

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 91

Introduced by Haar, 21.

Read first time January 10, 2013

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to geologists; to amend sections 81-3520,
 2 81-3527, 81-3529, 81-3531, 81-3537, 81-3539, and 81-3540,
 3 Reissue Revised Statutes of Nebraska; to change
 4 provisions relating to membership on the Board of
 5 Geologists, requirements for seals, distribution of civil
 6 penalties, eligibility for geology examinations, and
 7 licensure; to harmonize provisions; and to repeal the
 8 original sections.

9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-3520, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-3520 (1) The Board of Geologists is created to
4 administer the Geologists Regulation Act. The board may use any funds
5 available to obtain suitable office space within Lincoln, Nebraska,
6 for the board. The board shall consist of seven members appointed by
7 the Governor for terms of five years each, ending on the last day of
8 February. The members shall include one education member appointed
9 pursuant to subsection (2) of this section and one public member. All
10 members of the board shall be professional geologists with the
11 exception of the one public member. Each member shall hold office
12 after the expiration of his or her term until his or her successor is
13 duly appointed and qualified. The length of the initial terms shall
14 be staggered, as determined by the board. The Governor may remove any
15 member of the board for misconduct, incompetency, or neglect of duty.
16 Vacancies on the board, however created, shall be filled for the
17 unexpired term by appointment by the Governor.

18 (2) The membership of the board shall include one
19 education member who is licensed in geology ~~representing and who is a~~
20 member of the professional faculty of the a geology departments,
21 ~~including the Conservation and Survey Division, all within the~~
22 University of Nebraska, as or related geosciences department of a
23 college or university located in Nebraska, recommended by the
24 president of the respective college or university, and appointed by
25 the Governor.

1 (3) The membership of the board shall include one public
2 member appointed by the Governor. The appointment is for five years.

3 (4) The board may designate a former member of the board
4 as an emeritus member. Emeritus member status, when conferred, must
5 be renewed annually. The emeritus member shall be a nonvoting member.

6 Sec. 2. Section 81-3527, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-3527 (1) Application for licensure as a geologist or
9 enrollment as a geologist-intern shall be made on a form prescribed
10 and furnished by the board. ~~It~~If required pursuant to section
11 81-3539, the application shall contain statements made under oath
12 showing the applicant's education and a detailed summary of technical
13 experience and shall include the names and complete mailing addresses
14 of the references, none of whom shall be members of the board. The
15 board may accept the verified information contained in the National
16 Association of State Boards of Geology for applicants in lieu of the
17 same information that is required on the form prescribed and
18 furnished by the board.

19 (2) Application, licensure, and enrollment fees shall be
20 established by the board and shall accompany the application.
21 Original and reciprocal fees shall not exceed three hundred dollars
22 for licensure as a geologist and one hundred dollars for enrollment
23 as a geologist-intern and shall be in addition to the examination fee
24 which shall be set to recover the costs of the examination and its
25 administration.

1 (3) The certificate of authorization fee for
2 organizations shall be established by the board and shall accompany
3 the application. The fee shall not exceed three hundred dollars per
4 year.

5 (4) The fee for emeritus status shall be established by
6 the board and shall accompany the application. The fee shall not
7 exceed one hundred dollars per year.

8 (5) If the board denies the issuance of a certificate to
9 any applicant, including the application of an organization for a
10 certificate of authorization, the board shall retain the fee.

11 Sec. 3. Section 81-3529, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-3529 (1) The board shall issue to any applicant who,
14 on the basis of education, experience, and examination, if required
15 pursuant to section 81-3539, has met the requirements of the
16 Geologists Regulation Act a certificate of licensure giving the
17 licensed geologist proper authority to carry out the prerogatives of
18 the act. The certificate of licensure shall carry the designation
19 Licensed Professional Geologist. The certificate of licensure shall
20 give the full name of the licensee and the license number and shall
21 be signed by the chairperson of the board and the secretary of the
22 board.

23 (2) The certificate shall be prima facie evidence that
24 the person is entitled to all rights, privileges, and
25 responsibilities of a professional geologist while the certificate of

1 licensure remains unrevoked and unexpired.

2 (3)(a) Each licensee authorized to practice geology must
3 obtain a seal. It shall be unlawful for a licensee to affix his or
4 her seal and signature or to permit his or her seal and signature to
5 be affixed to any document after the expiration of the certificate of
6 licensure or for the purpose of aiding or abetting any other person
7 to evade or attempt to evade any provisions of the act.

8 (b) The seal may be a rubber stamp or an embossed seal or
9 may be generated electronically. Whenever the seal is applied, the
10 licensee's written signature and the date shall be across the seal.
11 No further words or wording are required. Electronic signatures
12 applied to electronic seals shall be protected with an electronic
13 revision approval system. Documents without electronic revision
14 approval system protection that are transmitted electronically to a
15 client or a governmental agency shall have the seal removed from the
16 file. The electronic media shall have the following inserted in lieu
17 of the seal, signature, and date:

18 This document was originally issued and sealed by (name
19 of sealer), (license number), on (date of sealing). This media should
20 not be considered a certified document.

21 (c) The seal, signature, and date shall be placed on all
22 technical submissions and calculations whenever presented to a client
23 or any public or governmental agency.

24 (d) The seal, signature, and date shall be placed on all
25 originals, copies, tracings, or other reproducible documents in such

1 a manner that the seal, signature, and date will be reproduced. The
2 application of the licensee's seal and signature shall constitute
3 certification that the work was done by the licensee or under the
4 licensee's control. In the case of multiple sealings, the first or
5 title page shall be sealed, signed, and dated by all involved. In
6 addition, each sheet shall be sealed, signed, and dated by the
7 licensee responsible for each sheet. In the case of an organization,
8 each sheet shall be sealed, signed, and dated by the licensee
9 involved. The geologist in responsible charge shall sign, seal, and
10 date the title or first sheet.

11 (e) In the case of a temporary permit issued to a
12 licensee of another state, the licensee shall use his or her state of
13 licensure seal and shall affix his or her signature and temporary
14 permit to all his or her work.

15 (f) The design of the seal shall be determined by the
16 board. The following information shall be on the seal: State of
17 Nebraska; licensee's name; licensee's license number; and the words
18 Professional Geologist.

19 (g) The board shall issue to any applicant who, in the
20 opinion of the board, has met the requirements of the act, an
21 enrollment card as geologist-intern which indicates that his or her
22 name has been recorded as such in the board office. The geologist-
23 intern enrollment card does not authorize the holder to practice as a
24 professional geologist.

25 Sec. 4. Section 81-3531, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 81-3531 (1) Certificates of licensure and certificates of
3 authorization shall expire on a date established by the board and
4 shall become invalid after that date unless renewed. The secretary of
5 the board shall notify every person licensed under the Geologists
6 Regulation Act and every organization holding a certificate of
7 authorization under the act of the date of the expiration of the
8 certificate of licensure or certificate of authorization and the
9 amount of the fee required for renewal. The notice shall be mailed to
10 the licensee or organization at the last-known address on file with
11 the board at least one month in advance of the date of the
12 expiration. Renewal may be effected at any time prior to or during
13 the period established by the board upon application pursuant to this
14 section and payment of a renewal fee. The fee shall not exceed two
15 hundred dollars per year. Renewal of an expired certificate may be
16 effected under rules and regulations of the board regarding
17 requirements for reexamination and for penalty fees. The board may
18 adopt a program of continuing education as a requirement for renewal
19 for individual licensees.

20 (2) An applicant for renewal of a certificate of
21 licensure shall apply on a form prescribed and furnished by the
22 board. The application shall contain statements made under oath
23 showing the applicant's fitness to maintain licensure, including
24 felony convictions in any jurisdiction, convictions involving moral
25 turpitude in any jurisdiction, and suspension or revocation of a

1 professional license in any other jurisdiction. The board shall
2 review the application for renewal. If the board takes no action, the
3 license shall be renewed. The board may deny renewal if it determines
4 the applicant does not meet the requirements for licensure or
5 renewal.

6 Sec. 5. Section 81-3537, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-3537 (1) The board may after hearing, by majority
9 vote, take any or all of the following actions, upon proof
10 satisfactory to the board that any person or organization has
11 violated the Geologists Regulation Act or any rules or regulations
12 adopted and promulgated pursuant to the act:

13 (a) Issuance of censure or reprimand;

14 (b) Suspension of judgment;

15 (c) Placement of the offender on probation with the
16 board;

17 (d) Placement of a limitation or limitations on the
18 holder of a license and upon the right of the holder of a license to
19 practice the profession to such extent, scope, or type of practice
20 for such time and under such conditions as are found necessary and
21 proper;

22 (e) Imposition of a civil penalty not to exceed ten
23 thousand dollars. The amount of the penalty shall be based on the
24 severity of the violation;

25 (f) Entrance of an order of revocation, suspension, or

1 cancellation of the certificate of licensure;

2 (g) Issuance of a cease and desist order;

3 (h) Imposition of costs as in an ordinary civil action in
4 the district court, which may include attorney's fees and hearing
5 officer fees incurred by the board and the expenses of any
6 investigation undertaken by the board; or

7 (i) Dismissal of the action.

8 In hearings under this section, the board may take into
9 account suitable evidence of reform.

10 (2) Civil penalties collected under subdivision (1)(e) of
11 this section shall be remitted to the State Treasurer for ~~credit to~~
12 ~~the permanent school fund.~~ distribution in accordance with Article
13 VII, section 5, of the Constitution of Nebraska. All costs collected
14 under subdivision (1)(h) of this section shall be remitted to the
15 State Treasurer for credit to the Geologists Regulation Fund.

16 Sec. 6. Section 81-3539, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 81-3539 (1) Applications for licensure as a professional
19 geologist, for temporary or reciprocal licensure, or for enrollment
20 as a geologist-intern shall be on forms prescribed and furnished by
21 the board and shall be accompanied by the fee established by the
22 board. ~~The requirements of subdivisions (1) through (3) of this~~
23 ~~section may be considered by the board to be fulfilled if the~~
24 ~~applicant maintains a current certificate of licensure to practice~~
25 ~~geology issued pursuant to the authority of any state or possession~~

1 ~~of the United States or the District of Columbia based on~~
2 ~~requirements that do not conflict with the Geologists Regulation Act~~
3 ~~and were of a standard not lower than that specified in the~~
4 ~~applicable licensure law in effect in this state at the time the~~
5 ~~certification was issued.~~

6 (2) The following shall be considered as minimum evidence
7 satisfactory to the board that the applicant is qualified for
8 licensure as a professional geologist or enrollment as a geologist-
9 intern:

10 ~~(1)~~-(a) The applicant is of good character and reputation
11 and submits four references with his or her application for licensure
12 as a professional geologist. Two of the references shall be
13 professional geologists having personal knowledge of his or her
14 geological experience or, in the case of the application for
15 enrollment as a geologist-intern, acting only as character
16 references;

17 ~~(2)~~-(b) The applicant has successfully completed a
18 minimum of thirty semester hours or forty-five quarter hours of
19 course work in geology and has received a baccalaureate or advanced
20 degree in geology or a geologic specialty from a program ~~accredited~~
21 ~~by an organization~~ recognized by the board;

22 ~~(3)~~-(c) The applicant has a documented record of a
23 minimum of five years of progressive experience, obtained subsequent
24 to completion of the education requirements, in geologic work of a
25 grade and character which indicates to the board that the applicant

1 is qualified to assume responsible charge of such work upon licensure
2 as a geologist, including geologic teaching of advanced subjects and
3 the design of geologic research and projects in a college or
4 university offering a geologic curriculum, except that no work
5 experience is required for enrollment as a geologist-intern; and

6 ~~(4)~~—(d) The applicant has completed an examination
7 covering the fundamentals and practice of geology prescribed by the
8 board. Upon passing the fundamentals of geology examination, the
9 applicant may be enrolled as a geologist-intern. Upon passing the
10 practice of geology examination, the applicant ~~shall~~ may be granted a
11 certificate of licensure to practice geology in this state if
12 otherwise qualified.

13 (3) A person who holds a valid certificate of licensure
14 to engage in the practice of geology, issued pursuant to the
15 authority of any state or possession of the United States or the
16 District of Columbia based on requirements that do not conflict with
17 the act and were of a standard not lower than that specified in the
18 applicable licensing law in effect in this state at the time the
19 certificate was issued, may, upon application, be considered by the
20 board to have fulfilled the requirements of subdivisions (2)(b) and
21 (c) of this section and be licensed without further examination.
22 ~~Geologic teaching of advanced subjects and the design of geologic~~
23 ~~research and projects in a college or university offering an~~
24 ~~accredited geologic curriculum may be considered by the board as~~
25 ~~geologic experience. as required under subdivision (2)(d) of this~~

1 section.

2 (4) The requirements of subdivisions (2)(b) through (d)
3 of this section may be waived by the board if the applicant is
4 licensed to practice geology at the time of application and has
5 maintained a current certificate of licensure to practice geology for
6 at least fifteen years issued pursuant to the authority of a state or
7 possession of the United States or the District of Columbia based on
8 requirements that do not conflict with the Geologists Regulation Act
9 and if the applicant has lawfully practiced geology for at least
10 fifteen years in such jurisdiction. Lawful practice includes any
11 practice that is in compliance with the licensure law in effect in
12 the jurisdiction where the practice occurs.

13 Sec. 7. Section 81-3540, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 81-3540 (1) The board or its agent shall direct the time
16 and place of geology examinations. The board shall determine the
17 acceptable grade on examinations.

18 (2) The examination shall be given in two sections as
19 follows:

20 (a) A fundamentals of geology examination designed to
21 test the academic preparation of the applicant in geology. At the
22 board's discretion, the examination may be taken at any time
23 following substantial completion of the applicant's educational
24 requirements. Passing this examination qualifies the examinee for a
25 geologist-intern enrollment card, if all other requirements for

1 enrollment as a geologist-intern are met; and

2 (b) A principles and practice of geology examination
3 designed to test the applicant's ability to apply geologic knowledge
4 and to assume responsible charge of geologic work. The geologic
5 practice examination may be taken only after the applicant has
6 acquired the education and experience required for licensure as a
7 geologist.

8 (3) A candidate failing one examination may apply for
9 reexamination, which may be granted upon payment of a fee established
10 by the board. In the event of a second failure, the examinee may, at
11 the discretion of the board, be required to appear before the board
12 with evidence of having acquired the necessary additional knowledge
13 to qualify before admission to the examination.

14 (4) The board may prepare and adopt specifications for
15 the examinations. The specifications shall be published and be
16 available to any person interested in being licensed.

17 Sec. 8. Original sections 81-3520, 81-3527, 81-3529,
18 81-3531, 81-3537, 81-3539, and 81-3540, Reissue Revised Statutes of
19 Nebraska, are repealed.