

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Senate Committee on
Agriculture and
Environmental
Resources
(SC-AER)

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR_RCP_pt01a
- 97hrAC-EdR_RCP_pt01b
- 97hrAC-EdR_RCP_pt02

- Appointments ... Appt
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- Miscellaneous ... Misc
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State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Tommy G. Thompson
Governor

Marlene A. Cummings
Secretary

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P O BOX 8935
MADISON, WISCONSIN 53708-8935
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February 24, 1998

TO: Marlene A. Cummings, Secretary

FROM: Pat McCormack, Deputy Secretary *em*

SUBJECT: Fiscal Impact of Substitute Amendment, LRBs0527/1, to Senate Bill 420, creating an Examining Board of Professional Geologists, Hydrologists and Soil Scientists

The fiscal impact of LRB 0527/1 on the department's operations is significant because it creates an examining board which licenses geologists, hydrologists, and soil scientists.

The department would pay for expenses associated with a 12 member board which would need to meet for the first two years at least twelve times a year to develop rules and make decisions relating to examinations. The per diems for the board would cost \$3,600 per year, \$3,100 more than the current per diem costs for the Geologist Section. Additional travel and lodging expenses would cost an additional \$11,253 over current budgeted costs for the Geologist Section. Out of state travel would cost \$2,600 above the budgeted amounts associated with the current Geologist section. Membership dues for the two additional professional associations would cost \$3,042.

The department continues to assume that we can use the geologist and soil scientist examinations which are already available. The American Institute of Hydrology (AIH) would assist the department in upgrading its examination to meet professional testing standards. The department has discussed the examination with the president of the Wisconsin Section of the AIH, Mr. Harry Parrott, who said they would be open to working on a joint project with the department to develop an examination which meets licensing examination standards. Mr. Parrott has also stated that AIH would not be able to provide any funding for the project. Based on this assumption, the department believes the costs for 18 months to develop a groundwater examination and a surface water examination, would total \$49,200. The department would receive \$4,800 in administrative fees from applicants (\$16 per candidate). As a result, the actual costs for the first two years would be \$44,400. During subsequent years, the annual maintenance costs for each examination would be \$4,600. (Please see attached chart outlining the exam development process.)

Regulatory Boards

Accounting; Architects; Landscape Architects; Professional Geologists; Professional Engineers; Designers and Land Surveyors; Auctioneer; Barbering and Cosmetology; Chiropractic; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Psychology; Real Estate; Real Estate Appraisers; Social Workers; Marriage and Family Therapists and Professional Counselors; and Veterinary.

The department believes that additional staff will be necessary. The direct licensing of the professions as established in the registry model allows the department to automate and streamline the application process. The substitute amendment requires the sections to review and approve the applications. A staff person (.5 Program Assistant 3) is needed to assist the board in this process because of the extensive experience and education requirements outlined in this amendment. The department also believes that it may be necessary to hire a .5 Attorney 13 to serve as board legal counsel and assist in the rulemaking process. Salary and fringe benefit costs for this staff would be \$39,465 with additional supplies and services costing \$7,346.

In subsequent years, the department believes that additional enforcement staff would be needed. The costs associated with hiring a Regulation and Compliance Investigator and a paralegal would be \$67,179. Other costs for supplies and services would be \$9,346.

The department estimates that the total increase in annual costs for the general operations appropriation (20.165 (1) (g)) in the first biennium would be \$62,264 and the total increase in annual costs for the examinations appropriation (20.165 (1)(i)) would be \$24,500.

The department continues to estimate that about 100-200 soil scientists and 100-150 hydrologists will register during the first biennium, thereby increasing revenues by at least \$8,200 in initial credential fees.

The plan will require the equivalent of one experienced FTE Exam Specialist for 18 months, with assistance from other office staff. I may assign two specialists to work on it part time, in order to cover the large number of meetings required in a short time.

| Task | Comment | Time | Cost Groundwater | Cost Surface Water |
|--|---|---------------|---------------------|-----------------------|
| Convene committee to define practice competencies | 10 mbrs, expenses ave \$100 each; 3 mtgs | 2 mo | 3000 | 3000 |
| Survey profession, analyze results | 400 @ \$3.00 postage | 3 mo | 600 | 600 |
| Develop test specifications based on survey results | 10 mbrs, \$100 exp; 2 mtgs | 2 mo | 2000 | 2000 |
| Write questions to plan | 500 questions needed | 4 mo overall | | |
| Writer training | Four mtgs of 10 writers each | | 4000 | 4000 |
| Writer homework | 500 questions @ \$6 | | 3000 | 3000 |
| First year subtotals | | | 12,600 | 12,600 |
| Review, validate questions, collect pass point recommendations | 600 questions (include those overlapping both exams) @ 50 questions per mtg, 10 reviewers each mtg; 12 mtgs | 5 mo | 12000 | 12000 |
| Develop forms, set cut score | | 2 mos | | |
| Present to Dept advisory cmte | | | | |
| Second year subtotals | | | 12,000 | 12,000 |
| TOTALS | | 18 mos | 24,600 | 24,600 |

Annual Maintenance

| Task | Comment | Time | Cost Groundwater | Cost Surface Water |
|--|---|--------------|---------------------|-----------------------|
| Write questions to plan | 100 questions needed | 4 mo overall | | |
| Writer training | Two mtgs of 10 writers each | | 2000 | 2000 |
| Writer homework | 100 questions @ \$6 | | 600 | 600 |
| Review, validate questions, collect pass point recommendations | 100 questions @ 50 questions per mtg, 10 reviewers each mtg; 2 mtgs | 2 mo | 2000 | 2000 |
| Develop forms, set cut score | | 2 mos | | |
| Present to Dept advisory cmte | | | | |
| TOTAL | | | 4600 | 4600 |

Administration costs would be the average of \$16 per candidate.



WISCONSIN ASSOCIATION OF CONSULTING ENGINEERS

131 W. Wilson St., Suite 502 Madison, WI 53703 (608) 257-WACE FAX: (608) 257-0009
(9223)

February 25, 1998

Senate Committee on Agriculture and Environmental Resources
Senator Alice Clausing, Chairman
P O Box 7882
Madison, WI 53707

Dear Senator Clausing and Members of the Committee:

The Wisconsin Association of Consulting Engineers would like to be placed on record as being opposed to SB 420, the Geoscience Registry Bill. This organization represents 58 firms throughout the state. These member firms employ more than 4000 people and include engineers, geologists, soil scientists, and other highly educated, skilled, experienced people in responsible positions.

There are 3 areas of concern in this legislation. Our comments follow the issues:

1. Mandatory Registration – Registration must be mandatory to practice.
2. Level of Education - The level of education, experience, and testing must be similar to that of the existing professional registrations.
3. Consistent Goals – The goals of registration, professional recognition, and protection of the public health and welfare must be consistent with the goals of other existing registrations.

WACE received a copy of the Senate Substitute Amendment to SB 420 late yesterday afternoon. Given inadequate time to review the proposed legislation, it is difficult for this organization to provide a well thought out response.

We believe the concept of a separate board for geologists, hydrologists and soil scientists seems appropriate, however we have 2 concerns. WACE would like to make certain the legislation:

1. Does not restrict the practice of engineering
2. Does not license non engineers to do engineering

Thank you for allowing WACE to express its opinion on both the bill and proposed amendment.

Sincerely,


Philip J Ramlet
President



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary

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Testimony to the Senate Agriculture and Environment Committee February 25, 1998.

Good afternoon. My name is Michael Lemcke. I am the Chief of the Department of Natural Resources Groundwater Section within the Bureau of Drinking Water and Groundwater. I am appearing today for informational purposes and in support of the concept of changing existing statutory language to allow qualified professionals to practice in their area of expertise as is the intent in SB 420 and the substitute amendment to SB 420.

The process involved in developing the proposed Professional Geoscientist legislation has been long and well thought out. The various entities have worked hard on developing a satisfactory solution to all parties involved. They have really gone the extra mile in trying to ensure that an implementable solution was developed.

One issue that is important to the department is to make sure that, in the future adopted statutory language, it is clear that agencies which have duties involving the review of information derived from the practice of professional geology, hydrology, or soil science may adopt rules which require that specified activities be performed by persons holding appropriate certificates or registrations under the proposed chapter.

I hope that this Committee is able to carry the torch through the legislative process to get suitable legislation passed on this issue. Thank you for your time and consideration on this important Geoscientist legislation.



Tommy G. Thompson
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Secretary

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TESTIMONY OF
Patricia McCormack, representing the
DEPARTMENT OF REGULATION AND LICENSING
Before the Senate Committee on
AGRICULTURE AND ENVIRONMENTAL RESOURCES
Senator Alice Clausing, Chair
Concerning
Senate Bill 420
Room 2 - 119 Martin Luther King Jr. Blvd.
Wednesday, February 25, 1998 10:00 A.M.

Chairperson Clausing, members of the Committee, thank you for this opportunity to present information concerning 1997 Senate Bill 420. I am Pat McCormack, Deputy Secretary of the Department of Regulation and Licensing. Secretary Marlene Cummings was unable to attend this hearing and asked that I present the position of the Department of Regulation and Licensing on Senate Bill 420. I understand that a substitute amendment will be offered for this bill. The LRB draft for the substitute amendment, LRBs0527/1, was apparently just drafted yesterday.

Regulation of the geology profession in Wisconsin is relatively recent, having been created by 1993 Wisconsin Act 463, effective May 12, 1994. The Department of Regulation and Licensing supports Senate Bill 420 as necessary to respond to unanticipated adverse consequences of the geology statute created in 1994.

Regulatory Boards

Accounting; Architects; Landscape Architects; Professional Geologists; Professional Engineers; Designers and Land Surveyors; Auctioneer; Barbering and Cosmetology; Chiropractic; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Psychology; Real Estate; Real Estate Appraisers; Social Workers; Marriage and Family Therapists and Professional Counselors; and Veterinary.

About ten months ago, the profession and professors at the University of Wisconsin - Stevens Point identified problems with the current statute, namely, because the practice of geology is restricted to individuals who are registered as professional geologists and the definition of "geology" is broad, some individuals are prohibited from working in the geology-related professions of hydrology and soil science in which they are educated and competent, except under the supervision of a registered geologist. Second, students in these geology-related professions are unable to meet the educational and examination requirements set by the Board that regulates geologists. This group of professionals and students are, in effect, disenfranchised from their professions as a direct result of the extensive state regulatory control over geology.

The Department established a study committee to look into this issue and proposed ideas for legislation which were eventually incorporated into Senate Bill 420. The Department appreciates the support and assistance of many legislators and legislative staff in preparing Senate Bill 420 as a reasoned response to a limited problem.

In varying degrees, state regulation of a profession may be very restrictive and comprehensive or more modest and less intrusive. The most strict regulation imposes significant experience, education and examination requirements, limits use of professional titles and defines a legally protected scope of practice. Less restrictive regulatory structures do not include experience requirements, require lesser education and may protect professional titles without limiting a defined scope of practice. By nature, occupational regulation is anti-competitive and limits public access to professional services. Consequently, comprehensive regulation of a profession has been imposed where potential harm to public health and safety from incompetent or careless practitioners is the most threatening. Where the consumer is less at risk, the level of regulation has been less restrictive.

The registry model established in Senate Bill 420 provides minimal regulation but provides significant public protection. Under Senate Bill 420, state law:

- ❑ Eliminates the problematic restrictions currently in the law and permits professionals to engage in the work for which they have been trained.
- ❑ Recognizes the three related professions of geologists, hydrologists, and soil scientists. Defines “geoscience” and defines the practices of geology, hydrology and soil science in unique terms and as primary branches of geoscience
- ❑ Requires the appointment of professional geology, hydrology and soil science advisory councils to advise and assist the department in regulating these professions.
- ❑ Limits use of the titles “Wisconsin registered professional geologist,” “Wisconsin registered professional hydrologist” and Wisconsin registered professional soil scientist” to persons who are registered.
- ❑ Requires the Department to adopt administrative rules establishing requirements and standards for practice, registration requirements, including educational and training requirements and ethical requirements for practice.

The proposed substitute amendment to the bill establishes the most restrictive form of state regulation without real evidence of consumer need. The substitute amendment:

- ❑ Creates a 12 member Examining Board of Professional Geologists, Hydrologists and Soil Scientists to regulate professional geologists, hydrologists and soil scientists who operate through three sections.
- ❑ Retains the current definition of the “practice of professional geology” and defines “hydrology,” the “practice of professional hydrology,” “soil science” and the “practice of professional soil science;” as independent professions without identifying the overlap and relatedness of the three professions as geoscience.
- ❑ With limited exceptions, prohibits any unlicensed person from practicing the professions of geology, hydrology or soil science or using any title or designation that “may tend to represent” the person as a professional geologist, hydrologist or soil scientist and provides a penalty of up to \$5,000 for a first violation and \$10,000 for a

second or "willful" violation of these and other provisions. [Proposed secs. 470.02 and 470.09]

- Requires the board, upon the advice of the sections, to promulgate rules establishing practice standards and education requirements for the three professions.
- Requires applicants for licensure to submit letters of recommendation from 5 persons, including at least one letter from a licensee of the board.
- In addition to education, experience and examination prerequisites, requires applicants to have completed specified levels of experience: from 5 - 7 years, depending on the profession and the educational degree of the applicant.

The Department opposes the proposed substitute amendment because it would result in the creation of a new 12-member examining board and extensive regulation of two new professions, hydrology and soil science, along with professional geologists. The substitute amendment has a substantial fiscal impact on our agency, increasing costs such as those expenses associated with an independent examining board, developing two hydrology examinations, and hiring staff to assist with extensive rulemaking by the board and board review and approval of all applications. I have attached a memorandum which outlines the costs associated this restrictive regulation.

A Legislative Council analysis of Senate Bill 420 as originally drafted, states, in part, that,

“. . . the draft significantly reduces the regulatory burden imposed by the statute, and the precise distinctions in the practice of these professions, while important to those engaged in the practice of the professions, are less critical for the purposes of the statute and are appropriately left for the discretion of the DRL.”

“By allowing DRL to determine the scope of each registration, the draft also avoids the potential for making errors in defining these professions in the statutes. The DRL can engage in a deliberative process with the three advisory committees to determine the appropriate definitions in the administrative rules.

Passage of the substitute amendment could have the same adverse results that the bill is intended to correct, and so, the department supports SB 420 as originally drafted.

Thank you for the opportunity to present the department's views on these two proposals.



Wisconsin Society of Professional Engineers

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A state society of the National Society of Professional Engineers

Mary E. (Mel) Mitchell
Executive Director

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February 25, 1998

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To: Senate Agriculture & Environmental Resources Committee
Senator Alice Clausing, Chair and Committee Members: Senators
Wirch, Lasee, Zien

From: Max Schmiege, P.E., President, WI Society of Professional Engineers
John Snedeker, P.E., Vice President

Re: **I. Oppose Senate Bill 420**

**II. Qualified Support of Senate Substitute Amendment to
1997 Senate Bill 420**

I. Opposition to Senate Bill 420: Geoscience Registry

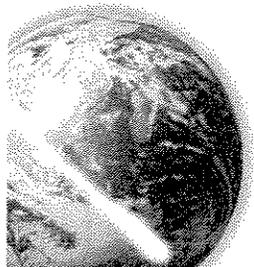
On behalf of the statewide members of the Wisconsin Society of Professional Engineers (WSPE), we urge the Senate Agriculture & Environmental Resources Committee to oppose Senate Bill 420. We strongly believe that the proposed Title Act model of registration does not protect the public safety and welfare.

Instead, WSPE supports a Practice Act model of licensing for Geologists, Soil Scientists and Hydrologists, with definitions, academic qualifications and scope of practice specifically written into the State Statute.

WSPE strongly opposes Senate Bill 420 as written for these reasons:

1. The elimination in Section 11 of the requirements of soils, mathematics and the physical and life sciences, acquired by education and practical experience required by Chapter 443.01 (7e) with the nebulous requirements of the proposed 470.03 (1) (b) Section 51 does not demonstrate an appropriate level of concern for public safety and welfare.
2. The wording in Section 51 of 470.02(2) is such that ANYONE could engage in the practices indicated. This creates a huge loophole that defeats the purpose of licensing professionals. WSPE strongly opposes this language.

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3. 470.03 in Section 51 authorizes the Department of Regulation & Licensing establish a Code of Ethics rather than the professional bodies involved who are better qualified to define their responsibilities as professionals. True professions already have well established ethical standards.
4. Section 470.05 in Section 51 does not mandate examination of competency by the use of "may" rather than "shall" in the final sentence.
5. Section 53 2c authorizes the Department of Regulation & Licensing as an accrediting body rather than the appropriate academic peer accrediting organizations. (page 25, lines 9 and 10) In general, true professions have well established accreditation organizations evaluating their academic programs.
6. Section 53 does not contain a reference to a required examination for a certificate of registration.
7. In general, this bill is being opposed because at a time when great concern is being expressed by the body public and the body politic with respect to environmental matters, this legislation weakens rather than strengthens the health, safety and welfare protection of the public. Present procedures are far superior to those of this proposed legislation.

II. Qualified Support of the Senate Substitute Amendment to 1997 Senate Bill 420

If the Senate Substitute Amendment to 1997 Senate Bill 420 is introduced, WSPE supports the proposed amendment with qualifications. As stated above, we support the creation of a Practice Act for these professions, rather than a Title Act (a model which WSPE strongly opposes.)

A. Our qualified support of the Substitute Amendment is based on the following concerns:

1. On page 7, advanced degrees in Engineering Geology or Geotechnical Engineering should qualify as one year's experience.
2. Substitute amendment does not require a degree in area of specialization. (See current Chapter 443.037 for example)
3. For the record, as was our concern with the original development of the Geologist Section of the Registration Statute, Section 470, WSPE's position continues to be that non-engineers must not be allowed to practice engineering.

B. Additionally, during our review, the following items came to our attention and should be addressed:

1. On page 6, material beginning on line 23 contradicts material starting on line 3. Is 5 years or 7 years of experience required?
2. On p. 26, statement of line three is hanging without support.

We welcome any questions or comments you may have on our position. Please contact Mel Mitchell, WSPE Executive Director, at 608-278-7000.

**THE WISCONSIN SECTION
OF THE
AMERICAN INSTITUTE OF PROFESSIONAL GEOLOGISTS**
1033 North Mayfair Road - Milwaukee, Wisconsin 53226 Phone: 414-257-4200
Suit 808, 404 North Main Street - Oshkosh, Wisconsin 54901

RE: Position Paper - SB 420 - Soil Scientist, Hydrologist, and Geologist Registration

The Geologists, Hydrologists, and Soil Scientists have reached agreement regarding SB 420. The verbal agreement calls for a substitute amendment to SB 420 which would allow registration of all three professions on an equal basis.

The agreement is between the Wisconsin Section of the American Institute of Professional Geologists (AIPG), the Soil Scientists (Crop Science Society of America, Soil Science Society of America, and the American Society of Agronomy) and the Hydrologists (Committee for Fairness in the Earth Sciences).

The basic components of the agreement are:

- 1. The professions should be regulated by practice acts.**
- 2. The professions should be regulated by a board system.** The substitute amendment will establish professional boards to administer each profession. The substitute amendment will define each science, the practice of each science, and the qualifications necessary to become registered. Additionally, the substitute amendment will establish a joint examining board of soil scientists, hydrologists, and geologists. The joint board system will allow for efficient regulation of similar professions.

The proposed model is consistent with the current Wisconsin geology registration statute and the statutes of other registered professionals in Wisconsin (architects, engineers, surveyors, etc.). It is also consistent with the national models for these professions which are law in many other states.

The geologists, through AIPG, will continue to work with the soil scientists and hydrologists to develop the above referenced provisions into a substitute amendment. With the complete inclusion of these important provisions into SB 420, AIPG will support this important bill.

The proposed model will help the professions to work together to maintain public health and welfare, as well as protect our valuable earth resources.