

1 SB103
2 115925-3
3 By Senator Little (Z)
4 RFD: Governmental Affairs
5 First Read: 12-JAN-10

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the Alabama Onsite Wastewater Board; to
12 amend Sections 34-21A-1, 34-21A-2, 34-21A-3, 34-21A-4,
13 34-21A-7, 34-21A-10, 34-21A-12, 34-21A-13, 34-21A-14,
14 34-21A-15, 34-21A-16, 34-21A-17, 34-21A-21, 34-21A-22,
15 34-21A-24, and 34-21A-25, Code of Alabama 1975, to provide
16 further for the definition and use of certain terms and for
17 board membership, member compensation, and a replacement
18 process for certain board members, the types of licenses
19 issued, exempted property owners, the application process for
20 licensure, the license review process, disciplinary powers of
21 the board, the appeals procedure, the requirement of holding a
22 financial assurance bond for certain licensees, and increased
23 penalties for violators; and in connection therewith would
24 have as its purpose or effect the requirement of a new or
25 increased expenditure of local funds within the meaning of
26 Amendment 621 of the Constitution of Alabama of 1901, now

1 appearing as Section 111.05 of the Official Recompilation of
2 the Constitution of Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 34-21A-1, 34-21A-2, 34-21A-3,
5 34-21A-4, 34-21A-7, 34-21A-10, 34-21A-12, 34-21A-13,
6 34-21A-14, 34-21A-15, 34-21A-16, 34-21A-17, 34-21A-21,
7 34-21A-22, 34-21A-24, and 34-21A-25, Code of Alabama 1975, are
8 amended to read as follows:

9 "§34-21A-1.

10 "The Alabama Onsite Wastewater Board is created to
11 examine, license, and regulate persons engaged in the
12 manufacture, installation, or servicing of onsite ~~wastewater~~
13 sewage systems in Alabama. As more residences are built in
14 rural areas where public sewer hookups and centralized
15 ~~wastewater~~ sewage treatment systems are often unavailable,
16 many property owners must rely on onsite ~~wastewater~~ sewage
17 systems, such as septic systems, to handle residential waste
18 and ~~wastewater~~ sewage. The improper manufacture, installation,
19 service, cleaning, and maintenance of onsite ~~wastewater~~ sewage
20 equipment and treatment systems can contaminate and pollute
21 the environment and pose significant harm to public health and
22 the rural environment. This board is created to establish the
23 qualification levels for those engaged in the manufacture,
24 installation, servicing, or cleaning of onsite ~~wastewater~~
25 sewage systems and equipment in Alabama and promote the proper
26 manufacture, installation, and servicing of onsite ~~wastewater~~
27 sewage systems.

1 "§34-21A-2.

2 "The following terms shall have the meanings
3 respectively ascribed to them as used in this chapter unless
4 the context requires a different meaning:

5 "(1) ~~ALTERNATIVE~~ ENGINEERED ONSITE ~~WASTEWATER~~ SEWAGE
6 SYSTEM. An onsite sewage ~~wastewater~~ system that varies from
7 conventional onsite ~~wastewater~~ sewage system equipment,
8 methods, processes, and installation procedures in accordance
9 with the rules and regulations of the Alabama Department of
10 Public Health.

11 "(2) BOARD. The Alabama Onsite Wastewater Board.

12 "(3) CONVENTIONAL ONSITE ~~WASTEWATER~~ SEWAGE SYSTEM.
13 An onsite ~~wastewater~~ sewage system consisting of a septic
14 tank, or an Alabama Department of Public Health approved
15 pretreatment device, with effluent discharging into a
16 subsurface effluent disposal medium, where all portions of the
17 effluent disposal field sidewalls are installed below the
18 elevation of undisturbed native soil, including a conventional
19 onsite sewage system as defined by the Alabama Department of
20 Public Health regulations.

21 "(4) GOOD STANDING WITH LOCAL HEALTH AUTHORITIES OR
22 OFFICIALS. A person in good standing with local health
23 authorities or officials shall have had no substantiated
24 complaints filed against him or her with the local health
25 authorities or officials regarding the work of the person in
26 the onsite ~~wastewater~~ sewage industry, and shall be known by
27 the local health authorities or officials to be a person who

1 abides by the rules and regulations of the Alabama Department
2 of Public Health.

3 "(5) GREASE TRAP. A receptacle containing nontoxic,
4 nonhazardous liquid waste generated by a commercial food
5 operation or institutional food preparation facility
6 including, without limitation, fats, oil, grease, and food
7 scraps whether connected to a city sewer or not to include a
8 sewage tank, as defined by the Alabama Department of Public
9 Health regulations.

10 "(5)(6) INDIVIDUAL. A human person.

11 "(6)(7) INSTALLATION. The act of installing a
12 conventional or ~~alternative~~ engineered onsite ~~wastewater~~
13 sewage system.

14 "(7)(8) LICENSE. A valid and current certificate of
15 qualification issued by the board which shall give the named
16 person to whom it is issued authority to engage in the
17 specialized area and level of qualification described on the
18 certificate.

19 "(8)(9) LICENSEE. A qualified individual holding a
20 license issued by the board.

21 "(9)(10) LICENSING PROCEDURE. The process of testing
22 at the state level to determine the knowledge and skill of an
23 individual with respect to onsite ~~wastewater~~ sewage systems,
24 and the issuing of licenses to indicate that an individual has
25 passed the examinations and met all other board-established
26 qualifications for licensure.

1 "~~(10)~~(11) LOCAL HEALTH AUTHORITY OR OFFICIALS. The
2 county health department in the county or counties in which a
3 licensee performs work in or is engaged in the manufacture,
4 installation, cleaning, servicing, or maintenance of onsite
5 ~~wastewater~~ sewage systems or equipment.

6 "~~(11)~~(12) MANUFACTURER. Person engaged in the
7 production of septic tanks or receptacle equipment used in
8 onsite ~~wastewater~~ sewage systems.

9 "~~(12)~~(13) ONSITE ~~WASTEWATER~~ SEWAGE SYSTEM. Any
10 system of piping, treatment devices, pumps, alarms, or other
11 facilities or devices that carry or convey, store, treat, or
12 dispose of sewage (human waste) where the system is not
13 connected to a public sewer, including an onsite sewage
14 treatment and disposal system onsite septic system (OSS) as
15 defined by the Alabama Department of Public Health
16 regulations.

17 "~~(13)~~(14) RESPONSIBLE CHARGE. ~~The direction or~~
18 ~~supervision, or both, of projects involving the manufacture,~~
19 ~~installation, cleaning, servicing, repairing, or maintaining~~
20 ~~of onsite wastewater equipment or systems. The person in~~
21 ~~responsible charge must direct the projects involving the~~
22 ~~installation or service and repair of an onsite sewage system~~
23 ~~under Alabama law. The person in responsible charge must be a~~
24 ~~full-time employee, owner, partner, or a corporate officer of~~
25 ~~the partnership, corporation, business trust, or other legal~~
26 ~~entity. The person in responsible charge must possess the~~
27 ~~required skill, knowledge, and experience and have the~~

1 responsibility to supervise, direct, manage, and control the
2 installation, service, or repair activities of the business
3 entity with which he or she is affiliated. The board may
4 examine the technical and personal qualifications of the
5 person in responsible charge and may investigate and/or
6 examine the person's qualifications.

7 "~~(14)~~(15) SERVICING. The act of cleaning,
8 maintaining, or repairing an installed onsite ~~wastewater~~
9 sewage system.

10 "§34-21A-3.

11 "(a) There is established the Alabama Onsite
12 Wastewater Board. The board shall consist of nine members who
13 shall, at the time of appointment and during the entire time
14 for which appointed, be residents and citizens of Alabama. The
15 initial appointments to the board shall be effective October
16 1, 1999, with required licensing beginning January 2000, or as
17 soon as possible thereafter. Of the nine members of the board,
18 three members shall be appointed by the Governor, three
19 members shall be appointed by the Lieutenant Governor, and
20 three members shall be appointed by the Speaker of the House
21 of Representatives of the Alabama Legislature.

22 "(b) Of the three members appointed by the Governor,
23 one shall be actively engaged in the business of installing
24 onsite ~~wastewater~~ sewage systems and shall serve an initial
25 term of two years. One member appointed by the Governor shall
26 be actively engaged in the business of manufacturing septic
27 tanks and shall serve an initial term of two years. One member

1 appointed by the Governor shall be actively engaged in the
2 business of pumping, servicing, or maintaining onsite
3 ~~wastewater sewage~~ equipment and shall serve an initial term of
4 three years. ~~Each of these initial appointees shall: Hold a~~
5 ~~current voluntary certification from the Alabama Department of~~
6 ~~Public Health or have ownership in a business employing a~~
7 ~~designated person in a position of responsible charge holding~~
8 ~~such a certificate, have been involved in their respective~~
9 ~~business for five consecutive years, and be in good standing~~
10 ~~with their local county health authorities and the Alabama~~
11 ~~Department of Public Health. Subsequent appointees~~ Appointees
12 to these positions on the board shall be licensees of the
13 board or have ownership in a business employing a designated
14 licensee in a position of responsible charge. The appointments
15 and successor appointments by the Governor shall be made from
16 a list of recommendations submitted by the governing board of
17 the Alabama Onsite Wastewater Association, which list of
18 recommendations shall include three individuals recommended
19 for each board position.

20 " (c) (1) Of the three members appointed by the
21 Lieutenant Governor, one member shall be actively engaged in
22 the business of manufacturing septic tanks and shall serve an
23 initial term of four years, and one member shall be actively
24 engaged in the business of installing onsite ~~wastewater sewage~~
25 systems and shall serve an initial term of four years. ~~Each of~~
26 ~~these two initial appointees shall: Hold a current voluntary~~
27 ~~certification from the Alabama Department of Public Health or~~

1 ~~have ownership in a business employing a designated person in~~
2 ~~a position of responsible charge holding such a certificate,~~
3 ~~have been involved in their respective business for five~~
4 ~~consecutive years, and be in good standing with their local~~
5 ~~county health authorities and the Alabama Department of Public~~
6 ~~Health. Subsequent appointees~~ Appointees to these positions on
7 the board shall be licensees of the board or have ownership in
8 a business employing a designated licensee in a position of
9 responsible charge. These two appointments by the Lieutenant
10 Governor shall be made from a list of recommendations
11 submitted by the governing board of the Alabama Onsite
12 Wastewater Association, which list of recommendations shall
13 include three individuals for each board position.

14 "At the end of the term of the board member serving
15 in the septic tank manufacturing position following the
16 effective date of this amendatory act, subsequent appointments
17 to that position shall be to either:

18 "A person licensed by the board; or a person having
19 ownership of a business employing a person who meets all of
20 the following requirements that he or she: Is in a position of
21 responsible charge, provides or rents onsite toilet systems or
22 portable toilet systems, is licensed by the board, has been
23 involved in his or her respective business for five
24 consecutive years, is in good standing with the local health
25 authorities and the Alabama Department of Public Health.
26 Subsequent appointees to the onsite system installer position
27 shall be either: A licensee of the board; or a person having

1 ownership in a business employing a designated licensee in a
2 position of responsible charge.

3 "(2) The Lieutenant Governor shall also appoint a
4 member actively engaged in the development of a training or
5 educational program or instruction in environmental
6 protection, preferably experienced in the area of the
7 ~~wastewater~~ sewage industry, and this member shall serve an
8 initial term of three years. This member shall: Have a minimum
9 of six years experience in the stated area of educational
10 expertise, be in good standing with his or her professional or
11 regulating boards, and possess a reputation of high standards
12 within the academic community.

13 "(d) (1) Of the three members appointed by the
14 Speaker of the Alabama House of Representatives, one member
15 shall be an environmental engineer with training in the onsite
16 ~~wastewater~~ sewage industry, be experienced in and have an
17 understanding of the design and construction of onsite
18 ~~wastewater~~ sewage systems, and be in good standing with the
19 Alabama Board of Licensure for Professional Engineers and Land
20 Surveyors. This member shall serve an initial term of four
21 years and shall be appointed from a list of three
22 recommendations provided by the Alabama Board of Licensure for
23 Professional Engineers and Land Surveyors.

24 "(2) The Speaker of the House shall also appoint one
25 member who has been actively involved for a minimum of three
26 years in the onsite ~~wastewater~~ sewage inspection process and
27 the regulation of onsite ~~wastewater~~ sewage systems and is

1 employed by a local county health department or the Alabama
2 Department of Public Health. This member shall serve an
3 initial term of four years.

4 "(3) The Speaker of the House shall also appoint a
5 member who is a consumer who will represent the public at
6 large and who has an interest in the onsite ~~wastewater~~ sewage
7 industry. The consumer member may not be engaged in or
8 otherwise connected with any person or firm or corporation or
9 business dealing with the onsite ~~wastewater~~ sewage industry
10 and shall serve an initial term of four years.

11 "(e) Upon the expiration of the initial terms of
12 office, and thereafter, all members appointed to the board
13 shall serve four-year terms, or until their successors are
14 appointed. Their successors, who shall be appointed by the
15 same respective appointing authorities and shall possess the
16 same respective qualifications as required for the initial
17 appointees, shall each serve not more than two consecutive
18 terms of office. The membership of the board shall be
19 inclusive and the appointing authorities shall consider the
20 racial, gender, geographic, urban/rural, and economic
21 diversity of the state in making their appointments.

22 "(f) If an appointment of a member to the board is
23 to be made from a list of recommendations from an association,
24 organization, or other board, the list of recommendations
25 shall be submitted to the appointing authority at least 30
26 days prior to the expiration of the current term of the
27 vacating board member.

1 "(g) An appointing authority may rescind any
2 appointment and replace any board member who is unable or
3 unwilling to fulfill his or her duties to the citizens of
4 Alabama through service on the board and who has not tendered
5 his or her resignation.

6 "§34-21A-4.

7 "(a) Within 30 days after annual appointment of new
8 members, the board shall meet for the purpose of organizing,
9 electing new officers, and transacting such business as deemed
10 necessary. This organizational meeting shall not be considered
11 a regular quarterly meeting of the board.

12 "(b) The board shall meet at least four times a year
13 on a quarterly basis with the board designating the months of
14 the meetings for the coming year at its annual organizational
15 meeting. Regular meetings shall be called by the chair who
16 shall designate the time and place of each regular meeting.
17 The chair or a majority of the members of the board may also
18 call a special meeting of the board.

19 "(c) Board members shall be given at least 10 days
20 notice of regular meetings and a minimum of five days notice
21 for special meetings. The executive director shall give notice
22 of any meeting to the media as considered appropriate under
23 the circumstances.

24 "(d) A quorum of the board shall consist of not less
25 than five of the duly appointed members.

26 "(e) Any motion passed by the board requires a
27 majority of those members present.

1 "(f) The members of the board shall receive one
2 hundred dollars (\$100) per day for board meetings and a per
3 diem as recommended by the board consistent with applicable
4 state laws for attending sessions of the board and for time
5 spent in necessary travel to attend meetings of the board. In
6 addition, each member shall be reimbursed for related travel
7 expenses at the same rate as state employees receive, all to
8 be paid from fees collected and deposited in the board fund.

9 "§34-21A-7.

10 "(a) The duties of this board shall include, but not
11 be limited to the following:

12 "(1) Establish procedures and qualifications for the
13 licensure of individuals engaged in the manufacture,
14 installation, servicing, repair, or maintenance of onsite
15 ~~wastewater~~ sewage systems and equipment installed in Alabama
16 and issue such licenses to those individuals who qualify for
17 licensure.

18 "(2) Approve all training required for any license
19 or license renewal under this chapter and approve and
20 administer any examination required for specialized areas and
21 levels of qualification of licensing under this chapter.

22 "(3) Establish the dates, times, and locations for
23 all license examinations, including at least three examination
24 dates each year.

25 "(4) Accept and process applications from
26 individuals meeting the board-established qualifications for
27 licenses and the renewal of licenses and collect necessary

1 fees according to the schedule of fees established by the
2 board.

3 "(5) Provide written notification to a candidate of
4 the candidate's examination results and provide information
5 regarding the procedures required to complete the license
6 process, including bond information and local health
7 department fees.

8 "(6) Accept annual license renewal applications and
9 approve required continuing education and required
10 documentation for license renewal.

11 "(7) Maintain a complete up-to-date roster of
12 licensees ~~at least three times each calendar year.~~

13 "(8) Establish a complaint process and the
14 confidential procedures to investigate alleged violations as
15 set forth in this chapter; establish disciplinary procedures
16 including suspension or revocation of licenses; establish an
17 appeals process; and notify the Alabama Department of Public
18 Health and the appropriate local health departments of any
19 disciplinary action taken by the board. Any member of the
20 board or duly appointed representative designated by the board
21 may administer oaths and take testimony concerning all matters
22 within the jurisdiction of the board.

23 "(9) Reinstate a revoked or suspended license if the
24 holder of the revoked or suspended license meets specific
25 requirements established by the board and the reinstatement is
26 approved by a majority of the board.

1 "(10) Oversee all financial, business, and
2 administrative matters necessary to carry out the operation of
3 this board including, but not limited to, accepting fees,
4 paying bills, salaries, expenses, and refunds, and any other
5 action deemed appropriate to conduct business pertinent to its
6 operation.

7 "(11) Hire and set compensation for an executive
8 director who shall be responsible for the administrative
9 functions of the board.

10 "(12) Adopt a seal for its use containing the words
11 "Alabama Onsite Wastewater Board.

12 "§34-21A-10.

13 "The licensing requirements of this chapter shall
14 not apply to owners of property ~~acting as their own~~
15 ~~contractors~~ for the purpose of installing, cleaning,
16 servicing, or maintaining an onsite ~~wastewater~~ sewage system
17 on their own property with a one-family or two-family
18 residence used ~~for their own occupancy or use~~ as their primary
19 residence so long as the owners of said property with an
20 onsite ~~wastewater~~ sewage system ~~do not hire or compensate~~
21 ~~anyone to supervise or perform any part of the installation,~~
22 ~~cleaning, servicing, or maintenance of the onsite wastewater~~
23 ~~system or equipment located on their property~~ complete all
24 installation, cleaning, servicing, or maintenance themselves,
25 without help at their primary residence.

26 "§34-21A-12.

1 "(a) The board shall ~~initially~~ establish the
2 following types of licenses:

3 "~~(1) A basic level installer license for the~~
4 ~~installation, cleaning, servicing, repairing, or maintenance~~
5 ~~of a conventional onsite wastewater system.~~

6 "~~(2) An advanced level I installer license for the~~
7 ~~installation, cleaning, servicing, repairing, or maintenance~~
8 ~~of an alternative onsite wastewater system.~~

9 "~~(3) An advanced level II installer license.~~

10 "~~(3)(4) A manufacturer's license for those involved~~
11 ~~in the manufacture of onsite wastewater septic tanks and~~
12 ~~receptacles.~~

13 "~~(4)(5) A pumper license for those involved in~~
14 ~~pumping, cleaning, servicing or maintenance, or both, of~~
15 ~~onsite wastewater systems and receptacles.~~

16 "~~(6) A portable toilet license.~~

17 "(b) A person shall first obtain a basic level
18 installer license before qualifying for an advanced level
19 installer license. Additional areas of qualification and
20 license levels may be established by the board based on future
21 evaluations of industry needs and technology advancements.

22 "(c) Licenses issued by the board shall be
23 recognized as evidence of qualification and knowledge of the
24 licensee by the Alabama Department of Public Health and county
25 or local health authorities, and no other additional level of
26 qualification or certification or other requirement shall be
27 required by the Alabama Department of Public Health or any

1 county or local health authorities for those persons engaged
2 in the manufacture, installation, or servicing of onsite
3 ~~wastewater~~ sewage systems.

4 "(d) A license shall be issued for the current
5 calendar year and the license shall be valid only for that
6 calendar year. All licenses shall expire on December 31 of
7 each calendar year.

8 "(e) No individual, business, partnership, or
9 corporation shall engage in the manufacture, installation,
10 servicing, cleaning, or maintenance of an onsite ~~wastewater~~
11 sewage system installed in the State of Alabama unless the
12 individual, or the person in responsible charge for the
13 business, partnership, or corporation, has received the
14 required specific license from the board. Persons engaged in
15 the installation or servicing of onsite ~~wastewater~~ sewage
16 systems shall obtain a basic level installer license for
17 conventional onsite ~~wastewater~~ sewage systems or an advanced
18 level installer license for ~~alternative~~ engineered onsite
19 ~~wastewater~~ sewage systems. All manufacturers of onsite
20 ~~wastewater~~ sewage septic tanks or receptacles for onsite
21 ~~wastewater~~ sewage systems shall qualify and obtain a
22 manufacturer's license. Licenses issued under this chapter
23 shall be granted to individuals meeting the criteria for
24 qualification as established by this board. The licensee shall
25 perform no work outside the level of competency stated on the
26 certificate of license. An individual may be licensed in all
27 areas of eligibility.

1 "(f) No individual, business, partnership, or
2 corporation shall advertise, solicit, bid, obtain permit,
3 conduct business, or perform the function of manufacturing,
4 installing, cleaning, servicing, repairing, or maintaining
5 onsite ~~wastewater~~ sewage equipment or systems in Alabama
6 unless the person or persons in responsible charge are
7 licensed as defined in this chapter.

8 "(g) No official charged with the duty of issuing
9 business licenses to any individual, partnership, corporation,
10 or other business entity to operate a business performing the
11 function of manufacturing, installing, cleaning, servicing,
12 repairing, or maintaining onsite ~~wastewater~~ sewage equipment
13 or systems in Alabama shall issue such a business license
14 unless there is presented for inspection a license certificate
15 as provided herein issued by the board to the individual or to
16 some person in responsible charge with the partnership,
17 corporation, or business entity.

18 "(h) No license shall be issued except to an
19 individual. A firm, partnership, association, or corporation
20 shall not be licensed. Partnerships, corporations, or other
21 business entities shall designate the licensed individual in
22 responsible charge under whose name its business is to operate
23 to the local business licensing authority, the board, and the
24 local health officials. If that designated person ceases to be
25 employed by the business entity, notice shall be made
26 immediately to the board and the local health officials. The
27 partnership or corporation shall then have 45 days to

1 re-designate a licensed individual responsible for work
2 performed by the business entity. During this 45-day period,
3 no work shall be initiated by the business entity without the
4 knowledge and approval of local health officials. Any work
5 performed during this time shall be inspected by local health
6 officials and approved by the officials before being
7 considered complete and put into operation. Under special
8 circumstances, a business entity engaged in the manufacture of
9 septic tanks can petition the board for an extension of time
10 beyond the 45-day period to re-designate a licensed individual
11 in a position of responsible charge under whose manufacturer's
12 license the business is to operate. Under no condition may
13 this extension of time extend more than three weeks past the
14 date of the next examination offered by the board for a
15 manufacturer's license.

16 "(i) License certificates suitable for framing,
17 bearing the licensee's name, level and type of license,
18 license number, and the calendar year in which the license is
19 valid shall be issued to all qualified licensees. Every
20 licensee holding a license issued by the board shall display
21 it in a conspicuous manner at his or her principal place of
22 business.

23 "(j) All licensees shall abide by all federal,
24 state, and local laws and ordinances. No license issued by the
25 board may be sold or transferred. Any license misused may be
26 revoked by the board.

1 "(k) Every licensee shall notify the board of the
2 address of his or her place of business, the counties in which
3 he or she does business or performs work, and the name under
4 which the business is carried on. Licensees shall give
5 immediate notice to the board of any change in this
6 information. Service of any process shall be achieved by
7 mailing notice of such information by first class postage,
8 U.S. Postal Service, to the address of record. No further
9 service of process shall be required.

10 "§34-21A-13.

11 "(a) All applicants for licenses, examinations, or
12 license renewals shall be required to complete specific
13 application forms developed and provided by the board.
14 Information required to be provided on license application
15 forms shall include, but not be limited to, the following:

16 "(1) The applicant's name, date of birth, social
17 security number, residence address, telephone number, and
18 county of residence.

19 "(2) The name of the applicant's employer, or the
20 name of the applicant's business, including the business
21 address and telephone number of the employer or applicant's
22 business.

23 "~~(3) Names of all counties in which the applicant~~
24 ~~intends to perform work in the onsite wastewater industry.~~

25 "~~(4) Names and addresses of character references.~~

1 "~~(5)~~(3) Details of the applicant's business
2 experience, details of the applicant's work experience, and
3 classroom training in the areas of requested licensing.

4 "~~(6)~~(4) A signed statement from an official from the
5 applicant's county health department stating that the
6 applicant is in good standing with the local or county health
7 department.

8 "(b) Application forms may also require any
9 information deemed by the board to be significant in
10 evaluating the qualifications of an applicant for license,
11 examination, or license renewal.

12 "(c) All required fees and documentation shall
13 accompany any application form filed with the board.

14 "~~(d) The board shall approve or deny all~~
15 ~~applications for licenses and check applications for accuracy~~
16 ~~and completeness. The board shall notify the candidate of his~~
17 ~~or her acceptance as a candidate for licensure and advise him~~
18 ~~or her of the date and location of the next scheduled~~
19 ~~examination for the requested license. The board shall approve~~
20 ~~through its executive director the issuing of a license to~~
21 ~~each applicant meeting the qualifications as set forth by the~~
22 ~~board, or deny a license to each applicant not meeting the~~
23 ~~qualifications as set forth by the board.~~

24 "§34-21A-14.

25 "(a) The board shall develop eligibility
26 requirements to be met by applicants seeking licensing by the

1 board. The minimum application requirements shall include, but
2 are not limited to, the applicant's:

3 ~~"(1) Character.~~

4 ~~"(2) (1) Business experience.~~

5 ~~"(3) (2) Work experience in the requested area of~~
6 licensure.

7 ~~"(4) (3) Completion of training requirements as~~
8 established by the board.

9 ~~"(5) (4) Successful completion of the required~~
10 examination.

11 ~~"(6) (5) Evidence of bond.~~

12 "(b) The board shall develop the qualifications and
13 requirements relating to the manufacturer's license, which
14 shall include, but not be limited to:

15 "(1) Completion of classroom instruction.

16 "(2) Successful completion of required examination.

17 "(3) Passing an inspection of the manufacturing
18 plant by a member of the board or some other person designated
19 by the board to perform manufacturing plant inspections.

20 "(c) Any plant holding a current manufacturing
21 certification issued by the National Precast Concrete
22 Association shall be considered to have sufficiently met the
23 plant inspection requirement.

24 "§34-21A-15.

25 "(a) No license shall be issued by the board without
26 examination of the applicant for the purpose of ascertaining
27 his or her qualifications for such work, except those licenses

1 issued pursuant to Section 34-21A-17. No examination shall be
2 required for the timely annual renewal of a current license.

3 "(b) The board shall offer and provide examinations
4 which test the knowledge, skill, and qualifications of the
5 applicants.

6 "(c) The board may charge each applicant a
7 reasonable fee for the examination based on the actual costs
8 of administering the examinations.

9 "(d) The board shall establish dates and locations
10 for a minimum of three separate examinations each calendar
11 year.

12 ~~"(e) Written notices of examination dates and
13 locations shall be provided to all qualified candidates who
14 have filed an application with the board.~~

15 ~~"(f)~~ (e) The board shall establish the minimum
16 examination grade necessary for successful completion of an
17 examination.

18 ~~"(g)~~ (f) The board shall develop or approve two
19 separate and specific examinations to test the knowledge and
20 qualifications of those applicants for basic level license and
21 advanced level licenses as follows:

22 "(1) The basic installer level license examination
23 shall test the knowledge and qualifications of applicants
24 seeking a license to install, clean, service, repair, or
25 maintain conventional onsite ~~wastewater~~ sewage systems.

26 "(2) The advanced level installer license
27 examination shall test the knowledge and qualifications of

1 applicants seeking a license to install, clean, service,
2 repair, or maintain ~~alternative~~ engineered onsite ~~wastewater~~
3 sewage systems.

4 "~~(h)~~(g) A person shall first obtain a basic level
5 installer license before qualifying to take the examination
6 for an advanced level installer license.

7 "~~(i)~~(h) The board shall develop a specialized
8 examination to test the qualifications of those applicants
9 seeking a manufacturer's license.

10 "~~(j)~~(i) The board shall develop or approve any other
11 additional examinations as may be necessary for additional
12 areas of qualification and license levels as may be
13 established by the board to meet industry requirements and
14 technological advancements in the onsite ~~wastewater~~ sewage
15 industry.

16 "~~(k)~~(j) Examinations shall be administered by the
17 executive director or persons designated by the board. Any
18 national standardized examination which the board may approve,
19 or any other examination developed under the direction of the
20 board, or any combination thereof, may be administered to
21 applicants to test their knowledge and qualifications. The
22 board shall establish the level of achievement as shall be
23 required for a passing grade for examinations.

24 "~~(l)~~(k) Written examination results shall be
25 provided within 14 days of taking the examination. Successful
26 candidates shall also be informed of the procedures required
27 to complete the license process. Any person who fails an

1 examination may, upon reapplication and payment of required
2 fees, take the examination when offered by the board.

3 ~~"(m)(1)~~ The executive director shall provide to the
4 Alabama Department of Public Health and the appropriate local
5 health authorities a list of all candidates who successfully
6 qualify for a license within 14 days following the date the
7 license is issued by the board.

8 "§34-21A-16.

9 "In order to assure financial stability and
10 professional competence and performance of licensees, all
11 licensees, without exception, are required to be bonded for
12 any work performed under the license. Minimum amounts for
13 required bonds shall be established by the board and evidence
14 of bond shall be provided to the board before any license will
15 be issued. In no event may the minimum required bond amounts
16 set by the board be less than fifteen thousand dollars
17 (\$15,000) for a basic level license, a pumper license, a
18 portable restroom/toilet license, or a manufacturer's license,
19 and thirty thousand dollars (\$30,000) for an advanced level
20 license. All active licensees shall maintain a current bond
21 for each license he or she holds. The executive director shall
22 immediately suspend any active license without a current bond
23 on file. The executive director shall reinstate the active
24 license once a reinstatement fee is paid by the licensee and
25 the bond is reactivated or replaced. In the event the licensee
26 contends his or her license has been unjustly suspended, the

1 licensee may request a hearing and the executive director
2 shall hear same within 10 business days of the request.

3 "§34-21A-17.

4 ~~"Any individual with a current voluntary~~
5 ~~certification issued no later than December 31, 1999, by the~~
6 ~~Alabama Department of Public Health, who is in good standing~~
7 ~~with his or her appropriate local health authorities, and who~~
8 ~~provides evidence of required bond shall be deemed to have~~
9 ~~satisfied the requirements and qualifications for a basic~~
10 ~~level license if application is made prior to December 31, of~~
11 ~~the first year in which licenses are issued by the board.~~
12 ~~After December 31, of that first year for licensure 1999,~~
13 ~~individuals not currently licensed will be required to follow~~
14 ~~the requirements for license application, including completing~~
15 ~~required training and successfully passing any required~~
16 ~~examination.~~

17 "§34-21A-21.

18 "(a) The board shall establish criteria for
19 circumstances warranting the suspension or revocation of a
20 license and establish the procedures for suspension or
21 revocation of licenses. These circumstances shall include, but
22 not be limited to, the following:

23 "(1) Obtaining a license under false pretense.

24 "(2) Obtaining a license by having another person
25 take the examination.

26 "(3) Allowing another person to use the license in
27 violation of the regulations of this board.

1 "(4) Selling or conveying the license to another
2 person.

3 "(5) Failure to timely renew a license.

4 "(6) Failure to follow the rules and regulations of
5 the State of Alabama Department of Public Health or the
6 appropriate local health department or authorities.

7 "(7) Committing a dishonest, or illegal, ~~or grossly~~
8 ~~negligent~~ act in the performance of work covered under the
9 license.

10 "(b) The board shall take appropriate action to
11 enforce the rules adopted with regard to license suspension or
12 revocation.

13 "(c) After suspension or revocation of a license of
14 any licensee, the board shall publish this information to the
15 public.

16 "§34-21A-22.

17 "(a) The board shall establish procedures to
18 process, review, and investigate reports and complaints of
19 fraud, incompetence, misconduct, ~~gross negligence~~, and
20 dishonest or illegal acts of licensees in the performance of
21 work covered under licenses of this board; and complaints
22 supported by evidence shall be reviewed at a disciplinary
23 hearing, which hearing shall be conducted in compliance with
24 the provisions of the Alabama Administrative Procedure Act and
25 held before the board. The board shall establish the
26 procedures for such disciplinary hearings. A member of the
27 board who has a conflict of interest concerning the parties

1 involved or issues involved in the disciplinary hearing shall
2 recuse himself or herself from the hearing and the
3 disciplinary proceeding.

4 "(b) The board, upon its findings, may suspend or
5 revoke the individual's license.

6 "§34-21A-24.

7 After revocation or suspension of license, the
8 licensee may, within 10 days of notice of the board's order
9 and finding, file with the board a written notice of his or
10 her intent to appeal the order of the board. Appeals from
11 orders of the board shall be filed with the ~~circuit court in~~
12 ~~the county of residence of the licensee, or if the licensee is~~
13 ~~from out of state, with the Circuit Court of Montgomery~~
14 ~~County, Alabama~~ Circuit Court of Montgomery County, Alabama,
15 for a determination by the court as to whether the decision of
16 the board is supported by a preponderance of the evidence. If
17 the court finds that the decision of the board is supported by
18 evidence, it shall affirm the board's action.

19 "§34-21A-25.

20 "(a) Any person who undertakes or attempts to
21 undertake the business of manufacturing, installing,
22 servicing, cleaning, repairing, or maintaining any onsite
23 ~~wastewater~~ sewage system or equipment without first having
24 obtained and having possession of a current, valid license
25 from the board or who knowingly presents or files false
26 information with the board for the purpose of obtaining a
27 license or otherwise fraudulently obtains a license, or who

1 knowingly violates any provision of this chapter regulating
2 the onsite ~~wastewater~~ sewage industry shall be guilty of a
3 Class € A misdemeanor, as defined by the state criminal code.

4 "(b) Whenever it appears to the board that an
5 individual has violated or is about to violate this chapter,
6 it may in its own name petition the circuit court of the
7 county where the violation is occurring or is about to occur
8 to issue a temporary restraining order or other appropriate
9 injunctive relief enjoining the violation.

10 "(c) The board may reprimand in writing any licensee
11 who provides substandard or dangerous service, repair, or
12 installation or who otherwise violates this chapter.

13 "(d) The board may levy and collect an
14 administrative fine not to exceed one thousand dollars
15 (\$1,000) for each violation of this chapter or a rule or
16 regulation, as amended, of the Alabama Onsite Wastewater Board
17 or Alabama Department of Public Health rules pertaining to the
18 manufacture, installation, servicing, cleaning, or maintenance
19 of an onsite sewage system or portable toilets.

20 "(e) In addition to or in lieu of the criminal
21 penalties and administrative sanctions provided in this
22 chapter, the board may issue an order to any person, firm, or
23 corporation engaged in any activity, conduct, or practice
24 constituting a violation of this chapter directing the person,
25 firm, or corporation to immediately cease and desist from the
26 activity, conduct, practice, or performance of any work then
27 being done or about to be commenced. The order shall be issued

1 in the name of the State of Alabama under the authority of the
2 board. A person, firm, or corporation that does not comply
3 with a cease and desist order shall be deemed in violation of
4 this chapter and shall be subject to all disciplinary powers,
5 penalties, fines, and remedies available to the board."

6 Section 2. Although this bill would have as its
7 purpose or effect the requirement of a new or increased
8 expenditure of local funds, the bill is excluded from further
9 requirements and application under Amendment 621, now
10 appearing as Section 111.05 of the Official Recompilation of
11 the Constitution of Alabama of 1901, as amended, because the
12 bill defines a new crime or amends the definition of an
13 existing crime.

14 Section 3. The provisions of this act are severable.
15 If any part of this act is declared invalid or
16 unconstitutional, that declaration shall not affect the part
17 which remains.

18 Section 4. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.

1
2
3 Senate
4 Read for the first time and referred to the Senate
5 committee on Governmental Affairs 12-JAN-10
6
7 Read for the second time and placed on the calen-
8 dar 14-JAN-10
9
10 Read for the third time and passed as amended ... 11-FEB-10

11 Yeas 33
12 Nays 0

13
14
15 McDowell Lee
16 Secretary
17