

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

1 SB103

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4 ENROLLED, An Act,

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

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 34-21A-1, 34-21A-2, 34-21A-3,
25 34-21A-4, 34-21A-7, 34-21A-10, 34-21A-12, 34-21A-13,

1 34-21A-14, 34-21A-15, 34-21A-16, 34-21A-17, 34-21A-21,
2 34-21A-22, 34-21A-24, and 34-21A-25, Code of Alabama 1975, are
3 amended to read as follows:

4 "§34-21A-1.

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

22 "§34-21A-2.

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

1 "(1) ENGINEERED ONSITE SEWAGE SYSTEM. An onsite
2 sewage system that varies from conventional onsite sewage
3 system equipment, methods, processes, and installation
4 procedures in accordance with the rules and regulations of the
5 Alabama Department of Public Health.

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

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

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

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

8 "(6) INDIVIDUAL. A human person.

9 "(7) INSTALLATION. The act of installing a
10 conventional or engineered onsite sewage system.

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

16 "(9) LICENSEE. A qualified individual holding a
17 license issued by the board.

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

24 "(11) LOCAL HEALTH AUTHORITY OR OFFICIALS. The
25 county health department in the county or counties in which a

1 licensee performs work in or is engaged in the manufacture,
2 installation, cleaning, servicing, or maintenance of onsite
3 sewage systems or equipment.

4 "(12) MANUFACTURER. Person engaged in the production
5 of septic tanks or receptacle equipment used in onsite sewage
6 systems.

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

14 "(14) RESPONSIBLE CHARGE. The person in responsible
15 charge must direct the projects involving the installation or
16 service and repair of an onsite sewage system under Alabama
17 law. The person in responsible charge must be a full-time
18 employee, owner, partner, or a corporate officer of the
19 partnership, corporation, business trust, or other legal
20 entity. The person in responsible charge must possess the
21 required skill, knowledge, and experience and have the
22 responsibility to supervise, direct, manage, and control the
23 installation, service, or repair activities of the business
24 entity with which he or she is affiliated. The board may
25 examine the technical and personal qualifications of the

1 person in responsible charge and may investigate and/or
2 examine the person's qualifications.

3 "(15) SERVICING. The act of cleaning, maintaining,
4 or repairing an installed onsite sewage system.

5 "§34-21A-3.

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

17 "(b) Of the three members appointed by the Governor,
18 one shall be actively engaged in the business of installing
19 onsite sewage systems and shall serve an initial term of two
20 years. One member appointed by the Governor shall be actively
21 engaged in the business of manufacturing septic tanks and
22 shall serve an initial term of two years. One member appointed
23 by the Governor shall be actively engaged in the business of
24 pumping, servicing, or maintaining onsite sewage equipment and
25 shall serve an initial term of three years. Appointees to

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

9 "(c) (1) Of the three members appointed by the
10 Lieutenant Governor, one member shall be actively engaged in
11 the business of manufacturing septic tanks and shall serve an
12 initial term of four years, and one member shall be actively
13 engaged in the business of installing onsite sewage systems
14 and shall serve an initial term of four years. Appointees to
15 these positions on the board shall be licensees of the board
16 or have ownership in a business employing a designated
17 licensee in a position of responsible charge. These two
18 appointments by the Lieutenant Governor shall be made from a
19 list of recommendations submitted by the governing board of
20 the Alabama Onsite Wastewater Association, which list of
21 recommendations shall include three individuals for each board
22 position.

23 "At the end of the term of the board member serving
24 in the septic tank manufacturing position following the

1 effective date of this amendatory act, subsequent appointments
2 to that position shall be to either:

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

11 Subsequent appointees to the onsite system installer position
12 shall be either: A licensee of the board; or a person having
13 ownership in a business employing a designated licensee in a
14 position of responsible charge.

15 "(2) The Lieutenant Governor shall also appoint a
16 member actively engaged in the development of a training or
17 educational program or instruction in environmental
18 protection, preferably experienced in the area of the sewage
19 industry, and this member shall serve an initial term of three
20 years. This member shall: Have a minimum of six years
21 experience in the stated area of educational expertise, be in
22 good standing with his or her professional or regulating
23 boards, and possess a reputation of high standards within the
24 academic community.

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

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

18 "(3) The Speaker of the House shall also appoint a
19 member who is a consumer who will represent the public at
20 large and who has an interest in the onsite sewage industry.
21 The consumer member may not be engaged in or otherwise
22 connected with any person or firm or corporation or business
23 dealing with the onsite sewage industry and shall serve an
24 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,

1 electing new officers, and transacting such business as deemed
2 necessary. This organizational meeting shall not be considered
3 a regular quarterly meeting of the board.

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

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

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

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

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

1 expenses at the same rate as state employees receive, all to
2 be paid from fees collected and deposited in the board fund.

3 "§34-21A-7.

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

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

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

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

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

23 "(5) Provide written notification to a candidate of
24 the candidate's examination results and provide information
25 regarding the procedures required to complete the license

1 process, including bond information and local health
2 department fees.

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

6 "(7) Maintain a complete up-to-date roster of
7 licensees.

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

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

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

1 action deemed appropriate to conduct business pertinent to its
2 operation.

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

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

8 "§34-21A-10.

9 "The licensing requirements of this chapter shall
10 not apply to owners of property for the purpose of installing,
11 cleaning, servicing, or maintaining an onsite sewage system on
12 their own property with a one-family or two-family residence
13 used as their primary residence so long as the owners of said
14 property with an onsite sewage system complete all
15 installation, cleaning, servicing, or maintenance themselves,
16 without help at their primary residence.

17 "§34-21A-12.

18 "(a) The board shall establish the following types
19 of licenses:

20 "(1) A basic level installer license.

21 "(2) An advanced level I installer license.

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

23 "(4) A manufacturer's license.

24 "(5) A pumper license.

25 "(6) A portable toilet license.

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

6 "(c) Licenses issued by the board shall be
7 recognized as evidence of qualification and knowledge of the
8 licensee by the Alabama Department of Public Health and county
9 or local health authorities, and no other additional level of
10 qualification or certification or other requirement shall be
11 required by the Alabama Department of Public Health or any
12 county or local health authorities for those persons engaged
13 in the manufacture, installation, or servicing of onsite
14 sewage systems.

15 "(d) A license shall be issued for the current
16 calendar year and the license shall be valid only for that
17 calendar year. All licenses shall expire on December 31 of
18 each calendar year.

19 "(e) No individual, business, partnership, or
20 corporation shall engage in the manufacture, installation,
21 servicing, cleaning, or maintenance of an onsite sewage system
22 installed in the State of Alabama unless the individual, or
23 the person in responsible charge for the business,
24 partnership, or corporation, has received the required
25 specific license from the board. Persons engaged in the

1 installation or servicing of onsite sewage systems shall
2 obtain a basic level installer license for conventional onsite
3 sewage systems or an advanced level installer license for
4 engineered onsite sewage systems. All manufacturers of onsite
5 sewage septic tanks or receptacles for onsite sewage systems
6 shall qualify and obtain a manufacturer's license. Licenses
7 issued under this chapter shall be granted to individuals
8 meeting the criteria for qualification as established by this
9 board. The licensee shall perform no work outside the level of
10 competency stated on the certificate of license. An individual
11 may be licensed in all areas of eligibility.

12 "(f) No individual, business, partnership, or
13 corporation shall advertise, solicit, bid, obtain permit,
14 conduct business, or perform the function of manufacturing,
15 installing, cleaning, servicing, repairing, or maintaining
16 onsite sewage equipment or systems in Alabama unless the
17 person or persons in responsible charge are licensed as
18 defined in this chapter.

19 "(g) No official charged with the duty of issuing
20 business licenses to any individual, partnership, corporation,
21 or other business entity to operate a business performing the
22 function of manufacturing, installing, cleaning, servicing,
23 repairing, or maintaining onsite sewage equipment or systems
24 in Alabama shall issue such a business license unless there is
25 presented for inspection a license certificate as provided

1 herein issued by the board to the individual or to some person
2 in responsible charge with the partnership, corporation, or
3 business entity.

4 "(h) No license shall be issued except to an
5 individual. A firm, partnership, association, or corporation
6 shall not be licensed. Partnerships, corporations, or other
7 business entities shall designate the licensed individual in
8 responsible charge under whose name its business is to operate
9 to the local business licensing authority, the board, and the
10 local health officials. If that designated person ceases to be
11 employed by the business entity, notice shall be made
12 immediately to the board and the local health officials. The
13 partnership or corporation shall then have 45 days to
14 re-designate a licensed individual responsible for work
15 performed by the business entity. During this 45-day period,
16 no work shall be initiated by the business entity without the
17 knowledge and approval of local health officials. Any work
18 performed during this time shall be inspected by local health
19 officials and approved by the officials before being
20 considered complete and put into operation. Under special
21 circumstances, a business entity engaged in the manufacture of
22 septic tanks can petition the board for an extension of time
23 beyond the 45-day period to re-designate a licensed individual
24 in a position of responsible charge under whose manufacturer's
25 license the business is to operate. Under no condition may

1 this extension of time extend more than three weeks past the
2 date of the next examination offered by the board for a
3 manufacturer's license.

4 "(i) License certificates suitable for framing,
5 bearing the licensee's name, level and type of license,
6 license number, and the calendar year in which the license is
7 valid shall be issued to all qualified licensees. Every
8 licensee holding a license issued by the board shall display
9 it in a conspicuous manner at his or her principal place of
10 business.

11 "(j) All licensees shall abide by all federal,
12 state, and local laws and ordinances. No license issued by the
13 board may be sold or transferred. Any license misused may be
14 revoked by the board.

15 "(k) Every licensee shall notify the board of the
16 address of his or her place of business, the counties in which
17 he or she does business or performs work, and the name under
18 which the business is carried on. Licensees shall give
19 immediate notice to the board of any change in this
20 information. Service of any process shall be achieved by
21 mailing notice of such information by first class postage,
22 U.S. Postal Service, to the address of record. No further
23 service of process shall be required.

24 "§34-21A-13.

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

6 "(1) The applicant's name, date of birth, social
7 security number, residence address, telephone number, and
8 county of residence.

9 "(2) The name of the applicant's employer, or the
10 name of the applicant's business, including the business
11 address and telephone number of the employer or applicant's
12 business.

13 "(3) Details of the applicant's business experience,
14 details of the applicant's work experience, and classroom
15 training in the areas of requested licensing.

16 "(4) A signed statement from an official from the
17 applicant's county health department stating that the
18 applicant is in good standing with the local or county health
19 department.

20 "(b) Application forms may also require any
21 information deemed by the board to be significant in
22 evaluating the qualifications of an applicant for license,
23 examination, or license renewal.

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

1 "(d) The board shall approve through its executive
2 director the issuing of a license to each applicant meeting
3 the qualifications as set forth by the board, or deny a
4 license to each applicant not meeting the qualifications as
5 set forth by the board.

6 "§34-21A-14.

7 "(a) The board shall develop eligibility
8 requirements to be met by applicants seeking licensing by the
9 board. The minimum application requirements shall include, but
10 are not limited to, the applicant's:

11 "(1) Business experience.

12 "(2) Work experience in the requested area of
13 licensure.

14 "(3) Completion of training requirements as
15 established by the board.

16 "(4) Successful completion of the required
17 examination.

18 "(5) Evidence of bond.

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

22 "(1) Completion of classroom instruction.

23 "(2) Successful completion of required examination.

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

4 "(c) Any plant holding a current manufacturing
5 certification issued by the National Precast Concrete
6 Association shall be considered to have sufficiently met the
7 plant inspection requirement.

8 "§34-21A-15.

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

14 "(b) The board shall offer and provide examinations
15 which test the knowledge, skill, and qualifications of the
16 applicants.

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

20 "(d) The board shall establish dates and locations
21 for a minimum of three separate examinations each calendar
22 year.

23 "(e) The board shall establish the minimum
24 examination grade necessary for successful completion of an
25 examination.

1 "(f) The board shall develop or approve two separate
2 and specific examinations to test the knowledge and
3 qualifications of those applicants for basic level license and
4 advanced level licenses as follows:

5 "(1) The basic installer level license examination
6 shall test the knowledge and qualifications of applicants
7 seeking a license to install, clean, service, repair, or
8 maintain conventional onsite sewage systems.

9 "(2) The advanced level installer license
10 examination shall test the knowledge and qualifications of
11 applicants seeking a license to install, clean, service,
12 repair, or maintain engineered onsite sewage systems.

13 "(g) A person shall first obtain a basic level
14 installer license before qualifying to take the examination
15 for an advanced level installer license.

16 "(h) The board shall develop a specialized
17 examination to test the qualifications of those applicants
18 seeking a manufacturer's license.

19 "(i) The board shall develop or approve any other
20 additional examinations as may be necessary for additional
21 areas of qualification and license levels as may be
22 established by the board to meet industry requirements and
23 technological advancements in the onsite sewage industry.

24 "(j) Examinations shall be administered by the
25 executive director or persons designated by the board. Any

1 national standardized examination which the board may approve,
2 or any other examination developed under the direction of the
3 board, or any combination thereof, may be administered to
4 applicants to test their knowledge and qualifications. The
5 board shall establish the level of achievement as shall be
6 required for a passing grade for examinations.

7 "(k) Written examination results shall be provided
8 within 14 days of taking the examination. Successful
9 candidates shall also be informed of the procedures required
10 to complete the license process. Any person who fails an
11 examination may, upon reapplication and payment of required
12 fees, take the examination when offered by the board.

13 "(l) The executive director shall provide to the
14 Alabama Department of Public Health and the appropriate local
15 health authorities a list of all candidates who successfully
16 qualify for a license within 14 days following the date the
17 license is issued by the board.

18 "§34-21A-16.

19 "In order to assure financial stability and
20 professional competence and performance of licensees, all
21 licensees, without exception, are required to be bonded for
22 any work performed under the license. Minimum amounts for
23 required bonds shall be established by the board and evidence
24 of bond shall be provided to the board before any license will
25 be issued. In no event may the minimum required bond amounts

1 set by the board be less than fifteen thousand dollars
2 (\$15,000) for a basic level license, a pumper license, a
3 portable restroom/toilet license, or a manufacturer's license,
4 and thirty thousand dollars (\$30,000) for an advanced level
5 license. All active licensees shall maintain a current bond
6 for each license he or she holds. The executive director shall
7 immediately suspend any active license without a current bond
8 on file. The executive director shall reinstate the active
9 license once a reinstatement fee is paid by the licensee and
10 the bond is reactivated or replaced. In the event the licensee
11 contends his or her license has been unjustly suspended, the
12 licensee may request a hearing and the executive director
13 shall hear same within 10 business days of the request.

14 "§34-21A-17.

15 "After December 31, 1999, individuals not currently
16 licensed will be required to follow the requirements for
17 license application, including completing required training
18 and successfully passing any required examination.

19 "§34-21A-21.

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

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

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

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

5 "(4) Selling or conveying the license to another
6 person.

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

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

11 "(7) Committing a dishonest or illegal act in the
12 performance of work covered under the license.

13 "(b) The board shall take appropriate action to
14 enforce the rules adopted with regard to license suspension or
15 revocation.

16 "(c) After suspension or revocation of a license of
17 any licensee, the board shall publish this information to the
18 public.

19 "§34-21A-22.

20 "(a) The board shall establish procedures to
21 process, review, and investigate reports and complaints of
22 fraud, incompetence, misconduct, and dishonest or illegal acts
23 of licensees in the performance of work covered under licenses
24 of this board; and complaints supported by evidence shall be
25 reviewed at a disciplinary hearing, which hearing shall be

1 conducted in compliance with the provisions of the Alabama
2 Administrative Procedure Act and held before the board. The
3 board shall establish the procedures for such disciplinary
4 hearings. A member of the board who has a conflict of interest
5 concerning the parties involved or issues involved in the
6 disciplinary hearing shall recuse himself or herself from the
7 hearing and the disciplinary proceeding.

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

10 "§34-21A-24.

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

21 "§34-21A-25.

22 "(a) Any person who undertakes or attempts to
23 undertake the business of manufacturing, installing,
24 servicing, cleaning, repairing, or maintaining any onsite
25 sewage system or equipment without first having obtained and

1 having possession of a current, valid license from the board
2 or who knowingly presents or files false information with the
3 board for the purpose of obtaining a license or otherwise
4 fraudulently obtains a license, or who knowingly violates any
5 provision of this chapter regulating the onsite sewage
6 industry shall be guilty of a Class A misdemeanor, as defined
7 by the state criminal code.

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

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

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

24 "(e) In addition to or in lieu of the criminal
25 penalties and administrative sanctions provided in this

1 chapter, the board may issue an order to any person, firm, or
2 corporation engaged in any activity, conduct, or practice
3 constituting a violation of this chapter directing the person,
4 firm, or corporation to immediately cease and desist from the
5 activity, conduct, practice, or performance of any work then
6 being done or about to be commenced. The order shall be issued
7 in the name of the State of Alabama under the authority of the
8 board. A person, firm, or corporation that does not comply
9 with a cease and desist order shall be deemed in violation of
10 this chapter and shall be subject to all disciplinary powers,
11 penalties, fines, and remedies available to the board."

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

20 Section 3. The provisions of this act are severable.
21 If any part of this act is declared invalid or
22 unconstitutional, that declaration shall not affect the part
23 which remains.

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB103

Senate 11-FEB-10

I hereby certify that the within Act originated in and passed the Senate, as amended.

McDowell Lee
Secretary

House of Representatives
Passed: 11-MAR-10

By: Senator Little (Z)