

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

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8 SYNOPSIS: Currently, the Alabama Onsite Wastewater  
9 Board licenses and regulates onsite wastewater  
10 systems.

11 This bill would provide further for the  
12 definition and use of terms; would provide further  
13 for the appointment of board membership,  
14 compensation of members, and replacement of certain  
15 members; would provide further for classes of  
16 licenses issued by the board; would provide further  
17 for service of process for certain licensee  
18 information; would provide further for  
19 applications, qualifications, the licensing of  
20 applicants, and notices of examination dates; would  
21 provide further for exemptions of certain owners of  
22 property from licensure; would require certain  
23 licensees to keep a current financial assurance  
24 bond; would allow the board certain increased  
25 disciplinary powers and administrative fine powers;  
26 would further provide for the appeal procedure; and

1 would increase criminal penalties for license  
2 violations or unlicensed practices.

3 Amendment 621 of the Constitution of Alabama  
4 of 1901, now appearing as Section 111.05 of the  
5 Official Recompilation of the Constitution of  
6 Alabama of 1901, as amended, prohibits a general  
7 law whose purpose or effect would be to require a  
8 new or increased expenditure of local funds from  
9 becoming effective with regard to a local  
10 governmental entity without enactment by a 2/3 vote  
11 unless: it comes within one of a number of  
12 specified exceptions; it is approved by the  
13 affected entity; or the Legislature appropriates  
14 funds, or provides a local source of revenue, to  
15 the entity for the purpose.

16 The purpose or effect of this bill would be  
17 to require a new or increased expenditure of local  
18 funds within the meaning of the amendment. However,  
19 the bill does not require approval of a local  
20 governmental entity or enactment by a 2/3 vote to  
21 become effective because it comes within one of the  
22 specified exceptions contained in the amendment.

23  
24 A BILL  
25 TO BE ENTITLED  
26 AN ACT  
27

1                   Relating to the Alabama Onsite Wastewater Board; to  
2 amend Sections 34-21A-1, 34-21A-2, 34-21A-3, 34-21A-4,  
3 34-21A-7, 34-21A-10, 34-21A-12, 34-21A-13, 34-21A-14,  
4 34-21A-15, 34-21A-16, 34-21A-17, 34-21A-21, 34-21A-22,  
5 34-21A-24, and 34-21A-25, Code of Alabama 1975, to provide  
6 further for the definition and use of certain terms and for  
7 board membership, member compensation, and a replacement  
8 process for certain board members, the types of licenses  
9 issued, exempted property owners, the application process for  
10 licensure, the license review process, disciplinary powers of  
11 the board, the appeals procedure, the requirement of holding a  
12 financial assurance bond for certain licensees, and increased  
13 penalties for violators; and in connection therewith would  
14 have as its purpose or effect the requirement of a new or  
15 increased expenditure of local funds within the meaning of  
16 Amendment 621 of the Constitution of Alabama of 1901, now  
17 appearing as Section 111.05 of the Official Recompilation of  
18 the Constitution of Alabama of 1901, as amended.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20                   Section 1. Sections 34-21A-1, 34-21A-2, 34-21A-3,  
21 34-21A-4, 34-21A-7, 34-21A-10, 34-21A-12, 34-21A-13,  
22 34-21A-14, 34-21A-15, 34-21A-16, 34-21A-17, 34-21A-21,  
23 34-21A-22, 34-21A-24, and 34-21A-25, Code of Alabama 1975, are  
24 amended to read as follows:

25                   "§34-21A-1.

26                   "The Alabama Onsite Wastewater Board is created to  
27 examine, license, and regulate persons engaged in the

1 manufacture, installation, or servicing of onsite ~~wastewater~~  
2 sewage systems in Alabama. As more residences are built in  
3 rural areas where public sewer hookups and centralized  
4 ~~wastewater~~ sewage treatment systems are often unavailable,  
5 many property owners must rely on onsite ~~wastewater~~ sewage  
6 systems, such as septic systems, to handle residential waste  
7 and ~~wastewater~~ sewage. The improper manufacture, installation,  
8 service, cleaning, and maintenance of onsite ~~wastewater~~ sewage  
9 equipment and treatment systems can contaminate and pollute  
10 the environment and pose significant harm to public health and  
11 the rural environment. This board is created to establish the  
12 qualification levels for those engaged in the manufacture,  
13 installation, servicing, or cleaning of onsite ~~wastewater~~  
14 sewage systems and equipment in Alabama and promote the proper  
15 manufacture, installation, and servicing of onsite ~~wastewater~~  
16 sewage systems.

17 "§34-21A-2.

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

21 "(1) ~~ALTERNATIVE ENGINEERED~~ ON SITE WASTEWATER SEWAGE  
22 SYSTEM. An onsite sewage ~~wastewater~~ system that varies from  
23 conventional onsite ~~wastewater~~ sewage system equipment,  
24 methods, processes, and installation procedures in accordance  
25 with the rules and regulations of the Alabama Department of  
26 Public Health.

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

1           "(3) CONVENTIONAL ONSITE ~~WASTEWATER~~ SEWAGE SYSTEM.

2           An onsite ~~wastewater~~ sewage system consisting of a septic  
3           tank, or an Alabama Department of Public Health approved  
4           pretreatment device, with effluent discharging into a  
5           subsurface effluent disposal medium, where all portions of the  
6           effluent disposal field sidewalls are installed below the  
7           elevation of undisturbed native soil, including a conventional  
8           onsite sewage system as defined by the Alabama Department of  
9           Public Health regulations.

10           "(4) GOOD STANDING WITH LOCAL HEALTH AUTHORITIES OR  
11           OFFICIALS. A person in good standing with local health  
12           authorities or officials shall have had no substantiated  
13           complaints filed against him or her with the local health  
14           authorities or officials regarding the work of the person in  
15           the onsite ~~wastewater~~ sewage industry, and shall be known by  
16           the local health authorities or officials to be a person who  
17           abides by the rules and regulations of the Alabama Department  
18           of Public Health.

19           "(5) GREASE TRAP. A receptacle containing nontoxic,  
20           nonhazardous liquid waste generated by a commercial food  
21           operation or institutional food preparation facility  
22           including, without limitation, fats, oil, grease, and food  
23           scraps whether connected to a city sewer or not to include a  
24           sewage tank, as defined by the Alabama Department of Public  
25           Health regulations.

26           "~~(5)~~ (6) INDIVIDUAL. A human person.

1           "~~(6)~~(7) INSTALLATION. The act of installing a  
2 conventional or ~~alternative~~ engineered onsite ~~wastewater~~  
3 sewage system.

4           "~~(7)~~(8) LICENSE. A valid and current certificate of  
5 qualification issued by the board which shall give the named  
6 person to whom it is issued authority to engage in the  
7 specialized area and level of qualification described on the  
8 certificate.

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

11           "~~(9)~~(10) LICENSING PROCEDURE. The process of testing  
12 at the state level to determine the knowledge and skill of an  
13 individual with respect to onsite ~~wastewater~~ sewage systems,  
14 and the issuing of licenses to indicate that an individual has  
15 passed the examinations and met all other board-established  
16 qualifications for licensure.

17           "~~(10)~~(11) LOCAL HEALTH AUTHORITY OR OFFICIALS. The  
18 county health department in the county or counties in which a  
19 licensee performs work in or is engaged in the manufacture,  
20 installation, cleaning, servicing, or maintenance of onsite  
21 ~~wastewater~~ sewage systems or equipment.

22           "~~(11)~~(12) MANUFACTURER. Person engaged in the  
23 production of septic tanks or receptacle equipment used in  
24 onsite ~~wastewater~~ sewage systems.

25           "~~(12)~~(13) ONSITE ~~WASTEWATER~~ SEWAGE SYSTEM. Any  
26 system of piping, treatment devices, pumps, alarms, or other  
27 facilities or devices that carry or convey, store, treat, or

1 dispose of sewage (human waste) where the system is not  
2 connected to a public sewer, including an onsite sewage  
3 treatment and disposal system onsite septic system (OSS) as  
4 defined by the Alabama Department of Public Health  
5 regulations.

6 "~~(13)~~(14) RESPONSIBLE CHARGE. ~~The direction or~~  
7 ~~supervision, or both, of projects involving the manufacture,~~  
8 ~~installation, cleaning, servicing, repairing, or maintaining~~  
9 ~~of onsite wastewater equipment or systems. The person in~~  
10 responsible charge must direct the projects involving the  
11 installation or service and repair of an onsite sewage system  
12 under Alabama law. The person in responsible charge must be a  
13 full-time employee, owner, partner, or a corporate officer of  
14 the partnership, corporation, business trust, or other legal  
15 entity. The person in responsible charge must possess the  
16 required skill, knowledge, and experience and have the  
17 responsibility to supervise, direct, manage, and control the  
18 installation, service, or repair activities of the business  
19 entity with which he or she is affiliated. The board may  
20 examine the technical and personal qualifications of the  
21 person in responsible charge and may investigate and/or  
22 examine the person's qualifications.

23 "~~(14)~~(15) SERVICING. The act of cleaning,  
24 maintaining, or repairing an installed onsite ~~wastewater~~  
25 sewage system.

26 "§34-21A-3.



1           "(a) There is established the Alabama Onsite  
2 Wastewater Board. The board shall consist of nine members who  
3 shall, at the time of appointment and during the entire time  
4 for which appointed, be residents and citizens of Alabama. The  
5 initial appointments to the board shall be effective October  
6 1, 1999, with required licensing beginning January 2000, or as  
7 soon as possible thereafter. Of the nine members of the board,  
8 three members shall be appointed by the Governor, three  
9 members shall be appointed by the Lieutenant Governor, and  
10 three members shall be appointed by the Speaker of the House  
11 of Representatives of the Alabama Legislature.

12           "(b) Of the three members appointed by the Governor,  
13 one shall be actively engaged in the business of installing  
14 onsite ~~wastewater~~ sewage systems and shall serve an initial  
15 term of two years. One member appointed by the Governor shall  
16 be actively engaged in the business of manufacturing septic  
17 tanks and shall serve an initial term of two years. One member  
18 appointed by the Governor shall be actively engaged in the  
19 business of pumping, servicing, or maintaining onsite  
20 ~~wastewater~~ sewage equipment and shall serve an initial term of  
21 three years. ~~Each of these initial appointees shall: Hold a~~  
22 ~~current voluntary certification from the Alabama Department of~~  
23 ~~Public Health or have ownership in a business employing a~~  
24 ~~designated person in a position of responsible charge holding~~  
25 ~~such a certificate, have been involved in their respective~~  
26 ~~business for five consecutive years, and be in good standing~~  
27 ~~with their local county health authorities and the Alabama~~

1 ~~Department of Public Health. Subsequent appointees~~ Appointees  
2 to these positions on the board shall be licensees of the  
3 board or have ownership in a business employing a designated  
4 licensee in a position of responsible charge. The appointments  
5 and successor appointments by the Governor shall be made from  
6 a list of recommendations submitted by the governing board of  
7 the Alabama Onsite Wastewater Association, which list of  
8 recommendations shall include three individuals recommended  
9 for each board position.

10 "(c) (1) Of the three members appointed by the  
11 Lieutenant Governor, one member shall be actively engaged in  
12 the business of manufacturing septic tanks and shall serve an  
13 initial term of four years, and one member shall be actively  
14 engaged in the business of installing onsite ~~wastewater~~ sewage  
15 systems and shall serve an initial term of four years. ~~Each of~~  
16 ~~these two initial appointees shall: Hold a current voluntary~~  
17 ~~certification from the Alabama Department of Public Health or~~  
18 ~~have ownership in a business employing a designated person in~~  
19 ~~a position of responsible charge holding such a certificate,~~  
20 ~~have been involved in their respective business for five~~  
21 ~~consecutive years, and be in good standing with their local~~  
22 ~~county health authorities and the Alabama Department of Public~~  
23 ~~Health. Subsequent appointees~~ Appointees to these positions on  
24 the board shall be licensees of the board or have ownership in  
25 a business employing a designated licensee in a position of  
26 responsible charge. These two appointments by the Lieutenant  
27 Governor shall be made from a list of recommendations

1 submitted by the governing board of the Alabama Onsite  
2 Wastewater Association, which list of recommendations shall  
3 include three individuals for each board position.

4 "At the end of the term of the board member serving  
5 in the septic tank manufacturing position following the  
6 effective date of this amendatory act, subsequent appointments  
7 to that position shall be to either:

8 "A person licensed by the board; or a person having  
9 ownership of a business employing a person who meets all of  
10 the following requirements that he or she: Is in a position of  
11 responsible charge, provides or rents onsite toilet systems or  
12 portable toilet systems, is licensed by the board, has been  
13 involved in his or her respective business for five  
14 consecutive years, is in good standing with the local health  
15 authorities and the Alabama Department of Public Health.

16 Subsequent appointees to the onsite system installer position  
17 shall be either: A licensee of the board; or a person having  
18 ownership in a business employing a designated licensee in a  
19 position of responsible charge.

20 "(2) The Lieutenant Governor shall also appoint a  
21 member actively engaged in the development of a training or  
22 educational program or instruction in environmental  
23 protection, preferably experienced in the area of the  
24 ~~wastewater~~ sewage industry, and this member shall serve an  
25 initial term of three years. This member shall: Have a minimum  
26 of six years experience in the stated area of educational  
27 expertise, be in good standing with his or her professional or

1 regulating boards, and possess a reputation of high standards  
2 within the academic community.

3 "(d) (1) Of the three members appointed by the  
4 Speaker of the Alabama House of Representatives, one member  
5 shall be an environmental engineer with training in the onsite  
6 ~~wastewater~~ sewage industry, be experienced in and have an  
7 understanding of the design and construction of onsite  
8 ~~wastewater~~ sewage systems, and be in good standing with the  
9 Alabama Board of Licensure for Professional Engineers and Land  
10 Surveyors. This member shall serve an initial term of four  
11 years and shall be appointed from a list of three  
12 recommendations provided by the Alabama Board of Licensure for  
13 Professional Engineers and Land Surveyors.

14 "(2) The Speaker of the House shall also appoint one  
15 member who has been actively involved for a minimum of three  
16 years in the onsite ~~wastewater~~ sewage inspection process and  
17 the regulation of onsite ~~wastewater~~ sewage systems and is  
18 employed by a local county health department or the Alabama  
19 Department of Public Health. This member shall serve an  
20 initial term of four years.

21 "(3) The Speaker of the House shall also appoint a  
22 member who is a consumer who will represent the public at  
23 large and who has an interest in the onsite ~~wastewater~~ sewage  
24 industry. The consumer member may not be engaged in or  
25 otherwise connected with any person or firm or corporation or  
26 business dealing with the onsite ~~wastewater~~ sewage industry  
27 and shall serve an initial term of four years.

1           "(e) Upon the expiration of the initial terms of  
2 office, and thereafter, all members appointed to the board  
3 shall serve four-year terms, or until their successors are  
4 appointed. Their successors, who shall be appointed by the  
5 same respective appointing authorities and shall possess the  
6 same respective qualifications as required for the initial  
7 appointees, shall each serve not more than two consecutive  
8 terms of office. The membership of the board shall be  
9 inclusive and the appointing authorities shall consider the  
10 racial, gender, geographic, urban/rural, and economic  
11 diversity of the state in making their appointments.

12           "(f) If an appointment of a member to the board is  
13 to be made from a list of recommendations from an association,  
14 organization, or other board, the list of recommendations  
15 shall be submitted to the appointing authority at least 30  
16 days prior to the expiration of the current term of the  
17 vacating board member.

18           "(g) An appointing authority may rescind any  
19 appointment and replace any board member who is unable or  
20 unwilling to fulfill his or her duties to the citizens of  
21 Alabama through service on the board and who has not tendered  
22 his or her resignation.

23           "§34-21A-4.

24           "(a) Within 30 days after annual appointment of new  
25 members, the board shall meet for the purpose of organizing,  
26 electing new officers, and transacting such business as deemed

1 necessary. This organizational meeting shall not be considered  
2 a regular quarterly meeting of the board.

3 "(b) The board shall meet at least four times a year  
4 on a quarterly basis with the board designating the months of  
5 the meetings for the coming year at its annual organizational  
6 meeting. Regular meetings shall be called by the chair who  
7 shall designate the time and place of each regular meeting.  
8 The chair or a majority of the members of the board may also  
9 call a special meeting of the board.

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

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

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

19 "(f) The members of the board shall receive one  
20 hundred dollars (\$100) per day for board meetings and a per  
21 diem as recommended by the board consistent with applicable  
22 state laws for attending sessions of the board and for time  
23 spent in necessary travel to attend meetings of the board. In  
24 addition, each member shall be reimbursed for related travel  
25 expenses at the same rate as state employees receive, all to  
26 be paid from fees collected and deposited in the board fund.

27 "§34-21A-7.

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

3           "(1) Establish procedures and qualifications for the  
4 licensure of individuals engaged in the manufacture,  
5 installation, servicing, repair, or maintenance of onsite  
6 ~~wastewater~~ sewage systems and equipment installed in Alabama  
7 and issue such licenses to those individuals who qualify for  
8 licensure.

9           "(2) Approve all training required for any license  
10 or license renewal under this chapter and approve and  
11 administer any examination required for specialized areas and  
12 levels of qualification of licensing under this chapter.

13           "(3) Establish the dates, times, and locations for  
14 all license examinations, including at least three examination  
15 dates each year.

16           "(4) Accept and process applications from  
17 individuals meeting the board-established qualifications for  
18 licenses and the renewal of licenses and collect necessary  
19 fees according to the schedule of fees established by the  
20 board.

21           "(5) Provide written notification to a candidate of  
22 the candidate's examination results and provide information  
23 regarding the procedures required to complete the license  
24 process, including bond information and local health  
25 department fees.

1           "(6) Accept annual license renewal applications and  
2 approve required continuing education and required  
3 documentation for license renewal.

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

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

16           "(9) Reinstate a revoked or suspended license if the  
17 holder of the revoked or suspended license meets specific  
18 requirements established by the board and the reinstatement is  
19 approved by a majority of the board.

20           "(10) Oversee all financial, business, and  
21 administrative matters necessary to carry out the operation of  
22 this board including, but not limited to, accepting fees,  
23 paying bills, salaries, expenses, and refunds, and any other  
24 action deemed appropriate to conduct business pertinent to its  
25 operation.



1           "(11) Hire and set compensation for an executive  
2 director who shall be responsible for the administrative  
3 functions of the board.

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

6           "§34-21A-10.

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

20           "§34-21A-12.

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

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

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

4           "(3) An advanced level II installer license.

5           "~~(3)(4)~~ A manufacturer's license ~~for those involved~~  
6 ~~in the manufacture of onsite wastewater septic tanks and~~  
7 ~~receptacles.~~

8           "~~(4)(5)~~ A pumper license ~~for those involved in~~  
9 ~~pumping, cleaning, servicing or maintenance, or both, of~~  
10 ~~onsite wastewater systems and receptacles.~~

11          "(6) A portable toilet license.

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

17          "(c) Licenses issued by the board shall be  
18 recognized as evidence of qualification and knowledge of the  
19 licensee by the Alabama Department of Public Health and county  
20 or local health authorities, and no other additional level of  
21 qualification or certification or other requirement shall be  
22 required by the Alabama Department of Public Health or any  
23 county or local health authorities for those persons engaged  
24 in the manufacture, installation, or servicing of onsite  
25 ~~wastewater~~ sewage systems.

26          "(d) A license shall be issued for the current  
27 calendar year and the license shall be valid only for that

1 calendar year. All licenses shall expire on December 31 of  
2 each calendar year.

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

23 "(f) No individual, business, partnership, or  
24 corporation shall advertise, solicit, bid, obtain permit,  
25 conduct business, or perform the function of manufacturing,  
26 installing, cleaning, servicing, repairing, or maintaining  
27 onsite ~~wastewater~~ sewage equipment or systems in Alabama

1 unless the person or persons in responsible charge are  
2 licensed as defined in this chapter.

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

13 "(h) No license shall be issued except to an  
14 individual. A firm, partnership, association, or corporation  
15 shall not be licensed. Partnerships, corporations, or other  
16 business entities shall designate the licensed individual in  
17 responsible charge under whose name its business is to operate  
18 to the local business licensing authority, the board, and the  
19 local health officials. If that designated person ceases to be  
20 employed by the business entity, notice shall be made  
21 immediately to the board and the local health officials. The  
22 partnership or corporation shall then have 45 days to  
23 re-designate a licensed individual responsible for work  
24 performed by the business entity. During this 45-day period,  
25 no work shall be initiated by the business entity without the  
26 knowledge and approval of local health officials. Any work  
27 performed during this time shall be inspected by local health

1 officials and approved by the officials before being  
2 considered complete and put into operation. Under special  
3 circumstances, a business entity engaged in the manufacture of  
4 septic tanks can petition the board for an extension of time  
5 beyond the 45-day period to re-designate a licensed individual  
6 in a position of responsible charge under whose manufacturer's  
7 license the business is to operate. Under no condition may  
8 this extension of time extend more than three weeks past the  
9 date of the next examination offered by the board for a  
10 manufacturer's license.

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

18 "(j) All licensees shall abide by all federal,  
19 state, and local laws and ordinances. No license issued by the  
20 board may be sold or transferred. Any license misused may be  
21 revoked by the board.

22 "(k) Every licensee shall notify the board of the  
23 address of his or her place of business, the counties in which  
24 he or she does business or performs work, and the name under  
25 which the business is carried on. Licensees shall give  
26 immediate notice to the board of any change in this  
27 information. Service of any process shall be achieved by

1 mailing notice of such information by first class postage,  
2 U.S. Postal Service, to the address of record. No further  
3 service of process shall be required.

4 "§34-21A-13.

5 "(a) All applicants for licenses, examinations, or  
6 license renewals shall be required to complete specific  
7 application forms developed and provided by the board.  
8 Information required to be provided on license application  
9 forms shall include, but not be limited to, the following:

10 "(1) The applicant's name, date of birth, social  
11 security number, residence address, telephone number, and  
12 county of residence.

13 "(2) The name of the applicant's employer, or the  
14 name of the applicant's business, including the business  
15 address and telephone number of the employer or applicant's  
16 business.

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

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

20 "~~(5)~~ (3) Details of the applicant's business  
21 experience, details of the applicant's work experience, and  
22 classroom training in the areas of requested licensing.

23 "~~(6)~~ (4) A signed statement from an official from the  
24 applicant's county health department stating that the  
25 applicant is in good standing with the local or county health  
26 department.

1           "(b) Application forms may also require any  
2 information deemed by the board to be significant in  
3 evaluating the qualifications of an applicant for license,  
4 examination, or license renewal.

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

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

17           "§34-21A-14.

18           "(a) The board shall develop eligibility  
19 requirements to be met by applicants seeking licensing by the  
20 board. The minimum application requirements shall include, but  
21 are not limited to, the applicant's:

22           "~~(1) Character.~~

23           "~~(2)~~ (1) Business experience.

24           "~~(3)~~ (2) Work experience in the requested area of  
25 licensure.

26           "~~(4)~~ (3) Completion of training requirements as  
27 established by the board.

1           "~~(5)~~(4) Successful completion of the required  
2 examination.

3           "~~(6)~~(5) Evidence of bond.

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

7           "(1) Completion of classroom instruction.

8           "(2) Successful completion of required examination.

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

12           "(c) Any plant holding a current manufacturing  
13 certification issued by the National Precast Concrete  
14 Association shall be considered to have sufficiently met the  
15 plant inspection requirement.

16           "§34-21A-15.

17           "(a) No license shall be issued by the board without  
18 examination of the applicant for the purpose of ascertaining  
19 his or her qualifications for such work, except those licenses  
20 issued pursuant to Section 34-21A-17. No examination shall be  
21 required for the timely annual renewal of a current license.

22           "(b) The board shall offer and provide examinations  
23 which test the knowledge, skill, and qualifications of the  
24 applicants.

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



1           "(d) The board shall establish dates and locations  
2 for a minimum of three separate examinations each calendar  
3 year.

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

7           "~~(f)~~ (e) The board shall establish the minimum  
8 examination grade necessary for successful completion of an  
9 examination.

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

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

18           "(2) The advanced level installer license  
19 examination shall test the knowledge and qualifications of  
20 applicants seeking a license to install, clean, service,  
21 repair, or maintain ~~alternative~~ engineered onsite ~~wastewater~~  
22 sewage systems.

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

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

4           "~~(j)~~(i) The board shall develop or approve any other  
5 additional examinations as may be necessary for additional  
6 areas of qualification and license levels as may be  
7 established by the board to meet industry requirements and  
8 technological advancements in the onsite ~~wastewater~~ sewage  
9 industry.

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

18           "~~(l)~~(k) Written examination results shall be  
19 provided within 14 days of taking the examination. Successful  
20 candidates shall also be informed of the procedures required  
21 to complete the license process. Any person who fails an  
22 examination may, upon reapplication and payment of required  
23 fees, take the examination when offered by the board.

24           "~~(m)~~(l) The executive director shall provide to the  
25 Alabama Department of Public Health and the appropriate local  
26 health authorities a list of all candidates who successfully

1 qualify for a license within 14 days following the date the  
2 license is issued by the board.

3 "§34-21A-16.

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

24 "§34-21A-17.

25 ~~"Any individual with a current voluntary~~  
26 ~~certification issued no later than December 31, 1999, by the~~  
27 ~~Alabama Department of Public Health, who is in good standing~~

1 with his or her appropriate local health authorities, and who  
2 provides evidence of required bond shall be deemed to have  
3 satisfied the requirements and qualifications for a basic  
4 level license if application is made prior to December 31, of  
5 the first year in which licenses are issued by the board.  
6 After December 31, of that first year for licensure 1999,  
7 individuals not currently licensed will be required to follow  
8 the requirements for license application, including completing  
9 required training and successfully passing any required  
10 examination.

11 "§34-21A-21.

12 "(a) The board shall establish criteria for  
13 circumstances warranting the suspension or revocation of a  
14 license and establish the procedures for suspension or  
15 revocation of licenses. These circumstances shall include, but  
16 not be limited to, the following:

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

18 "(2) Obtaining a license by having another person  
19 take the examination.

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

22 "(4) Selling or conveying the license to another  
23 person.

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

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

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

4           "(b) The board shall take appropriate action to  
5 enforce the rules adopted with regard to license suspension or  
6 revocation.

7           "(c) After suspension or revocation of a license of  
8 any licensee, the board shall publish this information to the  
9 public.

10           "§34-21A-22.

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

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

27           "§34-21A-24.

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

13                 "§34-21A-25.

14                 "(a) Any person who undertakes or attempts to  
15          undertake the business of manufacturing, installing,  
16          servicing, cleaning, repairing, or maintaining any onsite  
17          ~~wastewater~~ sewage system or equipment without first having  
18          obtained and having possession of a current, valid license  
19          from the board or who knowingly presents or files false  
20          information with the board for the purpose of obtaining a  
21          license or otherwise fraudulently obtains a license, or who  
22          knowingly violates any provision of this chapter regulating  
23          the onsite ~~wastewater~~ sewage industry shall be guilty of a  
24          Class € A misdemeanor, as defined by the state criminal code.

25                 "(b) Whenever it appears to the board that an  
26          individual has violated or is about to violate this chapter,  
27          it may in its own name petition the circuit court of the

1 county where the violation is occurring or is about to occur  
2 to issue a temporary restraining order or other appropriate  
3 injunctive relief enjoining the violation.

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

7 "(d) The board may levy and collect an  
8 administrative fine not to exceed one thousand dollars  
9 (\$1,000) for each violation of this chapter or a rule or  
10 regulation, as amended, of the Alabama Onsite Wastewater Board  
11 or Alabama Department of Public Health rules pertaining to the  
12 manufacture, installation, servicing, cleaning, or maintenance  
13 of an onsite sewage system or portable toilets.

14 "(e) In addition to or in lieu of the criminal  
15 penalties and administrative sanctions provided in this  
16 chapter, the board may issue an order to any person, firm, or  
17 corporation engaged in any activity, conduct, or practice  
18 constituting a violation of this chapter directing the person,  
19 firm, or corporation to immediately cease and desist from the  
20 activity, conduct, practice, or performance of any work then  
21 being done or about to be commenced. The order shall be issued  
22 in the name of the State of Alabama under the authority of the  
23 board. A person, firm, or corporation that does not comply  
24 with a cease and desist order shall be deemed in violation of  
25 this chapter and shall be subject to all disciplinary powers,  
26 penalties, fines, and remedies available to the board."

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

9                   Section 3. This act shall become effective on the  
10                  first day of the third month following its passage and  
11                  approval by the Governor, or its otherwise becoming law.