

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1040

Short Title: Environmental Management Professionals.

(Public)

Sponsors: Representative Wood (By Request).

Referred to: Rules, Calendar and Operations of the House.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO LICENSE ENVIRONMENTAL MANAGEMENT PROFESSIONALS.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding the following new Chapter:

“CHAPTER 89G.

“ENVIRONMENTAL MANAGEMENT PROFESSIONALS.

“§ 89G-1. Purpose.

Environmental management professionals possess special training and knowledge that is valuable in protecting and preserving natural resources. The protection and preservation of these resources is essential to maintaining the quality of air, soil, and water in this State. Therefore, the licensure of environmental management professionals is necessary to protect the public health, safety, and welfare.

“§ 89G-2. License required; exemptions.

(a) No person shall practice or offer to practice environmental management in this State or use any card, title, or abbreviation to indicate that the person is an environmental management professional unless that person is licensed under the provisions of this Chapter.

(b) The provisions of this Chapter do not apply to:

- 1 (1) Persons practicing environmental management for the improvement of
2 their own property.
- 3 (2) Persons teaching environmental management at a college or university
4 in this State.
- 5 (3) Persons engaged in research related to environmental management.
- 6 (4) Employees who practice environmental management within the course
7 of their employment for a firm, partnership, or corporation that is not
8 engaged in the practice of environmental management.
- 9 (5) A contractor, foreman, or supervisor of a project that was designed by
10 an environmental management professional.
- 11 (6) Officers and employees of regional or local management districts if they
12 practice environmental management under the direct supervision of an
13 environmental management professional.

14 **"§ 89G-3. Definitions.**

15 The following definitions apply in this Chapter:

- 16 (1) Board. – The North Carolina State Board of Environmental
17 Management Professionals.
- 18 (2) Environmental management. – The application of scientific principles to
19 the management of natural resources. The term 'environmental
20 management' includes:
 - 21 a. Providing advice on issues related to the protection and
22 preservation of natural resources.
 - 23 b. Teaching, researching, designing, and investigating issues related
24 to the protection and preservation of natural resources.
 - 25 c. Preparing reports regarding issues related to the protection and
26 preservation of natural resources, including environmental
27 impact statements and categorical exclusions, that may be
28 required by federal, State, or local law.
 - 29 d. Maintaining, conserving, protecting, restoring, and enhancing
30 ecosystems, natural habitats, and quality of air, soil, and water.
 - 31 e. The collection, analysis, and interpretation of data related to the
32 protection and preservation of natural resources.
 - 33 f. The inventorying, monitoring, and evaluation of natural
34 resources and habitats, including wetlands.
 - 35 g. The assessment of the presence or threat of past, present, or
36 future environmental hazards or contaminants and the planning,
37 designing, and implementation of remedial activities.
- 38 Environmental management does not include activities related to the
39 management of agricultural or aquacultural resources, unless these
40 activities require permits or off-site impact evaluations.
- 41 (3) Environmental management professional. – A person licensed to
42 practice environmental management as provided in this Chapter.

- 1 (4) Environmental management sciences. – The sciences of agronomy,
2 biology, chemistry, geology, and physics as they relate to the
3 environment, natural resources, and the habitats of organisms, plants,
4 and animals.
- 5 (5) Habitat. – The places or environments where plants or animals naturally
6 or normally live or grow. The term ‘habitat’ includes the study of the
7 suitability and sustainability of such places or environments.
- 8 (6) License. – A certificate issued by the Board recognizing the person
9 named in the certificate as having met the requirements to practice
10 environmental management as defined in this Chapter.

11 **”§ 89G-4. North Carolina Board of Environmental Management Professionals.**

12 (a) Composition and Terms. – The North Carolina Board of Environmental
13 Management Professionals is created. The Board shall consist of nine members who shall
14 serve staggered terms. Two members shall represent the public. The initial Board
15 members shall be appointed by the Governor on or before August 1, 1997, as follows:

- 16 (1) Six environmental management professionals or professional engineers,
17 two of whom shall serve terms of five years, two of whom shall serve
18 terms of four years, and two of whom shall serve terms of three years.
- 19 (2) One teacher of environmental management sciences who shall serve a
20 term of three years.
- 21 (3) Two public members who shall serve terms of three years.

22 Upon the expiration of the terms of the initial Board members, each member shall be
23 appointed for a term of five years and shall serve until a successor is appointed and
24 qualified. No member may serve more than two complete consecutive terms.

25 (b) Qualifications. – All members of the Board shall be residents of this State at
26 the time of appointment and at all times during their term on the Board. At least five of
27 the six environmental management professionals or engineers shall be trained in one or
28 more of the environmental management sciences and shall be employed in the
29 manufacturing industry. All environmental management professionals and engineers
30 shall have at least five years' experience in the practice of environmental management.
31 The public members of the Board shall not be licensed under this Chapter and shall not
32 have experience in a profession that is related to the practice of environmental
33 management or one of the environmental management sciences.

34 (c) Vacancies. – All vacancies shall be filled by the Governor within 45 days after
35 the vacancy occurs.

36 (d) Compensation. – Each member of the Board shall receive per diem and
37 reimbursement for travel and subsistence as provided in G.S. 93B-5.

38 (e) Officers; Executive Director. – The officers of the Board shall be a chair, a
39 vice-chair, a secretary, and any other officers the Board considers necessary to carry out
40 the purposes of this Chapter. The officers' duties shall be prescribed by the Board. The
41 Board may employ an Executive Director who shall be responsible for handling the
42 administrative duties of the Board. The duties and salary of the Executive Director shall
43 be prescribed by the Board.

1 (f) Meetings. – The Board shall hold at least four meetings each year to conduct
2 business and to review the standards and rules for issuing licenses under this Chapter.
3 The Board shall adopt rules governing the calling, holding, and conducting of regular and
4 special meetings. A majority of Board members shall constitute a quorum.

5 (g) Removal. – The Governor may remove any Board member for neglect of duty,
6 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings
7 as a licensee shall be disqualified from participating in the official business of the Board
8 until the charges have been resolved.

9 **"§ 89G-5. Board's powers and duties.**

10 The Board shall have the following powers and duties:

- 11 (1) Administer and enforce the provisions of this Chapter.
- 12 (2) Adopt, amend, or repeal rules as may be necessary to carry out the
13 provisions of this Chapter.
- 14 (3) Examine and determine the qualifications and fitness of applicants for
15 licensure and renewal of licensure.
- 16 (4) Determine the qualifications of firms, partnerships, or corporations
17 applying for a certificate of authorization under G.S. 89G-8.
- 18 (5) Issue, renew, deny, suspend, or revoke licenses and conduct any
19 disciplinary actions authorized by this Chapter.
- 20 (6) Set fees for licensure, licensure renewal, and other services necessary to
21 carry out the provisions of this Chapter.
- 22 (7) Establish and approve continuing education requirements for persons
23 licensed under this Chapter.
- 24 (8) Study the feasibility of an internship program for persons who are not
25 yet licensed under this Chapter.
- 26 (9) Receive and investigate complaints from members of the public.
- 27 (10) Conduct investigations for the purpose of determining whether
28 violations of this Chapter or grounds for disciplining licensees exist.
- 29 (11) Conduct administrative hearings in accordance with Article 3 of Chapter
30 150B of the General Statutes.
- 31 (12) Maintain a record of all proceedings conducted by the Board and make
32 available to licensees and other concerned parties an annual report of all
33 Board action.
- 34 (13) Maintain a list of the names and addresses of all persons licensed by the
35 Board.
- 36 (14) Employ and fix the compensation of personnel that the Board
37 determines is necessary to carry out the provisions of this Chapter and
38 incur other expenses necessary to perform the duties of the Board.
- 39 (15) Adopt and publish a code of ethics.
- 40 (16) Adopt a seal to be used by licensees on documents and reports prepared
41 by them or someone acting under their direct supervision.
- 42 (17) Adopt a seal containing the name of the Board for use on all licenses
43 and official reports issued by the Board.

"§ 89G-6. Qualifications for license.

An applicant shall be licensed as an environmental management professional if the applicant meets all of the following qualifications:

- (1) Is of good moral character.
- (2) Is at least 18 years old.
- (3) Successfully completes an examination administered by the Board or the Board's designee.
- (4) Pays the required fee under 89G-10.

"§ 89G-7. Licensure by reciprocity.

(a) The Board may grant, upon application and payment of proper fees, a license to a person who holds a valid license as an environmental management professional issued by another state if, in the Board's determination, the standards of competency for the license are substantially equivalent to those in this State. The application for licensure shall be denied if an action against the licensee is currently pending in the state where the license was issued that would result in disciplinary action being taken by the Board in this State.

(b) The Board may grant, upon application and payment of proper fees, a license to a person who holds a certificate or license issued by an organization that is approved by the Board. The Board may require an applicant under this subsection to meet other criteria established by the Board.

"§ 89G-8. Practice of environmental management by firms, partnerships, and corporations.

Any firm, partnership, or corporation whose primary business is the practice of environmental management shall apply to the Board for a certificate of authorization. One or more of the officers or employees of the firm, partnership, or corporation certified by the Board must be licensed under this Chapter. A certificate of authorization shall be renewed biennially. The firm, partnership, or corporation shall notify the Board within one month after any change in the information provided to the Board for certification. The Board may take any of the disciplinary actions permitted under G.S. 89G-11 against a firm, partnership, or corporation certified under this section.

"§ 89G-9. License classifications.

The Board may establish classifications in which licenses shall be issued. The Board may prescribe examinations and other criteria for each classification.

"§ 89G-10. Fees.

The Board shall establish fees not exceeding the following amounts:

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|-----|------------------------------|-----------------|
| (1) | <u>Issuance of a license</u> | <u>\$100.00</u> |
| (2) | <u>Renewal of a license</u> | <u>\$</u> |
| (3) | <u>Examination</u> | <u>\$</u> |
| (4) | <u>Reinstatement</u> | <u>\$</u> |
| (5) | <u>Late fees</u> | <u>\$</u> |

"§ 89G-11. Issuance, renewal, and replacement of licenses.

(a) The Board shall issue a license, upon payment of the proper fee, to any applicant who has satisfactorily met the requirements of this Chapter as administered by

1 the Board. The license shall show the full name of the person and an identification
2 number, and shall be signed by the chair and one other officer of the Board. A license
3 may not be transferred or assigned.

4 (b) All licenses shall expire three years after the date they were issued unless
5 renewed. All applications for renewal shall be filed with the Board and shall be
6 accompanied by the renewal fee as required by G.S. 89G-10. A license that has expired
7 for failure to renew may be reinstated after the applicant pays the late and reinstatement
8 fees as required by G.S. 89G-10.

9 (c) The Board shall replace any license that is lost, destroyed, or mutilated subject
10 to rules established by the Board.

11 **§ 89G-12. Disciplinary actions.**

12 The Board may restrict, suspend, revoke, or refuse to issue, renew, or reinstate any
13 license for any of the following:

- 14 (1) Violation of any provision of this Chapter or any rule adopted by the
15 Board.
- 16 (2) Obtaining or attempting to obtain a license by bribery or fraudulent
17 misrepresentation.
- 18 (3) Practicing environmental management while the license issued by the
19 Board has been suspended or revoked.
- 20 (4) Employing unlicensed persons to practice environmental management.
- 21 (5) Practicing or attempting to practice environmental management by
22 fraudulent misrepresentation.
- 23 (6) Gross malpractice or gross incompetency as determined by the Board.
- 24 (7) Advertising by means of knowingly false or deceptive statements.
- 25 (8) Having been convicted of or pled guilty or no contest to a crime that
26 indicates that the person is unfit to practice environmental management
27 or that indicates that the person has deceived or defrauded the public.
- 28 (9) Affixing a seal or signature to a document that was not prepared by the
29 person or by someone acting under his or her direct supervision.
- 30 (10) Making or filing a report that the person knows is false or willfully
31 failing to file a report required by State or federal law.

32 **"§ 89G-13. Building code and zoning ordinances.**

33 Nothing in this Chapter shall be construed to affect the application or enforcement of
34 the State building code or any local zoning ordinances.

35 **"§ 89G-14. Enjoining illegal practices.**

36 The Board may apply in its own name to the superior court for an order enjoining
37 violations of this Chapter. Upon a showing by the Board that any person has violated this
38 Chapter, the court may grant injunctive relief.

39 **"§ 89G-15. Penalties.**

40 A person who violates any of the provisions of this Chapter is guilty of a Class 1
41 misdemeanor. Each act of unlawful practice constitutes a distinct and separate offense."

42 Section 2. Notwithstanding the provisions of Chapter 89G of the General
43 Statutes, as enacted in Section 1 of this act, the Board may grant a license to practice

1 environmental management to a person who applies to the Board and pays the
2 appropriate fee within one year after the effective date of this act if the person meets one
3 of the following conditions:

4 (1) Has a degree in a course of study in natural or physical sciences or
5 engineering and a minimum of five years' experience in the practice of
6 environmental management.

7 (2) Has a two-year degree in one of the environmental management
8 sciences or a four-year degree in any subject and a minimum of 10 years
9 in the practice of environmental management.

10 (3) Has 20 years' experience in the practice of environmental management.

11 Section 3. This act is effective when it becomes law.