House Bill 476 (AS PASSED HOUSE AND SENATE)
By: Representatives Washburn of the 141st, Knight of the 130th, Powell of the 32nd, Kelley of the 16th, and Thomas of the 21st

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 15 of Title 43 of the Official Code of Georgia Annotated, relating to professional engineers and land surveyors, so as to provide that the Georgia Professional Engineers and Land Surveyors Board is an independent state agency attached to the Secretary of State for administrative purposes only; to provide a short title; to provide for definitions; to provide for the powers and duties of the board; to authorize the board to employ an executive director; to provide for the powers and duties of the executive director; to revise provisions for purposes of conformity; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Chapter 15 of Title 43 of the Official Code of Georgia Annotated, relating to professional engineers and land surveyors, is amended by revising Code Section 43-15-1, relating to purpose of chapter, as follows:
This chapter shall be known and may be cited as the 'Professional Engineers and Land Surveyors Act of 2021' and is enacted to safeguard life, health, and property and to promote the public welfare."

SECTION 2.

Said chapter is further amended in Code Section 43-15-2, relating to definitions, by revising paragraph (1) and adding a new paragraph to read as follows:

"(1) 'Board' means the State Board of Registration for Georgia Professional Engineers and Land Surveyors Board created in subsection (a) of Code Section 43-15-3."

"(5.1) 'Executive Director' means the executive director appointed by the Georgia Professional Engineers and Land Surveyors Board pursuant to Code Section 43-15-3."

SECTION 3.

Said chapter is further amended by revising Code Section 43-15-3, relating to creation of board and members, as follows:

"43-15-3.

(a) The State Board of Registration for Professional Engineers and Land Surveyors is created whose duty it shall be to administer this chapter existing on June 30, 2021, is continued in existence thereafter as the Georgia Professional Engineers and Land Surveyors Board, and the members serving on the board on June 30, 2021, shall continue to serve out their respective terms of office on the Georgia Professional Engineers and Land Surveyors Board until their respective successors are appointed and qualified.

(b) The board shall consist of six professional engineers, two professional land surveyors, and a member appointed from the public at large who has no connection with the professions of engineering and land surveying, all of whom shall be appointed by the Governor and confirmed by the Senate for a term of five years. Of the professional
engineers appointed to the board, one shall be a structural engineer, one shall be a mechanical engineer, one shall be an electrical engineer, two shall be civil or sanitary engineers, and one shall be from any discipline of engineering. Each member of the board shall be a citizen of the United States and a resident of this state.

(c) Each member shall hold office until his or her successor has been duly appointed and qualified. All successors shall be appointed in the same manner as the original appointment.

(d) A vacancy on the membership of the board shall be filled by appointment by the Governor, in the same manner as the original appointment to the position vacated, for the unexpired term.

(e) Professional engineers appointed to the board shall have been engaged in the practice of engineering in their respective disciplines for at least 12 years and shall have been in responsible charge of important engineering work in their respective disciplines for at least five years. Professional land surveyors appointed to the board shall have been engaged in the practice of land surveying for at least 12 years and shall have been in responsible charge of important land surveying work for at least five years. Responsible charge of engineering or land surveying teaching may be construed as responsible charge of important engineering or land surveying work, respectively.

(f) Each member of the board shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2.

(g) The Governor may remove any member of the board for misconduct, incompetency, neglect of duty, or any other sufficient and just cause.

(g) On and after July 1, 2021, the board shall be a separate and distinct budget unit as defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act'; provided, however, that the board shall be an attached agency for administrative purposes only to the Secretary of State as provided in Code Section 50-4-3 and shall not be considered a division as that term is defined in Code Section 43-1-1. The board shall neither be under
the jurisdiction of the Secretary of State nor be under the direction of the director of the professional licensing boards division of the Secretary of State. The board shall not be subject to the provisions of Chapter 1 of this title.

(h) The responsibility for enforcement of the provisions of this chapter shall be vested in the board, and the board shall have all of the duties, powers, and authority granted by or necessary for the administration and enforcement of this chapter.

(i) The board shall in its discretion appoint and fix the compensation of an executive director who shall be a full-time employee of the board and shall serve at the pleasure of the board. The executive director shall be charged with such other duties and powers as provided in Code Section 43-15-5 or as delegated by the board.

(j) The board members, executive director, and other employees of the board shall be allowed reimbursement for travel and other expenses incurred in the performance of their duties, the same as other state officers and employees.

(k) The venue of any action involving members of the board shall be the county in which is found the primary office of the board. Any notice or legal process necessary to be served upon the board may be served upon the executive director, but the executive director shall not be considered a member of the board in determining the venue of any such action, and no court shall have jurisdiction over any such action solely by virtue of the executive director residing or maintaining a residence within its jurisdiction."

SECTION 4.

Said chapter is further amended by revising Code Section 43-15-4, relating to adoption of rules and regulations, meetings, seal, and division director as secretary of board, as follows: 

"43-15-4.

(a) The board shall adopt all necessary rules, regulations, and bylaws, not inconsistent with this chapter and the Constitution and laws of this state or of the United States, to govern its times and place of meetings for organization and reorganization, for the holding of

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examinations, for fixing the length of terms of its officers, and for governing all other
matters requisite to the exercise of its powers, the performance of its duties, and the
transaction of its businesses. The board shall adopt an official seal.

(b) The board shall meet at such times as the business of the board shall require, as the
board or its chairperson may determine, but shall hold one annual meeting each
year at which time the board shall elect a chairperson and a vice chairperson. The chairperson may delegate the responsibility of setting the location, date, and time of board meetings and providing notice of meetings to the executive director. Board meetings may be conducted by audio or video conference calls, and participation in such a conference call shall constitute attendance at the meeting so conducted. Any action that might have been taken at a meeting of the board may be taken by the unanimous written consent of all members of the board.

(c) A majority of the appointed members of the board shall constitute a quorum for the transaction of business by the board. The board shall be assigned to the office of the division director for those purposes described in Chapter 1 of this title.

(d) The executive director shall serve as the secretary of the board ex officio but shall not be a voting member of the board or member for purposes of constituting a quorum.

(e) The board may appoint such committees or persons, who need not be members of the board, to advise or assist it in administration, investigation, and enforcement of the provisions of this chapter, as the board deems necessary, and shall be authorized to compensate any such members of committees or persons who are not members of the board in such amounts as it shall determine to be reasonable.”

SECTION 5.

Said chapter is further amended by revising Code Section 43-15-5, relating to duty of board to maintain records, as follows:

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The board shall keep records of its proceedings.

The executive director shall:

(1) Be a full-time employee of the board and shall serve at the pleasure of the board;

(2) Keep all records related to the board and its proceedings;

(3) With the approval of the board, employ and fix the compensation of personnel as deemed necessary to assist the executive director in his or her duties or the duties of the board. Persons hired for the purpose of conducting investigations on behalf of the board shall have a level of experience or knowledge of the area of practice needing to be investigated, including, but not limited to, engineering or surveying, that is acceptable to the board;

(4) With the consent of the board, schedule the time and location for all examinations, meetings, and hearings and maintain a schedule of all examinations, meetings, and hearings that shall be available for public review;

(5) With the approval of the board, enter into such contracts, leases, agreements, or other transactions with any person or agency as are deemed necessary to carry out the provisions of this chapter or to provide the services required by the board;

(6) Prepare and deliver a written annual report to the Governor and the chairpersons of the House and Senate Appropriations Committees on or before the second Tuesday in January of each year covering the activities of the board for the previous calendar year, which shall also be made available to any member of the General Assembly upon request. The report shall include a summary of all actions taken by the board, a financial report of all income and disbursements, staff personnel, and number of persons licensed by the board. The Governor may request a preliminary financial report for budgetary purposes prior to such an annual report; and

(7) Prepare and maintain a roster containing the names of all current licensees for each type of license issued by the board. A copy of this roster shall be available to any person
upon request at a fee prescribed by the executive director sufficient to cover the cost of
printing and distribution. The following shall be treated as confidential and need not be
disclosed without the approval of the board:

(A) Applications and other personal information submitted by applicants, except to the
applicant, staff, and the board;

(B) Information, favorable or unfavorable, submitted by a reference source concerning
an applicant, except to the staff and the board;

(C) Examination questions and other examination materials, except to the staff and the
board; and

(D) The deliberations of the board with respect to an application, an examination, a
complaint, an investigation, or a disciplinary proceeding, except as may be contained
in official board minutes.

SECTION 6.

Said chapter is further amended by revising Code Section 43-15-6, relating to general powers
of board, injunctions, and continuing education, as follows:

(a) In carrying out this chapter, in addition to other powers conferred upon it under this
chapter, the board shall have the power:

(1) To adopt and enforce regulations implementing this chapter, including regulations
governing the professional conduct of those individuals registered by it;

(2) Under the hand of its chairman chairperson or his or her delegate and the seal of the
board, to subpoena witnesses and compel their attendance and to require thereby the
production of books, papers, documents, and other things relevant to such investigation
in order to investigate conduct subject to regulation by the board; the chairman
chairperson or the member of the board who is his or her delegate may administer oaths
to witnesses appearing before the board; and the board may secure the enforcement of its
subpoenas in the manner provided by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

(3) To maintain in its name an action for injunctive or other appropriate legal or equitable relief to remedy violations of this chapter and, in pursuing equitable remedies, it shall not be necessary that the board allege or prove that it has no adequate remedy at law; and

(4) Through the executive director, to hire investigators for the purpose of conducting investigations. Any person so employed shall be considered to be a peace officer and shall have all powers, duties, and status of a peace officer of this state; provided, however, that, notwithstanding Code Sections 16-11-126 and 16-11-129, such investigators shall only be authorized to carry firearms in the performance of their duties upon written approval of the executive director.

(b) In addition to other powers conferred upon the board under this chapter, the board shall through rules and regulations require each individual seeking renewal of a certificate of registration as a professional engineer or a professional structural engineer or a license as a professional land surveyor to complete board approved continuing education of not more than 30 biennially annually for professional engineers and professional structural engineers and not more than 15 7.5 biennially annually for professional land surveyors. The board shall be authorized to approve courses offered by institutions of higher learning or offered by other institutions or organizations. The board shall randomly audit some applications for renewal of a certificate of registration or license to enforce compliance with this subsection. The continuing education requirements adopted by the board shall recognize the continuing education requirements imposed by other states to the extent that such continuing education courses meet the requirements imposed by the board. The board shall be authorized to waive the continuing education requirements in cases of hardship, disability, or illness or under such other circumstances as the board deems appropriate. The board shall waive the continuing education requirement for individuals
over the age of 65 who have retired from active practice and who apply for an inactive license and for individuals over the age of 65 who are engaged in the active practice of their profession who have had a valid active license for the previous 25 consecutive years. The requirement for continuing education including the exemptions provided for in this subsection shall apply to each licensing renewal cycle which begins after the 1996 renewal cycle."

SECTION 7.

Said chapter is further amended by adding a new Code section to read as follows:

"43-15-6.1. (a) To pay the expenses of the board's office and operations and the enforcement of this chapter, the board by rule or regulation shall be authorized to charge an examination fee, license fee, license renewal fee, or similar fee and may establish the amount of the fee to be charged by rule or regulation. Fees shall be reasonable and shall be determined in such a manner that the total amount of fees charged by the board shall approximate the total of the direct and indirect costs for the operation of the board. Fees may be refunded for good cause, as determined by the executive director.

(b) All fees collected pursuant to this chapter shall be deposited by the board into the state treasury. Out of the funds thus arising shall be paid the expenses contemplated in this chapter for the administration and enforcement of this chapter. All expenditures authorized by the board shall be paid from the funds received pursuant to this chapter. The expenses of the board must always be kept within the income collected and deposited in accordance with this chapter, and the expense thereof shall not be supported or paid from any other state fund."
SECTION 8.
Said chapter is further amended by revising Code Section 43-15-17, relating to issuance, expiration, and renewal of certificates and certificates of registration, as follows:

"43-15-17.

(a) Certificates, certificates of registration, or licenses shall be issued to applicants who successfully complete the respective requirements therefor upon the payment of fees prescribed by the board.

(b) Certificates of registration or licenses shall be renewable biennially annually. Renewal may be effected for the succeeding two years year by the payment of the fee prescribed by the board. Certificates of registration or licenses may be renewed subsequent to their expiration upon the payment of accumulated unpaid fees and of a penalty in an amount to be determined by the board. A certificate of registration or license that has been expired for a period of greater than four years shall be automatically revoked.

(c) The division executive director shall give notice by mail to each individual holding a certificate of registration or license under this chapter of the date of the expiration of the certificate of registration or license and the amount of the fee required for renewal, at least one month prior to the expiration date; but the failure to receive such notice shall not avoid the expiration of any certificate of registration or license not renewed in accordance with this Code section."

SECTION 9.
Said chapter is further amended in Code Section 43-15-18, relating to effect of certificate of registration or license, by revising subsection (a) as follows:

"(a) In the case of a professional engineer, the certificate of registration shall authorize the practice of professional engineering. In the case of a professional land surveyor, the license shall authorize the practice of land surveying. In the case of a registered professional structural engineer, the certificate of registration shall authorize the practice
of structural engineering. A certificate of registration or license shall show the full name
of the registrant or licensee, shall have a serial number, and shall be signed by the
chairperson of the board and the division executive director under the seal of the board."

SECTION 10.

Said chapter is further amended in Code Section 43-15-25, relating to procedure for filing
charges against holder of certificate, certificate of registration, or license, by revising
subsection (a) as follows:

"(a) Any person may prefer refer charges of fraud, deceit, gross negligence, incompetency,
or unprofessional conduct against any individual holding a certificate, certificate of
registration, or license. Such charges shall be in writing, shall be sworn to by the person
making them, and shall be filed with the board."

SECTION 11.

This Act shall become effective upon its approval by the Governor or upon its becoming law
without such approval.

SECTION 12.

All laws and parts of laws in conflict with this Act are repealed.