

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

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

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 15 of Title 43 of the Official Code of Georgia Annotated, relating to professional
12 engineers and land surveyors, is amended by revising Code Section 43-15-1, relating to
13 purpose of chapter, as follows:

14 "43-15-1.

15 This chapter shall be known and may be cited as the 'Professional Engineers and Land
16 Surveyors Act of 2021' and is enacted to safeguard life, health, and property and to promote
17 the public welfare."

18 **SECTION 2.**

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

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

23 "(5.1) 'Executive Director' means the executive director appointed by the Georgia
24 Professional Engineers and Land Surveyors Board pursuant to Code Section 43-15-3."

25 **SECTION 3.**

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

28 "43-15-3.

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

35 (b) The board shall consist of six professional engineers, two professional land surveyors,
36 and a member appointed from the public at large who has no connection with the
37 professions of engineering and land surveying, all of whom shall be appointed by the
38 Governor and confirmed by the Senate for a term of five years. Of the professional

39 engineers appointed to the board, one shall be a structural engineer, one shall be a
40 mechanical engineer, one shall be an electrical engineer, two shall be civil or sanitary
41 engineers, and one shall be from any discipline of engineering. Each member of the board
42 shall be a citizen of the United States and a resident of this state.

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

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

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

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

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

61 (g) On and after July 1, 2021, the board shall be a separate and distinct budget unit as
62 defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act'; provided,
63 however, that the board shall be an attached agency for administrative purposes only to the
64 Secretary of State as provided in Code Section 50-4-3 and shall not be considered a
65 division as that term is defined in Code Section 43-1-1. The board shall neither be under

66 the jurisdiction of the Secretary of State nor be under the direction of the director of the
67 professional licensing boards division of the Secretary of State. The board shall not be
68 subject to the provisions of Chapter 1 of this title.

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

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

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

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

85 **SECTION 4.**

86 Said chapter is further amended by revising Code Section 43-15-4, relating to adoption of
87 rules and regulations, meetings, seal, and division director as secretary of board, as follows:
88 "43-15-4.

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

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

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

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

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

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

114 **SECTION 5.**

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

117 "43-15-5.

118 ~~The board shall keep records of its proceedings.~~

119 The executive director shall:

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

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

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

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

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

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

142 (7) Prepare and maintain a roster containing the names of all current licensees for each
143 type of license issued by the board. A copy of this roster shall be available to any person

144 upon request at a fee prescribed by the executive director sufficient to cover the cost of
145 printing and distribution. The following shall be treated as confidential and need not be
146 disclosed without the approval of the board:

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

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

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

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

156 **SECTION 6.**

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

159 "43-15-6.

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

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

164 (2) Under the hand of its ~~chairman~~ chairperson or his or her delegate and the seal of the
165 board, to subpoena witnesses and compel their attendance and to require thereby the
166 production of books, papers, documents, and other things relevant to such investigation
167 in order to investigate conduct subject to regulation by the board; the ~~chairman~~
168 chairperson or the member of the board who is his or her delegate may administer oaths
169 to witnesses appearing before the board; and the board may secure the enforcement of its

170 subpoenas in the manner provided by Chapter 13 of Title 50, the 'Georgia Administrative
171 Procedure Act'; and

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

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

182 (b) In addition to other powers conferred upon the board under this chapter, the board shall
183 through rules and regulations require each individual seeking renewal of a certificate of
184 registration as a professional engineer or a professional structural engineer or a license as
185 a professional land surveyor to complete board approved continuing education of not more
186 than ~~30~~ 15 hours ~~biennially~~ annually for professional engineers and professional structural
187 engineers and not more than ~~15~~ 7.5 hours ~~biennially~~ annually for professional land
188 surveyors. The board shall be authorized to approve courses offered by institutions of
189 higher learning or offered by other institutions or organizations. The board shall randomly
190 audit some applications for renewal of a certificate of registration or license to enforce
191 compliance with this subsection. The continuing education requirements adopted by the
192 board shall recognize the continuing education requirements imposed by other states to the
193 extent that such continuing education courses meet the requirements imposed by the board.
194 The board shall be authorized to waive the continuing education requirements in cases of
195 hardship, disability, or illness or under such other circumstances as the board deems
196 appropriate. The board shall waive the continuing education requirement for individuals

197 over the age of 65 who have retired from active practice and who apply for an inactive
198 license and for individuals over the age of 65 who are engaged in the active practice of
199 their profession who have had a valid active license for the previous 25 consecutive years.
200 The requirement for continuing education including the exemptions provided for in this
201 subsection shall apply to each licensing renewal cycle which begins after the 1996 renewal
202 cycle."

203 **SECTION 7.**

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

205 "43-15-6.1.

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

213 (b) All fees collected pursuant to this chapter shall be deposited by the board into the state
214 treasury. Out of the funds thus arising shall be paid the expenses contemplated in this
215 chapter for the administration and enforcement of this chapter. All expenditures authorized
216 by the board shall be paid from the funds received pursuant to this chapter. The expenses
217 of the board must always be kept within the income collected and deposited in accordance
218 with this chapter, and the expense thereof shall not be supported or paid from any other
219 state fund."

220 **SECTION 8.**

221 Said chapter is further amended by revising Code Section 43-15-17, relating to issuance,
222 expiration, and renewal of certificates and certificates of registration, as follows:

223 "43-15-17.

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

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

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

239 **SECTION 9.**

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

242 "(a) In the case of a professional engineer, the certificate of registration shall authorize the
243 practice of professional engineering. In the case of a professional land surveyor, the
244 license shall authorize the practice of land surveying. In the case of a registered
245 professional structural engineer, the certificate of registration shall authorize the practice

246 of structural engineering. A certificate of registration or license shall show the full name
247 of the registrant or licensee, shall have a serial number, and shall be signed by the
248 chairperson of the board and the ~~division~~ executive director under the seal of the board."

249 **SECTION 10.**

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

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

257 **SECTION 11.**

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

260 **SECTION 12.**

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