

1 HB586
2 118474-1
3 By Representative Sanderford
4 RFD: Commerce
5 First Read: 16-FEB-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, or 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. The provisions of this act are severable.
10 If any part of this act is declared invalid or
11 unconstitutional, that declaration shall not affect the part
12 which remains.

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