing; to provide for refusal and discipline; to provide for seals; to provide for a code of
11 professional conduct; to provide for charges of violations; to require utilization of licensees
12 by government entities; to provide for a legal adviser; to provide for exemptions; to make
13 certain acts unlawful; to provide punishment for violations; to provide for legislative intent
14 relative to funding; to provide an effective date; to repeal conflicting laws; and for other
15 purposes.

16 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

17 **SECTION 1.**

18 Code Section 31-3-35 of the Official Code of Georgia Annotated, relating to functions of
19 county boards of health, is amended by striking subsection (d) and inserting in lieu thereof
20 the following:

21 ~~“(d)(1) Any person may register with the department to conduct soil investigations and~~
22 ~~prepare soil reports of a site within the state for an on-site sewage management system~~
23 ~~who meets any one of the following criteria:~~

24 ~~(A) Qualifies as a soil classifier as defined in subparagraph (B) of paragraph (3) of this~~
25 ~~subsection;~~

1 ~~(B) Holds a valid certificate of registration as a professional engineer issued pursuant~~
 2 ~~to Chapter 15 of Title 43 and is practicing within his or her area of engineering~~
 3 ~~competency;~~

4 ~~(C) Holds a valid certificate of registration as a registered geologist issued pursuant to~~
 5 ~~Chapter 19 of Title 43 and is practicing within his or her area of geologic competency;~~
 6 ~~or~~

7 ~~(D) Is a soil and water conservation technician as defined in subparagraph (A) of~~
 8 ~~paragraph (3) of this subsection.~~

9 ~~(2) Upon the submission of an evaluation of the suitability of a site within the state for~~
 10 ~~an on-site sewage management system by such a person who is registered with the~~
 11 ~~department a person authorized to engage in the public practice of soil science under~~
 12 ~~Chapter 43B of Title 43, the county board of health shall be required to accept the~~
 13 ~~evaluation unless such evaluation is found by the county board of health to be deficient~~
 14 ~~or questionable. If the county board of health finds such evaluation to be deficient or~~
 15 ~~questionable, the board shall, within three working days of making such finding, issue a~~
 16 ~~written determination stating all deficiencies and all measures needed to correct the~~
 17 ~~deficiencies. A copy of this determination shall be provided to the state director of~~
 18 ~~environmental health.~~

19 ~~(3) As used in this subsection, the term:~~

20 ~~(A) 'Soil and water conservation technician' means a person employed as a soil and~~
 21 ~~water conservation technician by a soil and water conservation district provided for in~~
 22 ~~Article 2 of Chapter 6 of Title 2.~~

23 ~~(B) 'Soil classifier' means a person who:~~

24 ~~(i) Holds at least a bachelor of science degree from an accredited college or~~
 25 ~~university with a major in soil science or a related field of science. This degree shall~~
 26 ~~include 30 semester credit hours or equivalent quarter credit hours in the biological,~~
 27 ~~physical, chemical, and earth sciences with a minimum of 15 semester credit hours~~
 28 ~~or equivalent quarter hours in soil science courses meeting the following distribution:~~

29 ~~(I) A minimum of one course in soil classification, morphology, genesis, and~~
 30 ~~mapping; and~~

31 ~~(II) The remaining soil science credits must be in at least three of the following~~
 32 ~~eight categories: introductory soil science; soil fertility; soil microbiology; soil~~
 33 ~~chemistry; soil physics; soil management, soils and land use, or soils and the~~
 34 ~~environment; soil mineralogy; or a three credit maximum in independent study,~~
 35 ~~geology, or hydrology; and~~

36 ~~(ii) Has at least four years of verifiable full-time or equivalent part-time experience~~
 37 ~~under the supervision of a soil classifier who has met the education and experience~~

1 ~~requirements provided in this subparagraph. Such experience must be obtained after~~
 2 ~~meeting all educational requirements defined in this subparagraph and must have been~~
 3 ~~spent actively mapping, identifying, and classifying soil features and interpreting the~~
 4 ~~influence of soil features on soil uses including, but not limited to, conducting soil~~
 5 ~~investigations for determining the suitability of sites for on-site sewage management~~
 6 ~~systems as approved by the department's soil classifiers advisory committee; and~~
 7 ~~(iii) Has successfully passed a written examination pertaining to site investigations~~
 8 ~~for on-site sewage management systems administered or approved by the department."~~

9 SECTION 2.

10 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
 11 is amended by inserting a new chapter to read as follows:

12 "CHAPTER 43B

13 43-43B-1.

14 This chapter shall be known and may be cited as the 'Soil Scientists Licensing Act.'

15 43-43B-2.

16 The purposes of this chapter are to protect life, property, health, and public welfare through
 17 regulation of the practice of soil science in the state; to define the practice of soil science
 18 as a profession by establishing minimum standards of ethical conduct and professional
 19 responsibility and by establishing professional education and experience requirements; and
 20 to prevent abuses in the practice of soil science by untrained or unprincipled individuals.
 21 This action recommends itself through benefits to the people of this state and promotion
 22 of the public welfare. These benefits are in the field of soil science as related to on-site
 23 disposal of domestic waste water (septic systems), land treatment of various waste waters,
 24 byproducts, and residual solids on land, bioremediation, erosion and sedimentation, soil
 25 productivity, protection of surface and ground water, identification of wetlands and unique
 26 natural resources, and other soil matters of concern to the people of the state.

27 43-43B-3.

28 As used in this chapter, the term:

- 29 (1) 'Board' means the State Licensing Board for Professional Soil Scientists.
 30 (2) 'License' means a certificate issued by the board to an individual who satisfies the
 31 requirements established for a licensed soil scientist under this chapter and the rules and
 32 regulations adopted pursuant to this chapter.

1 (3) 'Licensed soil scientist' means a person who is licensed as a soil scientist under this
2 chapter.

3 (4) 'Public practice of soil science' means any service or work, the adequate performance
4 of which requires education in the physical, chemical, and biological sciences, as well as
5 soil science; training and experience in the application of special knowledge of these
6 sciences to the use and management of soils by accepted principles and methods;
7 investigation, evaluation, and consultation in the use and management of soils; and in
8 which the performance is related to the public welfare by safeguarding life, health,
9 property, and the environment. The term includes, but is not limited to, investigating and
10 evaluating the interaction between water, soil, nutrients, plants, and other living
11 organisms that are used to prepare soil scientists' reports for subsurface ground
12 absorption systems, including infiltration galleries; land application of residuals such as
13 sludge, septage, and other wastes; spray irrigation of waste water; soil remediation at
14 conventional rates; land application of agricultural products and processing residues;
15 bioremediation and volatilization; soil erodibility and sedimentation; and identification
16 of hydric soil and redoximorphic features.

17 (5) 'Responsible charge of work' means the independent control and direction, by the use
18 of initiative, skill, and independent judgment, of soil science work or the supervision of
19 such work.

20 (6) 'Soil' means the unconsolidated mineral or organic matter on the surface of the earth
21 that has been subjected to and influenced by genetic and environmental factors of parent
22 material, climate (including water and temperature effects), microorganisms, and
23 topography, all acting over time and producing a product that differs from the material
24 from which it is derived in many physical, chemical, biological, and morphological
25 properties and characteristics.

26 (7) 'Soil science' means the science dealing with soils as an environmental resource. Soil
27 science includes soil characterization, classification, and mapping; the physical, chemical,
28 hydrologic, mineralogical, biological, and microbiological analysis of soil; and the
29 assessment, analysis, modeling, testing, evaluation, and use of soil for the benefit of
30 mankind. Soil science does not include design or creative works, the adequate
31 performance of which requires extensive geological, engineering, land surveying,
32 forestry, or landscape architecture education, training, and experience or requires
33 registration as a geologist under Chapter 19 of this title, professional engineer or land
34 surveyor under Chapter 15 of this title, or forester under Part 2 of Article 1 of Chapter 6
35 of Title 12 or licensing as a landscape architect under Chapter 23 of this title.

1 (8) 'Soil scientist-in-training' means a person who has passed the examination and
 2 satisfied all other requirements for licensure under this chapter except for the professional
 3 work experience requirement.

4 (9) 'Subordinate' means any person who assists a licensed soil scientist in the practice of
 5 soil science without assuming the responsible charge of work.

6 43-43B-4.

7 This chapter does not apply to the following individuals:

8 (1) An officer or employee of:

9 (A) The federal government;

10 (B) The state government; or

11 (C) Any local government

12 while such officer or employee is providing soil science services for the officer's or
 13 employee's employer;

14 (2) An individual engaged solely in soil science research or the instruction of soil
 15 science;

16 (3) An individual not engaged in the public practice of soil science;

17 (4) A professional engineer registered under Chapter 15 of this title who applies soil
 18 science to the practice of engineering;

19 (5) A professional geologist registered under Chapter 19 of this title who applies soil
 20 science to the practice of geology;

21 (6) A professional forester registered under Part 2 of Article 1 of Chapter 6 of Title 12
 22 who applies soil science to the practice of forestry;

23 (7) A person who is a certified professional in erosion and sediment control (CPESC) or
 24 soil conservationist who uses soil science in making land use decisions for the
 25 conservation of soil and water resources;

26 (8) A professional wetlands specialist who applies soil science to make wetland
 27 delineations or determinations; or

28 (9) A person who conducts soil sampling solely for the purpose of determining plant
 29 nutrient and lime application rates for gardening and agricultural purposes.

30 43-43B-5.

31 (a) The State Licensing Board for Professional Soil Scientists is created, whose duty it
 32 shall be to administer this chapter. The board shall be comprised of:

33 (1) Five members who shall be eligible for licensure under this chapter and who on and
 34 after July 1 of the year following the effective date of this chapter shall be soil scientists
 35 licensed under this chapter, one of whom shall be an academic soil scientist, one a

1 governmental soil scientist, one a salaried company soil scientist, one an independent or
2 consultant soil scientist, and one a soil scientist at large;

3 (2) A sixth member who shall be appointed from the public at large and who shall have
4 no connection whatsoever with the practice of professional soil science; and

5 (3) The commissioner of human resources, ex officio, or his or her designated agent.

6 (b) The members of the board provided for in paragraphs (1) and (2) of subsection (a) of
7 this Code section shall be appointed by the Governor, subject to approval as to
8 qualifications by the commissioner of human resources and confirmation by the Senate, for
9 terms of five years and until their successors are appointed and qualified. On the expiration
10 of the term of any member, the member's successor shall be appointed in the same manner
11 as regular appointments.

12 (c) Each member of the board shall be a citizen of the United States and a resident of the
13 State of Georgia.

14 (d) No person shall serve as a member of the board for more than one consecutive
15 five-year term.

16 (e) The Governor may remove any member of the board the same as provided by Code
17 Section 43-1-17. Vacancies in the membership of the board shall be filled for the unexpired
18 term by appointment by the Governor as provided for in this chapter.

19 (f) The members of the board shall, before entering upon the discharge of their duty,
20 subscribe to and file with the office of the Governor the required oath of office, whereupon
21 the Governor shall issue to each appointee a certificate of appointment.

22 (g) Each member of the board shall be reimbursed as provided for in subsection (f) of
23 Code Section 43-1-2.

24 43-43B-6.

25 (a) In addition to other powers and duties specified in this chapter, the board shall:

26 (1) Promulgate, adopt, amend, and repeal all rules and regulations necessary for its
27 government and for carrying this chapter into effect for the regulation of proceedings
28 before the board. The board and all of its rules, regulations, and procedures are subject
29 to and shall comply with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
30 Act';

31 (2) Adopt and have an official seal;

32 (3) Elect from its membership a chairperson, a vice chairperson, and any other officers
33 deemed necessary who shall hold office for a term of one year;

34 (4) Issue, renew, refuse to renew, deny, suspend, revoke, and reinstate licenses or
35 otherwise discipline licensees under this chapter;

36 (5) Initiate investigations for the purpose of discovering violations of this chapter;

1 (6) Hold hearings on all matters properly brought before the board and, in conjunction
2 therewith, to administer oaths, receive evidence, make necessary findings, and enter
3 orders consistent with the findings. The board may designate one or more of its members
4 as its hearing officer;

5 (7) Adopt a code of professional conduct;

6 (8) Establish and receive fees as required by this chapter;

7 (9) Examine and determine the qualifications and fitness of applicants for licenses to
8 practice soil science in this state;

9 (10) Bring proceedings in the courts for the enforcement of this chapter or any rules or
10 regulations promulgated pursuant to this chapter;

11 (11) Establish reasonable standards for continuing professional education for soil
12 scientists; provided, however, that no examination shall be required for a renewal of a
13 license; and

14 (12) Have such other powers and duties as are necessary to effectuate the purposes of
15 this chapter.

16 (b) The board shall not be under the jurisdiction of the director of the professional
17 licensing boards division within the Office of the Secretary of State but shall be an
18 independent state agency attached to the Department of Human Resources for
19 administrative purposes only as provided by Code Section 50-4-3. The board shall have
20 with respect to all matters within its jurisdiction as provided under this chapter the same
21 powers, duties, and functions as professional licensing boards as provided in Chapter 1 of
22 this title.

23 43-43B-7.

24 All appeals from a decision of the board, all documents or applications required by law to
25 be filed with the board, and any notice or legal process to be served upon the board shall
26 be filed with or served upon the division director at his or her office.

27 43-43B-8.

28 An application for licensing as a soil scientist shall be made under oath and shall show the
29 applicant's education and a detailed summary of the applicant's professional work
30 experience as a soil scientist. The application shall be accompanied by an application fee
31 fixed by the board.

32 43-43B-9.

33 (a) To be eligible for a license as a soil scientist in this state, an applicant shall meet each
34 of the following minimum qualifications:

- 1 (1) Be of good ethical character;
- 2 (2) Hold at least a bachelor's degree in science from an accredited college or university
3 with a major in soil science or a related field of science. Such degree shall include a
4 minimum of 30 semester hours or equivalent quarter credit hours in agricultural,
5 biological, chemical, physical, or earth sciences, with a minimum of 15 semester credit
6 hours or equivalent quarter credit hours in soil science courses;
- 7 (3) Have at least four years of professional work experience as a soil scientist under the
8 supervision of a licensed soil scientist or a soil scientist who is eligible for licensure
9 under this chapter. An applicant may substitute an advanced degree in soil science for a
10 portion of the professional work experience requirement. The board, in its discretion, may
11 allow an applicant to substitute a master's degree in soil science for one year of
12 professional work experience and to substitute a doctoral degree in soil science for two
13 years of professional work experience. The board, in its discretion, may allow an
14 applicant to substitute experience gained through teaching upper-level soil science
15 courses at the college or university level or research in soil science for all or any portion
16 of the professional work experience requirement if the board finds the teaching or
17 research to be equivalent to the responsible charge of work by a soil scientist; and
- 18 (4) Successfully pass such examinations as are established by the board and which are
19 designed to demonstrate that the applicant has the necessary knowledge and skill to
20 exercise the responsibilities of the public practice of soil science.
- 21 (b) The board shall designate an applicant who meets all the requirements for a license
22 under this chapter except the professional work experience requirement as a soil
23 scientist-in-training. A soil scientist-in-training may apply for a license upon completion
24 of the professional work experience requirement.
- 25 (c)(1) The board shall waive examination requirements for licensing for an individual
26 who, on the effective date of this chapter, is certified as a soil scientist or soil classifier
27 by:
- 28 (A) The American Registry of Certified Professionals in Agronomy, Crops, and Soils
29 (ARCP ACS); or
- 30 (B) The Department of Human Resources.
- 31 (2) Examinations shall be held at least annually.
- 32 (3) The board shall determine the fee for and the scope, form, and content of the
33 examinations provided for under this chapter.
- 34 (d) A person holding a license to engage in the practice of soil science on the basis of
35 comparable licensing requirements issued to him or her by a proper authority of another
36 state, territory, or possession of the United States or the District of Columbia and who, in

1 the opinion of the board, otherwise meets the requirements of this chapter based on verified
2 evidence may be licensed upon application without further examination.

3 43-43B-10.

4 (a) The board shall issue a license, upon payment of the license fee set by the board, to any
5 applicant who, in the opinion of the board, has satisfactorily met the requirements of this
6 chapter.

7 (b) All licenses shall be renewable biennially at such time as may be designated by the
8 board. All applications for renewal shall be filed with the board prior to the expiration date,
9 accompanied by the renewal fee prescribed by the board. A license which has expired for
10 failure to renew may only be reinstated after application and payment of the prescribed
11 reinstatement fee within six months of the expiration date, provided that the applicant
12 meets such requirements as the board may establish by rule.

13 (c) A new license to replace any license that is lost, destroyed, or mutilated may be issued
14 subject to the rules of the board and payment of a fee set by the board.

15 43-43B-11.

16 (a) The board shall have the authority to refuse to grant a license to an applicant therefor
17 or to revoke or suspend the license of a person licensed by the board or to otherwise
18 discipline a person licensed by the board the same as provided in Code Section 43-1-19 for
19 professional licensing boards.

20 (b) The action by the board in granting or refusing to grant or renew a license under this
21 chapter or in revoking or suspending or in refusing to revoke or suspend such a license may
22 be appealed in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
23 Procedure Act,' to the superior court of the county of domicile of the board; provided,
24 however, that if the findings of the board are supported by any evidence, such findings
25 shall be accepted by the court.

26 43-43B-12.

27 Each licensee under this chapter may use a seal of such design as is authorized by the
28 board, bearing the licensee's name and the legend 'Licensed Professional Soil Scientist.'
29 All drawings, reports, or other papers or documents involving the practice of soil science,
30 as defined in this chapter, which shall have been prepared or approved by a licensed soil
31 scientist or a subordinate employee under his or her direction for the use of or for delivery
32 to any person or for public record within this state shall be signed by him or her and
33 impressed with the seal provided for in this Code section or the seal of a nonresident

1 practicing under this chapter, either of which shall indicate his or her responsibility for
2 them.

3 43-43B-13.

4 The board shall keep a record and shall publish annually a roster showing the names, places
5 of business, and residence addresses of all soil scientists licensed under this chapter. Copies
6 of such roster shall be made available to the public upon request and payment of a
7 reasonable fee, established by the board, for copying.

8 43-43B-14.

9 The board shall prepare and adopt by rule a code of professional conduct that shall be made
10 known in writing to every licensee and applicant for licensing under this chapter and shall
11 be published by the board. Publication of the code of professional conduct shall be due
12 notice to all licensees of its contents. The board may revise and amend such code of
13 professional conduct. Prior to adoption of any revision or amendments, all licensed
14 members and the public shall receive due notice and an opportunity to be heard.

15 43-43B-15.

16 Any person may file written charges of violations of this chapter or any rules adopted
17 pursuant to this chapter with the board against any licensee. Any charges or allegations
18 shall be in writing, shall be sworn to by the person making them, and shall be filed with
19 the board. The board shall investigate all reasonably valid complaints.

20 43-43B-16.

21 On and after January 1 of the year following the effective date of this chapter, this state and
22 its political subdivisions, such as a county, a municipality, or a legally constituted board,
23 district, commission, or authority, shall contract for soil science services only with persons
24 licensed under or exempted from this chapter or with a firm employing a licensed soil
25 scientist.

26 43-43B-17.

27 (a) This chapter shall not prohibit one or more soil scientists from practicing through the
28 medium of a sole proprietorship, partnership, limited liability company, or corporation. In
29 a partnership, limited liability company, or corporation whose primary activity consists of
30 soil science services, at least one partner, member, or officer shall be a licensed soil
31 scientist.

1 (b) This chapter shall not prevent or prohibit an individual, firm, company, association, or
2 corporation whose principal business is other than the public practice of soil science from
3 employing a unlicensed soil scientist to perform nonpublic soil science services necessary
4 to the conduct of its business.

5 (c) This chapter shall not be construed to prevent or to affect:

6 (1) The practice of any profession or trade for which a license is required under any other
7 provision of this Code;

8 (2) Registered professional engineers in lawfully practicing such profession; or

9 (3) The practice of a person who is not a resident of and has no established place of
10 business in this state or who has recently become a resident of this state practicing or
11 offering to practice the profession of soil science in this state for more than 30 days in
12 any calendar year if the person shall have filed with the board an application for a license
13 and shall have paid the fee required by this chapter. Such practice shall continue only for
14 such time as the board requires for the consideration of the applicant for licensing.

15 43-43B-18.

16 (a) It shall be unlawful for any person other than a licensed soil scientist or a subordinate
17 under the soil scientist's direction and not otherwise exempt under this chapter to conduct
18 or participate in any practice of soil science or prepare any soil science reports, maps, or
19 documents related to the public welfare or the safeguarding of life, health, property, or the
20 environment.

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

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

30 (d) It shall be unlawful for any person to affix his or her signature to, stamp, or seal any
31 soils related plans, maps, reports, or other soils related documents after the license of the
32 person has expired or been suspended or revoked.

33 (e) It shall be unlawful for a licensed soil scientist to prepare plats and maps so as to
34 engage in the practice of land surveying as defined in Code Section 43-15-2 unless the
35 licensed soil scientist is also a registered land surveyor under Chapter 15 of this title.

1 (f) It shall be unlawful for a licensed soil scientist to engage in the design of engineering
2 works and systems unless the licensed soil scientist is also a registered professional
3 engineer under Chapter 15 of this title.

4 (g) It shall be unlawful for a licensed soil scientist to engage in the practice of geology
5 unless the licensed soil scientist is also a registered geologist under Chapter 19 of this title.

6 (h) Subsections (a) and (b) of this Code section shall apply only to acts committed on or
7 after January 1 of the year following the effective date of this chapter.

8 43-43B-19.

9 (a) A person who:

10 (1) Willfully practices soil science or offers to practice soil science for any other person
11 in this state without being licensed and who is not otherwise exempt in accordance with
12 the provisions of this chapter;

13 (2) Presents or attempts to use as his or her own the license or the seal of any other soil
14 scientist;

15 (3) Gives any false or forged evidence in the course of applying for a license under this
16 chapter;

17 (4) Impersonates a licensed soil scientist;

18 (5) Practices or attempts to practice at any time while his or her license is suspended or
19 revoked; or

20 (6) Commits any other act made unlawful by this chapter
21 shall be guilty of a misdemeanor.

22 (b) Paragraph (1) of subsection (a) of this Code section shall apply only to acts committed
23 on or after January 1 of the year following the effective date of this chapter.

24 43-43B-20.

25 It is the intent of the General Assembly that not less than the amount of revenue derived
26 in any fiscal year from fees under this chapter shall be appropriated to the Department of
27 Human Resources for purposes of administering this chapter in the subsequent fiscal year."

28 SECTION 3.

29 This Act shall become effective upon its approval by the Governor or upon its becoming law
30 without such approval.

31 SECTION 4.

32 All laws and parts of laws in conflict with this Act are repealed.