

State of Arkansas

76th General Assembly

Regular Session, 1987

SENATE BILL 521

By: Senator Moore

As engrossed 3-4-87

"AN ACT TO REGULATE THE PRACTICE OF GEOLOGY; AND FOR OTHER  
PURPOSES"

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. SHORT TITLE. This Act shall be known and may be cited as the  
"Registration of Geologists Act of 1987".

SECTION 2. DEFINITIONS. As used in this Act, the terms:

(a) "Board" means the State Board of Registration for Professional  
Geologists.

(b) "Geologist" means a person engaged in the practice of geology.

(c) "Geology" means that science which treats of the earth in general;  
investigation of the earth's crust and the rocks and other materials which  
compose it; and the applied science of utilizing knowledge of the earth and  
its constituent rocks, minerals, liquids, gases, and other materials for the  
benefit of mankind.

(d) "Public practice of geology" means the performance of geological  
service or work such as consultation, investigation, evaluation, planning,  
mapping, and inspection of geological work in which the performance is related  
to public welfare or safeguarding of life, health, property, and the environ-  
ment, except as specifically exempted by this Act. A person shall be  
construed to practice publicly or offer to practice publicly geology who  
practices any branch of the profession of geology; or who by verbal claim,  
sign, advertisement, letterhead, card, or who in any other way represents him-  
self to be a geologist; or who through the use of some other title implies  
that he is a geologist; or who represents that he is registered under this  
Act; or who holds himself out as able to perform or who does perform any  
geological services or work recognized as geology.

(e) "Qualified geologist" means a person who is not registered under this Act, but who possesses all the qualifications specified in this Act for registration.

(f) "Registered certified specialty geologist" means a person who is certified as a specialty geologist under this Act.

(g) "Registered geologist" means a person who is registered as a geologist under this Act.

(h) "Geologist-in-Training" means a person who meets all requirements except length of experience for registration and who has applied for and has been approved by the Board for registration. Upon completion of his required length of experience and after review by the Board, he may be granted the title of Registered Geologist.

(i) "Responsible charge of work" means the independent control and direction, by the use of initiative, skill, and independent judgment, of geological work or the supervision of such work.

(j) "Subordinate" means any person who assists a registered geologist or a registered engineer in the practice of geology without assuming the responsible charge of work.

SECTION 3. State Board of Registration for Professional Geologists - creation; composition; manner of appointment of members; citizenship and residency of members' appointment and qualification of successors; limitation on terms; removal of members; filling of vacancies; oath of office; compensation and reimbursement for expenses.

(a) There is hereby created the State Board of Registration for Professional Geologists whose duty it shall be to administer this Act and promulgate regulations for registration of qualified geological applicants. The Board shall be comprised of:

(1) Five members who shall be registered geologists, (except that the initial geologists members shall not be required to be registered until May 1, 1989) one of whom shall be an academic geologist, one a governmental geologist, one a salaried company geologist, one an independent or consultant geologist, and one a geologist-at-large;

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

(3) The Director of the Arkansas Geological Commission, or his

designated agent, as a permanent ex officio member.

(b) The members of the Board shall be appointed by the Governor and confirmed by the Senate.

(c) Each member of the Board shall be a citizen of the United States and shall have been a resident of this State for the two years immediately preceding his or her appointment.

(d) The initial geologist members of the Board shall serve the following terms: one member for one year; one member for two years; one member for three years; one member for four years; and one member for five years, from the date of their respective appointments. The initial public member shall serve a five year term. All successive members shall serve five-year terms.

(e) No person shall serve as a member of the Board for more than one consecutive five-year term.

(f) The Governor may remove any member of the Board for misconduct, incompetency, neglect of duty, or any other sufficient cause. Vacancies in the membership of the Board shall be filled for the unexpired term by appointment by the Governor.

(g) The members of the Board shall, before entering upon the discharge of their duty, subscribe to and file with the Secretary of State the constitutional oath of officers, whereupon the Secretary of State shall issue to each appointee a certificate of appointment.

(h) The members of the Board shall be reimbursed for expenses during any scheduled or non-scheduled called meeting, plus mileage at the rate of twenty-five cents (25\_) per mile based on a round trip between home and meeting place. Board members, except the Secretary-Treasurer, shall serve without compensation.

SECTION 4. Frequency of meetings; action by majority vote; notice of meetings; election of Chairman, Vice-Chairman and Secretary-Treasurer.

(a) The Board shall hold a meeting within thirty (30) days after appointment and thereafter shall hold at least two regular meetings each year. An affirmative vote of a majority of a quorum present shall be necessary to transact business. The chairman shall not vote unless there is a tie vote among the Board members, in which case his vote will be allowed for a majority. Regulations adopted by the Board may provide for such additional

regular meetings as necessary and for special meetings. Notice of all meetings shall be given as may be provided in the regulations.

(b) The Board shall elect a chairman, vice-chairman, and secretary-treasurer from among its members. Elections shall be held annually and on a basis where the officers will serve for a period of one year. Chairmanship shall be rotated annually among the members. Administrative assistance, clerical work, and supplies will be provided by the Arkansas Geological Commission until such time as the Board may assume such responsibility.

SECTION 5. Powers and duties generally. In addition to other powers and duties specified in this Act, the Board shall:

(a) Adopt, after notice and public hearing, modify, repeal, promulgate, and enforce regulations which may be reasonably necessary to implement or effectuate its powers and duties and the regulation of proceedings before the Board. The Board shall be subject to the Administrative Procedures Act (Act 434 of 1967, as amended).

(b) Adopt and have an official seal; and

(c) Have such other powers and duties as are necessary to implement this Act.

SECTION 6. Receipts, disbursements and appropriations.

(a) The Secretary-Treasurer of the Board shall receive and account for all moneys received in accordance with State law and Regulations of the Board. These moneys shall be deposited in a financial institution located in this State and shall be disbursed only by the Secretary-Treasurer. The Secretary-Treasurer shall receive such salary as the Board determines within the limits set forth by the General Assembly. The Board shall employ assistants required to properly perform its work, and shall make expenditures from this account for any purpose which, in the opinion of the Board, is reasonably necessary to perform its duties under law and the Rules and Regulations of the Board. The Board shall have no authority to incur indebtedness.

SECTION 7. Service of notice, process, etc., on Secretary-Treasurer. All appeals from a decision of the Board, all documents or applications required by law to be filed with the Board, and any notice or legal process to

be served upon the Board shall be filed with or served upon the Secretary-Treasurer at his or her office.

SECTION 8. Records, register of applications, roster, audit. (a) The Board shall keep a public record of its proceedings and a register of all applications for registration.

(b) The register shall show:

- (1) The name, age and residence of each applicant;
- (2) The date of application;
- (3) The place of business of such applicant;
- (4) The applicant's education and other qualifications;
- (5) Whether or not an examination was required;
- (6) Whether the applicant was registered;
- (7) Whether a certificate of registration was granted;
- (8) The dates of the action by the board; and
- (9) Such other information as may be deemed necessary by the Board.

All official records of the Board, or affidavits by the Secretary-Treasurer as to the content of such records, shall be prima-facie evidence of all matters required to be kept therein.

(c) A complete roster showing the names, classification (geologist, specialty, or geologist-in-training) and last known address of registered geologist, or certified geologists-in-training shall be published by the secretary-treasurer of the Board once each year, or at intervals as established by Board regulations. Copies of the roster shall be mailed to each person so registered or certified, and placed on file with the Secretary of State, and county officials. Copies may be sent to cities requesting the information and may be distributed or sold to the public.

(d) At the end of the fiscal year, the Board shall submit to the Governor and the General Assembly a complete statement of the receipts and expenditures of the Board. The Board records shall be subject to audit by the Legislative Audit Division of the Legislative Joint Auditing Committee.

SECTION 9. Code of professional conduct. The Board shall cause to have prepared and shall adopt a code of professional conduct which shall be made known in writing to every registrant and applicant for registration under this Act and which shall be published in the roster provided for in this Act. Such publication shall constitute due notice to all registrants. The Board may

revise and amend this code of ethics from time to time and shall immediately notify each registrant in writing of such revisions or amendments.

SECTION 10. License requirements for persons practicing geology, advertising as registered geologists, etc. It shall be unlawful for any person to publicly practice or offer to publicly practice geology in this state, or to use in connection with his name or otherwise assume or advertise any title or description tending to convey the impression that he is a registered geologist unless such person has been registered or exempted under this Act. The right to engage in the practice of geology shall be deemed a personal right, based on the qualifications of the individual as evidenced by his certificate of registration, and shall not be transferable.

SECTION 11. Application. An application for registration as a geologist, geologist-in-training certificate, or certification in a specialty shall be made under oath and shall show the applicant's education and a detailed summary of his geologic work. The application shall be accompanied by the application fee prescribed by this Act. The Board, after examination of any dissertation, thesis, technical report or study, or other similar material required of any applicant for registration as a geologist or certification in a specialty, may return the same to such applicant.

The Board shall require the applicant to provide the board with the names and addresses of three qualified geologists who can attest to the experience and qualifications of the applicant; and, the names and addresses of two people who can attest to the personal character and ethical practices of the applicant. The application shall not be processed until all required information is received.

SECTION 12. Qualifications of applicant. To be eligible for a certificate of registration, an applicant shall meet each of the following minimum qualifications:

- (a) Be of good ethical character;
- (b) Have graduated from an accredited college or university which has been approved by the Board with a major in either geology, engineering geology, or geological engineering; or have completed 30 semester hours or 45 quarter hours or the equivalent in geological science courses leading to a major in

geology, of which at least 24 semester hours or 36 quarter hours or the equivalent were taken in the upper level of the undergraduate studies or in the graduate level courses. The Board shall waive academic requirements for a person already practicing geology on the effective date of this Act, provided that application for registration is made not later than May 1, 1989, and the applicant can provide evidence to satisfy the Board that he is competent to publicly practice geology on a level that is expected from a registered geologist.

(c) Have at least seven years of professional geological work which shall include either a minimum of three years of professional geological work under the supervision of a registered geologist, except that prior to the effective date of this act, professional geological work shall qualify under this paragraph if it is under the supervision of a qualified geologist, or have a minimum of five years' experience in responsible charge of geological work. The following criteria of education and experience qualify, as specified, toward accumulation of the required seven years of professional geological work:

(1) Each year of undergraduate study in the geological sciences shall count as one-half year of training up to a maximum of two years, and each year of graduate study shall count as a year of training;

(2) Credit for undergraduate study, graduate study, and graduate courses, individually or in any combination thereof, shall in no case exceed a total of four years toward meeting the requirements for at least seven years of professional geological work as set forth above;

(3) The Board may consider, in lieu of the above professional geological work as set out in this section, the cumulative total of professional geological work or geological research of persons teaching at the college or university level, provided that such work or research can be demonstrated to be of a sufficiently responsible nature to be equivalent to the professional requirements of this Act;

(4) The ability of the applicant shall have been demonstrated by his having performed the work in a responsible position as determined by the Board. The adequacy of the required supervision and experience shall be determined by the Board in accordance with standards set forth in regulations adopted by it; and

(5) The ability of the applicant shall be demonstrated by the

successful passage of such examinations as are established by the Board and which are designed to demonstrate that the applicant has the necessary knowledge and skill to exercise the responsibilities of the public practice of geology. If the applicant does not pass the required examination, he or she may take the examination again at the next scheduled date and upon payment of the examination fee.

(d) The Board may issue a geologist-in-training certificate to any applicant who meets all qualifications, including successful passage of the geological examination, except the required time of professional geological work.

(e) An applicant with a geologist-in-training certificate shall be awarded full registration upon presentation of proof that the required time of professional geologic work has been completed and the presentation of names and addresses of three qualified geologists and two persons who can attest to personal character and ethics.

SECTION 13. Grandfather Clause. The Board shall waive the examination requirement for persons who were practicing geology on the effective date of this Act, provided that the application for registration is received by the Board not later than May 1, 1989. The applicant shall be required to satisfy the Board that he is competent to publicly practice geology on a level that is expected from a registered geologist.

SECTION 14. Examinations. (a) Examinations shall be held at least annually.

(b) The Board shall determine the scope, form, and content of the examinations.

SECTION 15. Reciprocity. A person holding a certificate of registration to engage in the practice of geology, on the basis of comparable licensing requirements issued to him by a proper authority of a state, territory or possession of the United States, or the District of Columbia, and who, in the opinion of the Board, otherwise meets the requirements of this Act may be registered, upon application, without further examination.



SECTION 16. Fees and Costs. (a) The schedule of fees is as follows:

(1) Application for Registered Geologist	\$20.00
(2) Examination for Registered Geologist or Geologist-in-training	\$20.00
(3) Initial or Comity registration	\$60.00
(4) Geologist-in-training certificate	\$10.00
(5) Geologist Registration Renewal Fee	\$60.00
(6) Geologist-in-training Certificate Renewal Fee	\$20.00

(b) The registration shall expire one year after the date of issuance.

(c) Late renewal applications submitted during a six-month penalty period following expiration must be accompanied by a fee equal to the renewal fee plus fifty per cent penalty fee.

(d) Registrations not renewed prior to the end of the six-month penalty period shall not be subject to renewal. Any consideration for registration reinstatement after the six-month penalty period shall be at the discretion of the Board, and requires submission of a reinstatement application with the required reinstatement fee of twice the renewal fee.

(e) The date of the filing fee, when transmitted through the mail shall be that date shown by the post office cancellation mark appearing on the envelope containing the fee.

SECTION 17. Issuance of certificates; contents; biennial renewal of certificates; replacement of lost, destroyed, or mutilated certificates.

(a) The Board shall issue a certificate of registration, upon payment of the registration fee, to any applicant who, in the opinion of the Board, has satisfactorily met all the requirements of this Act. Certificates of registration shall show the full name of the registrant, shall give a serial number, and shall be under seal of the Board. The issuance of a certificate of registration by the Board shall be prima-facie evidence that the person named therein is entitled to all the rights and privileges of a registered geologist while the certificate remains unrevoked or unexpired.

(b) All applications for renewal shall be filed with the Secretary-Treasurer prior to the expiration date, accompanied by the renewal fee. A license which has expired for failure to renew may only be restored after application and payment of the prescribed restoration fee.

(c) A new certificate of registration to replace any certificate lost,

destroyed, or mutilated may be issued subject to the rules of the Board and payment of a fee set by the Board.

SECTION 18. Denial, suspension, or revocation of certificate. (a) The Board shall have the power to deny, suspend, revoke, or refuse to renew the certificate of registration of any registrant who is found to have been involved in:

(1) the practice of any fraud or deceit in obtaining a certificate of registration;

(2) Any gross negligence, incompetence, or misconduct in the practice of geology as a professional geologist;

(3) Any felony; or

(4) The commission of any unlawful act as set forth in this Act.

(b) Any such action by the Board in this regard shall be after a hearing held in accordance with the Arkansas Administrative Procedures Act. Any administrative or judicial review of such action shall likewise be in accordance with the Arkansas Administrative Procedures Act.

SECTION 19. Reissuance of certificates. By majority vote of a quorum, the Board may reissue a certificate of registration to any person whose certificate has been revoked, upon written application to the Board by the applicant showing good cause to justify such reissuance.

SECTION 20. Certification in a Specialty. (a) In addition to registering as a geologist, qualified persons may also be eligible for certification in a specialty. Such specialties may be designated by the Board by regulation, with such regulations to contain any required additional qualifications. Only a registered geologist is eligible for certification in a specialty. Application may be submitted for both registration as a geologist and certification in a specialty at the same time, but the applicant must be approved for registration as a geologist before being considered for certification in a specialty. The certification in a specialty is dependent, in every case, upon the approval of registration as a geologist.

(b) An applicant for certification in a specialty shall meet all of the requirements of a registered geologist and such other requirements as the Board may establish by regulation. In addition, his seven years of pro-

fessional geological work shall include one of the following:

(1) A minimum of three (3) years performed under the supervision of a registered geologist who is certified in the specialty for which the applicant is seeking certification, or

(2) A minimum of five years' experience in responsible charge of geological work in the specialty for which the applicant is seeking certification.

SECTION 21. Seals. Each registrant under this Act, upon issuance of a certificate of registration, may purchase from a source approved by the Board a seal of such design as is authorized by the Board, bearing the registrant's name, the name of this State, and the legend "Registered Professional Geologist" or "Certified (sub-specialty) Geologist". All drawings, reports, or other geologic papers or documents involving the practice of geology, which shall have been prepared or approved by a registered geologist or a subordinate employee under his direction for the use of or for delivery to any person or for public record within this State shall be signed by him and impressed with the Seal provided for in this section or the seal of a nonresident practicing under this Act, either of which shall indicate his responsibility for them.

SECTION 22. Requirement that State and political subdivisions contract only with registered geologist. This State, its political subdivisions, and all public boards, districts, commissions, or authorities, shall contract for geological services only with persons registered under this Act or with a firm employing an Arkansas registered geologist.

SECTION 23. Subpoena. In carrying into effect this Act, the Board or its hearing examiner may compel the attendance of witnesses and the production of such books, records, and papers as may be required. For this purpose, the Board or the hearing examiner, at the request of any party or on its own initiative may issue a subpoena for any witness or a subpoena to compel the production of any books, records, or papers. Subpoenas shall be issued and enforced in accordance with the Arkansas Administrative Procedures Act.

SECTION 24. Filing of complaints. Any person may prefer charges of

fraud, deceit, gross negligence, incompetence, or misconduct against any registrant. Such charges shall be in writing, shall be sworn to by the person or persons making them, and shall be filed with the Secretary-Treasurer.

SECTION 25. Exceptions to operation of Act generally. Every person, except as specifically exempted below, who shall publicly practice or offer to publicly practice geology in this State is subject to this Act. The following persons are exempt:

(a) Persons engaged solely in teaching the science of geology or engaged in nonpublic geologic research in this State;

(b) Officers and employees of the United States or this State, practicing solely as such officers or employees; and

(c) A subordinate to a geologist registered under this Act, insofar as he acts solely in such capacity. This exemption, however, does not permit any such subordinate to practice geology for others in his own right or to use the title "registered geologist".

SESSION 26. Effect of Act on partnerships, corporations, nonpublic geological services, etc.; effect of Act on other professions; out of state geologists. (a) This Act does not prohibit one or more geologists from practicing through the medium of a sole proprietorship, partnership, or corporation. In a partnership or corporation whose primary activity consists of geological services, at least one partner or officer shall be a registered geologist.

(b) This Act does not prevent or prohibit an individual, firm company, association, or corporation whose principal business is other than the public practice of geology from employing a nonregistered geologist to perform nonpublic geological services necessary to the conduct of its business.

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

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

(2) The practice of geology by a person not a resident of and having no established place of business in this State, when such practice does not exceed in the aggregate more than 90 days in any calendar year, provided that such person is licensed or registered to practice such profession in another state where the requirements for a certificate of registration or

license are not lower than those specified in this State for obtaining the registration required for such work; and provided, further, that such nonresident shall file with the Board, on or before entering the State for commencing such work, a statement giving his name, residence, and the number of his license or certificate of registration and by what authority issued and, upon the completion of the work, a statement of the time engaged in such work within the State, or

(3) The practice by a person who is not a resident of, and having no established place of business in this State, or who has recently become a resident hereof practicing or offering to practice the profession of geology herein for more than 90 days in any calendar year, if he shall have filed with the Board an application for a certificate of registration and shall have paid the fee required by this Act. Such practice shall continue only for such time as the board requires for the consideration of the applicant for registration.

SECTION 27. Unlawful Acts. (a) It shall be unlawful for any person other than a registered geologist, a registered certified specialty geologist, or a subordinate under the direction of one of the above to prepare any geologic plans, reports, or documents in which the performance is related to the public welfare or safeguarding of life, health, property, or the environment.

(b) It shall be unlawful for anyone other than a geologist registered under this Act to stamp or seal any plans, plats, reports, or other documents with the seal or stamp of a registered geologist or registered certified specialty geologist or to use in any manner the title "registered geologist" or the title of "registered certified specialty geologist" unless registered, and certified, under this Act.

(c) It shall be unlawful for any person to affix his signature or to stamp or seal any plans, plats, reports, or other documents after the certification of the registrant named thereon has expired or has been suspended or revoked unless the certificate has been renewed or reissued.

SECTION 28. Penalty. (a) Any person who publicly practices or offers to publicly practice geology for others in this State without being registered in accordance with this Act; any person presenting or attempting to use as his own the certificate of registration or the seal of another; any

person who gives any false or forged evidence of any kind to the Board or to any member thereof in obtaining a certificate of registration; any person who falsely impersonates any other registrant of like or different name; or any person who attempts to use an expired or revoked certificate of registration or who attempts to practice at any time during a period when the Board has suspended or revoked his certificate of registration; and any person who otherwise violates this Act, shall be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100.00), nor more than two hundred dollars (\$200.00), or imprisonment for a period not exceeding three (3) months, or both.

(b) The Attorney General of the State of Arkansas or one of his Assistants shall act as legal adviser to the Board and render legal assistance needed to implement and enforce the provisions of this Act and the Rules and Regulations of the Board. The Board may employ additional counsel with approval of the Attorney General and any other necessary assistance to aid in the enforcement of this Act and the regulations of the Board and the compensation and expenses therefor shall be paid from funds of the Board.

SECTION 29. All laws and parts of laws in conflict with this Act are hereby repealed.

/s/ Moore

