



House of Representatives

General Assembly

File No. 196

January Session, 2011

Substitute House Bill No. 6400

House of Representatives, March 24, 2011

The Committee on Commerce reported through REP. BERGER of the 73rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING LICENSURE OF STORMWATER PROFESSIONALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section:
- 2 (1) "Stormwater professional" means a person who is qualified by
3 reason of specialized knowledge, as specified in subsection (d) of this
4 section, to engage in activities associated with the planning, design
5 and engineering of a stormwater pollution abatement facility including
6 the rendering or offering to render to clients professional services in
7 connection with the planning, design and engineering of a stormwater
8 pollution abatement facility;
- 9 (2) "Stormwater" means waters consisting of rainfall runoff,
10 including snow or ice melt during a rain event;
- 11 (3) "Pollution abatement facility" has the same meaning as provided
12 in section 22a-423 of the general statutes; and

13 (4) "Commissioner" means the Commissioner of Environmental
14 Protection or the commissioner's designated agent.

15 (b) (1) There shall be a State Board of Examiners of Stormwater
16 Professionals within the Department of Environmental Protection. The
17 board shall consist of eleven members. One member, who shall be the
18 chairperson of the board, shall be the Commissioner of Environmental
19 Protection, or his or her designee. The Governor shall appoint the
20 other ten members of the board who shall consist of the following: (A)
21 Six members shall be licensed stormwater professionals or, prior to the
22 publication by the board of the first roster of licensed stormwater
23 professionals, persons on the list maintained by the commissioner
24 pursuant to subsection (g) of this section, including at least four having
25 civil engineering expertise and who are licensed professional
26 engineers; (B) two members who are active members of an
27 organization that promotes the protection of the environment; and (C)
28 two members who are active members of an organization that
29 promotes business.

30 (2) The members of the board shall administer the provisions of this
31 section as to licensure and issuance, reissuance, suspension or
32 revocation of licenses concerning stormwater professionals.

33 (3) The Governor may remove any member of the board for
34 misconduct, incompetence or neglect of duty. The members of the
35 board shall receive no compensation for their services but shall be
36 reimbursed for necessary expenses incurred in the performance of
37 their duties. The board shall keep a true and complete record of all its
38 proceedings.

39 (c) The commissioner shall receive and account for all moneys
40 received under the provisions of this section and shall deposit such
41 moneys in the General Fund. The board shall keep a register of all
42 applications for licenses and the actions taken by the board thereon. A
43 roster showing the names of all licensees shall be prepared by January
44 first of each year. A copy of such roster shall be placed on file in the
45 Office of the Secretary of the State.

46 (d) The board shall authorize the commissioner to issue a license
47 under this section to any person who demonstrates to the satisfaction
48 of the board that such person: (1) (A) Has for a minimum of eight years
49 engaged in the planning, design and engineering of stormwater
50 pollution abatement facilities, including a minimum of four years in
51 responsible charge of the planning, design and engineering of
52 stormwater pollution abatement facilities, and holds a bachelor's or
53 advanced degree from an accredited college or university in a related
54 science or related engineering field or is a professional engineer
55 licensed in accordance with chapter 391 of the general statutes, or (B)
56 has for a minimum of fourteen years engaged in the planning, design
57 and engineering of stormwater pollution abatement facilities,
58 including a minimum of seven years in responsible charge of planning,
59 design and engineering of stormwater pollution abatement facilities;
60 (2) has successfully passed a written examination, or a written and oral
61 examination, prescribed by the board and approved by the
62 commissioner, which shall test the applicant's knowledge of the
63 physical and environmental sciences applicable to the planning, design
64 and engineering of stormwater pollution abatement facilities that
65 comply with regulations adopted by the commissioner under sections
66 22a-430 and 22a-430b of the general statutes, and any other applicable
67 guidelines or regulations as may be adopted by the commissioner; and
68 (3) has paid an examination fee of two hundred thirty-five dollars to
69 the commissioner. In considering whether a degree held by an
70 applicant for such license qualifies for the educational requirements
71 under this section, the board may consider all undergraduate,
72 graduate, postgraduate and other courses completed by the applicant.

73 (e) A licensed stormwater professional shall pay to the
74 commissioner an annual fee of two hundred fifty dollars, due and
75 payable on July first of every year, beginning with the July first of the
76 calendar year immediately following the year of license issuance.

77 (f) The board may conduct investigations concerning the conduct of
78 any licensed stormwater professional. The commissioner may conduct
79 random audits of any actions performed by a licensed stormwater

80 professional. The board shall authorize the commissioner to: (1)
81 Revoke the license of any stormwater professional; (2) suspend the
82 license of any stormwater professional; (3) impose any other sanctions
83 that the board deems appropriate; or (4) deny an application for such
84 licensure if the board, after providing such professional or applicant
85 with notice and an opportunity to be heard concerning such
86 revocation, suspension, other sanction or denial, finds that such
87 professional or applicant has submitted false or misleading
88 information to the board or has engaged in professional misconduct
89 including, without limitation, knowingly or recklessly making a false
90 verification that a stormwater pollution abatement facility plan meets
91 the requirements of any stormwater regulations or general permit or
92 violating any provision of this section or regulations adopted under
93 the provisions of this section.

94 (g) The board shall hold the first examination pursuant to this
95 section not later than eighteen months after the effective date of this
96 section, and shall publish the first roster of licensed stormwater
97 professionals not later than six months after the date of such
98 examination. Until such time as the board publishes the first roster of
99 licensed stormwater professionals, any individual who (1) has for a
100 minimum of eight years engaged in the planning, design and
101 engineering of a stormwater pollution abatement facility, including a
102 minimum of four years in responsible charge of the planning, design
103 and engineering of a stormwater pollution abatement facility, (2) holds
104 a bachelor's or advanced degree from an accredited college or
105 university in a related science or related engineering field or is a
106 professional engineer licensed in accordance with chapter 391 of the
107 general statutes, and (3) pays a registration fee of two hundred fifty
108 dollars may apply to the commissioner to be placed on a list of
109 stormwater professionals. Any individual on such list may perform
110 any duties performed by a licensed stormwater professional until such
111 time as the first roster of licensed stormwater professionals is
112 published by the board.

113 (h) Nothing in this section shall be construed to authorize a licensed

114 stormwater professional to engage in any profession or occupation
115 requiring a license under any other provision of the general statutes
116 without such license.

117 (i) Any licensed stormwater professional, or prior to the first roster
118 of licensed stormwater professionals, any individual authorized under
119 subsection (g) of this section, may verify to the commissioner that a
120 stormwater permit application complies with the applicable
121 stormwater regulations adopted under section 22a-430 of the general
122 statutes, stormwater general permit requirements adopted pursuant to
123 section 22a-430b of the general statutes, or the soil and erosion
124 sediment control regulations of the municipality where the proposed
125 activity is to take place. Within thirty days of receipt of a stormwater
126 permit application accompanied by such verification, the
127 commissioner shall issue any required public notice regarding the
128 pendency of such application. Such verification by a licensed
129 stormwater professional, or, prior to the first roster of licensed
130 stormwater professionals, any individual authorized under subsection
131 (g) of this section, shall be accepted by the commissioner unless (1) the
132 licensed stormwater professional, or prior to the first roster of licensed
133 stormwater professionals, any individual authorized under subsection
134 (g) of this section, is the subject of an investigation under subsection (f)
135 of this section; (2) such verification is the subject of a random audit
136 under subsection (f) of this section; or (3) after any required public
137 hearing is held on the verified stormwater permit application, the
138 commissioner determines that the applicable stormwater regulations
139 adopted under section 22a-430 of the general statutes, stormwater
140 general permit requirements adopted pursuant to section 22a-430b of
141 the general statutes, or the soil and erosion sediment control
142 regulations of the municipality where the proposed activity is to take
143 place have not been met.

144 (j) Notwithstanding any other provision of chapters 124, 124b, 126,
145 126a and 440 of the general statutes, any licensed stormwater
146 professional, or prior to the first roster of licensed stormwater
147 professional, any individual authorized under subsection (g) of this

148 section, may verify to a municipal zoning commission, planning
149 commission, planning and zoning commission, inland wetland agency,
150 or such commission's or agency's agent, that a permit application
151 submitted to such commission or agency complies with the
152 commission's or agency's applicable soil and erosion sediment control
153 regulations. Such verification by a licensed stormwater professional,
154 or, prior to the first roster of licensed stormwater professionals, any
155 individual authorized under subsection (g) of this section, shall be
156 accepted by the commission or agency, or its authorized agent, unless
157 the licensed stormwater professional, or prior to the first roster of
158 licensed stormwater professionals, any individual authorized under
159 subsection (g) of this section, is the subject of an investigation by the
160 commissioner under subsection (f) of this section.

161 (k) The commissioner, with the advice and assistance of the board,
162 may adopt regulations, in accordance with the provisions of chapter 54
163 of the general statutes, prescribing (1) professional ethics and conduct
164 appropriate to establish and maintain a high standard of integrity in
165 the practice of a stormwater professional, (2) rules for the conduct of
166 the board's affairs, (3) requirements for the examination of applicants
167 for licenses, and (4) rules pertaining to the design and use of seals by
168 licensees under this section and governing the license issuance and
169 renewal process, including, but not limited to, procedures for allowing
170 the renewal of licenses when an application is submitted not later than
171 six months after the expiration of the license without the applicant
172 having to take the examination required under subsection (d) of this
173 section.

174 Sec. 2. (NEW) (*Effective from passage*) The Commissioner of
175 Environmental Protection may review any impact to species listed
176 under chapter 495 of the general statutes, or such species' habitat, for
177 any stormwater permit application made under section 22a-430 or 22a-
178 430b of the general statutes or any certification provided by the
179 commissioner under Section 401 of the federal Clean Water Act by a
180 private applicant or for a private activity, only if such private
181 applicant's proposed activity is receiving state funds in excess of one

182 million dollars.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

Statement of Legislative Commissioners:

Section 2 was replaced to reflect the committee's intent and conform with existing statutory language.

CE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Department of Environmental Protection	GF - Potential Revenue Gain	None	Up to \$176,250
Department of Environmental Protection	GF - Cost	130,000	10,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill establishes a licensed stormwater professionals (LSP) program and a State Board of Examiners of Stormwater Professionals, both within the Department of Environmental Protection (DEP). The members of the board are responsible for the issuance, suspension or revocation of licenses.

The bill establishes a \$235 fee for an initial examination fee and an annual fee of \$250. Since the bill assumes that the first exam will be held within 18 months of the enactment date, and assuming that 750 individuals would take the exam, this generates \$176,250 in General Fund revenue in FY 13.

This new program would also require DEP to hire outside consultants at a one-time cost of approximately \$130,000 in FY 12 to develop the exam. On-going costs of approximately \$10,000 in FY 13 and beyond would be incurred by the agency for proctoring and scoring the exams, and accounting for the revenues and reporting requirements.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of individuals who take the exam.

OLR Bill Analysis

sHB 6400

AN ACT CONCERNING LICENSURE OF STORMWATER PROFESSIONALS.

SUMMARY:

This bill creates a licensing program for stormwater professionals. It defines such professionals as people qualified by specialized knowledge to plan, design, and engineer a stormwater pollution abatement facility, including offering or providing clients with professional services in connection with such activities. The bill defines stormwater as rainfall runoff, including snow or ice melt during a rain event.

Individuals must meet experience and education requirements, pass an exam, and pay exam and annual licensure fees. The bill allows such licensees, or before the first licensee roster is compiled, other stormwater professionals meeting similar requirements, to verify that (1) stormwater permit applications meet applicable state and local regulatory requirements and (2) permit applications submitted to local land use commissions meet such entities' applicable soil and erosion sediment control regulations. Under the bill, the Department of Environment Protection (DEP) and local land use commissions can reject such verifications only under specified conditions.

The bill creates an 11-member State Board of Examiners of Stormwater Professionals within DEP to administer the bill's licensing provisions. It allows the board to investigate licensee conduct. It also allows the DEP commissioner, who is the board's chairperson, to audit licensee actions and take various enforcement actions regarding licensees and applicants. It allows the commissioner, with the board's advice and assistance, to adopt regulations for specified purposes

related to stormwater professionals.

The bill also allows the DEP commissioner to review any impact to protected species (see BACKGROUND) or their habitat for a stormwater permit application or a discharge certification provided by the commissioner under the federal Clean Water Act to a private applicant or for a private activity, but only if the private applicant's proposed activity is receiving more than \$1 million in state funds.

EFFECTIVE DATE: Upon passage

STATE BOARD OF EXAMINERS OF STORMWATER PROFESSIONALS

The bill requires the board members to administer the bill's provisions regarding stormwater professional licensing, including license issuance, reissuance, suspension, and revocation.

The DEP commissioner, or his designee, is the board's chairperson. The governor appoints the other 10 board members. Six members must be (1) licensed stormwater professionals or (2) before the board publishes the first roster of licensed stormwater professionals, people on the list of stormwater professionals that the bill requires the commissioner to maintain, as described below. At least four of these six members must have civil engineering expertise and must be licensed professional engineers.

Two board members must be active members of an organization promoting environmental protection, and another two must be active members of an organization promoting business.

Board members are not paid but are reimbursed for necessary expenses. The governor may remove any board member for misconduct, incompetence, or neglect of duty. The board must keep a true and complete record of its proceedings.

The board must (1) keep a register of all license applications and the actions it took on them and (2) prepare a roster of licensees by the beginning of each calendar year. A copy of the roster must be filed in

the Secretary of the State's Office.

The board must authorize the DEP commissioner to issue a stormwater professional license to anyone who demonstrates to the board's satisfaction that he or she has met the requirements specified below.

LICENSING REQUIREMENTS

Fees

Applicants for a stormwater professional license must pay a \$235 examination fee to the DEP commissioner. Licensees must annually pay a \$250 fee to the commissioner that is due July 1, beginning with the calendar year following the year the license was issued. The commissioner must deposit money received through these fees in the General Fund.

Experience, Education, and Examination

To be licensed, the applicant must meet either of two experience requirements. Both requirements consider the number of years the person was engaged in planning, designing, and engineering stormwater pollution abatement facilities (see BACKGROUND), including the number of years the person was in responsible charge. The options are:

1. at least eight years of such experience, including a minimum of four years in responsible charge, if the person (a) holds a bachelor's or advanced degree from an accredited college or university in a related science or engineering field or (b) is a licensed professional engineer; or
2. at least 14 years of such experience, including a minimum of seven years in responsible charge.

The bill allows the board to consider all undergraduate, graduate, postgraduate, and other courses completed by the applicant in considering whether a degree qualifies for these requirements.

The applicant must also pass an exam testing his or her knowledge of the physical and environmental sciences that apply to the planning, design, and engineering of stormwater pollution abatement facilities that comply with DEP water discharge regulations and any other applicable guidelines or regulations the commissioner adopts. The exam may be written or both written and oral. The test is prescribed by the board and must be approved by the DEP commissioner. The bill requires the board to hold the first exam within 18 months of the bill's passage.

Licensee Roster and List of Stormwater Professionals

The bill requires the board to publish the first roster of licensed stormwater professionals within six months of the first examination. Until the first roster is published, people who pay a \$250 registration fee and meet the experience and education requirements under option (1) above may apply to the commissioner to be placed on a list of stormwater professionals. Anyone on this list may perform the duties of a licensed stormwater professional until the board publishes the first roster of licensees.

Investigation and Enforcement

The bill allows the board to investigate a licensed stormwater professional's conduct. The commissioner may also conduct random audits of a licensee's actions.

The bill requires the board to authorize the commissioner to:

1. revoke or suspend a stormwater professional's license;
2. impose other sanctions that the board deems appropriate; or
3. deny a license application if the board, after providing the person with notice and an opportunity to be heard concerning the revocation, suspension, other sanction, or denial, finds that he or she has submitted false or misleading information to the board or has engaged in professional misconduct. For this purpose, professional misconduct may include (a) knowingly or

recklessly making a false verification that a stormwater pollution abatement facility plan meets the requirements of a general permit or stormwater regulations or (b) violating the bill's provisions on stormwater professionals or regulations adopted under them.

The bill specifies that it does not authorize a licensed stormwater professional to engage in any profession or occupation requiring a license under other state law without that license.

STORMWATER PERMIT AND SOIL AND EROSION SEDIMENT CONTROL VERIFICATIONS

The bill allows a licensed stormwater professional, or someone on the list of stormwater professionals before the board publishes the first licensee roster, to verify to the DEP commissioner that a stormwater permit application complies with any of the following: applicable stormwater discharge regulations, stormwater general discharge permit requirements, or an applicable municipality's soil and erosion sediment control regulations. The bill requires the commissioner to issue any required public notice concerning a pending application within 30 days of receiving it accompanied by the verification.

The commissioner must accept a verification by someone authorized to submit it as specified above unless:

1. the person is the subject of an investigation, as provided above;
2. the verification is the subject of a random audit, as provided above; or
3. after any required public hearing on the permit application, the commissioner determines that the applicable stormwater discharge regulations, stormwater general discharge permit requirements, or applicable municipality's soil and erosion sediment control regulations have not been met.

The bill also permits a licensed stormwater professional, or someone on the list of stormwater professionals before the board publishes the

first licensee roster, to verify to specified entities that a permit application submitted to the entity complies with the entity's applicable soil and erosion sediment control regulations. This applies regardless of the law on zoning, incentive housing zones, municipal planning commissions, affordable housing land use appeals, and wetlands and watercourses. The specified entities are a municipal zoning commission, planning commission, planning and zoning commission, inland wetland agency, or their agents.

The commission or agency, or its authorized agent, must accept such verification by someone authorized to submit it unless the individual is the subject of an investigation by the commissioner as provided in the bill.

REGULATIONS

The bill allows the commissioner, with the board's advice and assistance, to adopt regulations prescribing:

1. professional ethics and conduct appropriate to set and maintain a high standard of integrity for stormwater professionals,
2. rules for conducting the board's affairs,
3. requirements for examining license applicants,
4. rules pertaining to the design and use of seals by licensees, and
5. rules governing the license issuance and renewal process, including procedures for allowing an individual to renew a license without retaking the license examination when he or she submits an application within six months after his or her license expires.

BACKGROUND

Pollution Abatement Facility

The law on water pollution control defines a pollution abatement facility as any equipment, plant, treatment works, structure, machinery, apparatus, or land, or any combination of these, acquired,

used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation, or treatment of water or wastes, or for the final disposal of residues resulting from such treatment, including: pumping and ventilating stations, facilities, plants and works; outfall sewers, interceptor sewers and collector sewers; and other real or personal property and appurtenances incident to their use or operation (CGS § 22a-423).

Endangered or Threatened Species or Species of Special Concern

State law provides various protections for endangered or threatened species, as well as species of special concern. An endangered species is any native species documented to be in danger of extinction throughout all or a significant portion of its range within the state and to have no more than five “occurrences” in the state. A threatened species is any native species documented to be likely to become endangered in the foreseeable future throughout all or a significant portion of its range in the state and to have no more than nine occurrences here. An occurrence is a population of a species breeding and existing within the same ecological community and capable, or potentially capable, of interbreeding with other species members in that community. State law also protects species listed as endangered or threatened by the federal Endangered Species Act (CGS § 26-304 (7), (8) and (15)).

A species of special concern is a native plant or non-harvested wildlife species (1) documented to have a naturally restricted range or habitat in the state, (2) to be at a low population level, (3) to be in such high human demand that its unregulated taking would be detrimental to the conservation of its population, or (4) that has been eliminated from the state (CGS § 26-304(9)).

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/08/2011)