

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 91

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO GEOLOGISTS; AMENDING SECTION 54-2804, IDAHO CODE,
 2 TO REVISE A PROVISION RELATING TO QUALIFICATIONS FOR BOARD
 3 MEMBERSHIP; AMENDING SECTION 54-2808, IDAHO CODE, TO REVISE
 4 PROVISIONS RELATING TO THE POWERS OF THE BOARD AND TO MAKE
 5 TECHNICAL CORRECTIONS; REPEALING SECTION 54-2810, IDAHO CODE,
 6 RELATING TO RECORD AND REGISTER KEEPING; AMENDING SECTION
 7 54-2818, IDAHO CODE, TO CLARIFY CERTAIN CONTRACT EXCEPTIONS AND
 8 TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-2819, IDAHO
 9 CODE, TO REVISE PROVISIONS RELATING TO DISCIPLINARY GROUNDS AND
 10 PROCEEDINGS AND TO PROVIDE AN ADMINISTRATIVE FINE FOR CERTAIN
 11 VIOLATIONS; AND AMENDING SECTION 54-2821, IDAHO CODE, TO PROVIDE
 12 CORRECT TERMINOLOGY AND TO PROVIDE TECHNICAL CORRECTIONS.
 13

14 Be It Enacted by the Legislature of the State of Idaho:

15 SECTION 1. That Section 54-2804, Idaho Code, be, and the same is hereby amended to
 16 read as follows:

17 54-2804. QUALIFICATIONS FOR BOARD MEMBERSHIP. Members of the board
 18 shall be citizens of the United States and residents of this state, and they shall have been
 19 engaged in the practice of geology for at least ~~twelve~~ seven (~~12~~7) years and shall never have
 20 been the subject of a disciplinary action under the provisions of this chapter.

21 SECTION 2. That Section 54-2808, Idaho Code, be, and the same is hereby amended to
 22 read as follows:

23 54-2808. POWERS AND DUTIES OF BOARD ~~—SUBPOENAS.~~ (1) The board shall
 24 have the power to adopt and amend rules including, but not limited to, a code of ethics
 25 and standards of conduct which may be reasonably necessary for the proper performance of
 26 its duties and the administration of this chapter and the regulation of proceedings before the
 27 board. It shall adopt and have an official seal. It shall have power to provide an office, office
 28 equipment and facilities and such books and records as may be reasonably necessary for the
 29 proper performance of its duties. The board may, by written agreement, authorize the bureau of
 30 occupational licenses as agent to act in its interest.

31 (2) The board is authorized to enter into mutual aid agreements, interstate compacts,
 32 contracts or agreements to facilitate the practice and regulation of geology in this state.

33 (3) In carrying into effect the provisions of this chapter, the board, under the hand of its
 34 chairman and the seal of the board, may request the attendance of witnesses and the production
 35 of such books, records and papers as may be required at any hearing before it, and for ~~that~~ the
 36 purpose of disciplinary matters pursuant to this chapter the board may request a district court to
 37 issue a subpoena for any witness or a subpoena duces tecum to compel the production of any

1 books, records or papers. Subpoenas shall be directed to the sheriff of any county in the state
 2 of Idaho where such witness resides or may be found. Subpoenas shall be served and returned
 3 in the same manner as subpoenas in a criminal case. The fees and mileage of the sheriff and
 4 witnesses shall be the same as that allowed in district court criminal cases, which fees and
 5 mileage shall be paid from any funds in the state treasury available therefor in the same manner
 6 as other expenses of the board are paid. Disobedience of any subpoena issued by the district
 7 court or the refusal by any witness in failing to testify concerning any matter regarding which
 8 he may lawfully be interrogated, or the failure to produce any books, records or papers, shall
 9 constitute a contempt of the district court of any county where such disobedience or refusal
 10 occurs, and said court, or any judge thereof, by proceedings for contempt in said court, may, if
 11 such contempt be found, punish said witness as in any other case of disobedience of a subpoena
 12 issued from such court or refusal to testify therein.

13 (4) The board is hereby authorized in the name of the state to apply for relief by
 14 injunction in the established manner provided in cases of civil procedure, without bond, to
 15 enforce the provisions of this chapter or to restrain any violation thereof.

16 SECTION 3. That Section [54-2810](#), Idaho Code, be, and the same is hereby repealed.

17 SECTION 4. That Section 54-2818, Idaho Code, be, and the same is hereby amended to
 18 read as follows:

19 54-2818. STATE AND POLITICAL SUBDIVISION CONTRACTS –
 20 EXCEPTIONS. As to geology work performed within the state of Idaho, t~~This~~ his state and its
 21 political subdivisions, such as county, city, or legally constituted boards, districts, commissions
 22 or authorities, shall contract for geological services only with persons registered under this
 23 ~~act~~ chapter, provided further that nothing in this section or ~~act~~ chapter shall be construed to
 24 prevent registered professional engineers from lawfully practicing soils mechanics, foundation
 25 engineering, geological engineering, and other professional engineering, as provided in chapter
 26 12, title 54, Idaho Code, and licensed architects from lawfully practicing architecture as
 27 provided in chapter 3, title 54, Idaho Code.

28 SECTION 5. That Section 54-2819, Idaho Code, be, and the same is hereby amended to
 29 read as follows:

30 54-2819. DISCIPLINE. (1) Grounds for discipline. The board shall have the power to
 31 deny any application for or renewal of a certificate of registration or to revoke, suspend or
 32 ~~amend any such certificate~~ otherwise discipline any registrant or registration issued pursuant to
 33 this chapter and to limit or restrict the practice of any registrant upon a determination by the
 34 board that the person:

- 35 (a) Made, or caused to be made, a false, fraudulent or forged statement, document,
 36 credentials or representation in procuring or attempting to procure a certificate of
 37 registration to practice geology; or
 38 (b) Practiced geology under a false or assumed name; or
 39 (c) Was convicted of, found guilty, received a withheld judgment or suspended sentence
 40 in this or any other state of action constituting a felony or of a crime involving moral
 41 turpitude; or

1 (d) Violated the provisions of this chapter or rules, standards of conduct and practice, or
2 any ethical codes as may be adopted by the board; or

3 (e) Is or has been grossly negligent, incompetent, or reckless in the practice of geology;
4 or

5 (f) Has had a license, certificate, or registration to practice as a professional geologist
6 suspended or revoked in any jurisdiction. A certified copy of the order of suspension or
7 revocation shall be prima facie evidence of such suspension or revocation.

8 (2) Proceedings. Every person subject to disciplinary proceedings shall be afforded an
9 opportunity for hearing after reasonable notice.

10 (a) All proceedings hereunder shall be in accordance with chapter 52, title 67, Idaho
11 Code, and the Idaho rules of administrative procedure of the attorney general (IDAPA
12 04.11.01).

13 (b) Hearings shall be conducted by the board or by persons appointed by the board to
14 conduct hearings and receive evidence.

15 (3) Probation. Any order of the board entered under this section may be withheld or
16 suspended for a probationary period to be fixed by the board upon such terms and conditions
17 as may be appropriate in order to regulate, monitor or supervise the practice of geology by the
18 registrant subject to such order for the prescribed probationary period.

19 (4) Subsequent review. Any order of the board entered under this section may be
20 withdrawn, reversed, modified or amended upon a showing by the person subject to the
21 order that the grounds for discipline no longer exist or that he is rehabilitated, qualified and
22 competent to practice professional geology and that he is not likely to violate the provisions of
23 this section or rules adopted hereunder in the future.

24 (5) Costs and fees. The board may, pursuant to an order of discipline or as a condition
25 to withdrawal, reversal, modification or amendment of the order, require the person to pay all
26 or part of the costs and fees incurred by the board in proceedings upon which the order was
27 entered.

28 (6) Administrative fines. The board may, pursuant to an order of discipline, require
29 the payment of an administrative fine not to exceed one thousand dollars (\$1,000) for each
30 violation of the provisions of this section or rules adopted hereunder.

31 SECTION 6. That Section 54-2821, Idaho Code, be, and the same is hereby amended to
32 read as follows:

33 54-2821. VIOLATIONS OF ~~ACT~~ CHAPTER. (1) Any person who shall practice,
34 or offer to practice, professional geology for others in this state without being registered in
35 accordance with the provisions of this ~~act~~ chapter, or any person presenting or attempting to
36 use as his own the certificate of registration or the seal of another, or any person who shall give
37 any false or forged evidence of any kind to the board or to any member thereof in obtaining
38 a certificate of registration, or any person who shall falsely impersonate any other registrant
39 of like or different name, or any person who shall attempt to use an expired or a revoked
40 certificate of registration or practice at any time during a period the board has suspended or
41 revoked a certificate of registration or any person who shall violate any of the provisions of this
42 ~~act~~ chapter, shall be guilty of a misdemeanor.

43 (2) The board may employ legal counsel or may request the attorney general of this
44 state or any assistant designated by him to act as legal advisor of the board, and the attorney
45 general shall be reimbursed by the board for any expenses incurred by the attorney general

1 in representing the board; and all violations of the provisions of this ~~act~~ chapter shall be
2 prosecuted by the prosecuting attorney of the county or counties in which the violations of
3 the ~~act~~ chapter may be committed.