SENATE BILL No. 272

DIGEST OF SB 272 (Updated January 26, 1998 4:12 pm - DI 78)

Citations Affected: IC 25-40; noncode.

Synopsis: Registration of soil scientists. Creates the board of registration for soil scientists. Provides that the board consists of four registered professional soil scientists and one individual representing the public at large. Requires the board to enter into a contract with the state chemist under which the state chemist provides clerical support, record keeping services, and office space to the board. Creates a program for the registration of professional soil scientists. Establishes education, examination, and work qualifications for registration as a professional soil scientist and establishes separate qualifications for registration as an associate soil scientist. Requires the board to publish yearly a roster showing the names and places of business of all registered soil scientists. Provides that certain activities may result in the revocation or suspension of the registration of a soil scientist. Provides for administrative and judicial review of a decision of the

(Continued next page)

Effective: January 1, 1999.

Server, Gery

January 8, 1998, read first time and referred to Committee on Natural Resources.
January 27, 1998, amended, reported favorably — Do Pass.

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Digest Continued

board regarding a soil scientist's registration. Provides staggered initial terms for board members and allows certain individuals to obtain registration without satisfying the education and examination requirements for registration. Exempts individuals in certain professions from the registration requirements.

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January 28, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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SENATE BILL No. 272

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 25-40 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]:

ARTICLE 40. PROFESSIONAL SOIL SCIENTISTS

Chapter 1. Applicability and Definitions

Sec. 1. This article does not apply to the following individuals:

(1) An officer or employee of the:

(A) federal government;

(B) state government; or

(C) local government;

while engaged in providing soil science services for the officer's or employee's employer.

(2) An individual engaged solely in soil science research or the instruction of soil science.

(3) An individual not engaged in the public practice of soil science.

(4) A professional engineer registered under IC 25-31 who applies soil science to the practice of engineering.

(5) A professional geologist certified under IC 25-17.6 who applies soil science to the practice of geology.

(6) A person who is a certified professional erosion and sediment control specialist (CPESC) or soil conservationist who uses soil science in making land use decisions for the conservation of soil and water resources.

(7) A professional wetlands specialist who applies soil science for the purpose of making wetland delineations or determinations.

Sec. 2. The definitions in this chapter apply throughout this article.

Sec. 3. "Board" refers to the Indiana board of registration for soil scientists established by IC 25-40-2-1.

Sec. 4. "Registered professional soil scientist" means an individual who is registered as a professional soil scientist under IC 25-40-4.

Sec. 5. "Registered associate soil scientist" means an individual who is registered as an associate soil scientist under IC 25-40-4.

Sec. 6. "Registered soil scientist" means:

(1) a registered professional soil scientist; or

(2) a registered associate soil scientist.

Sec. 7. "Registration" means the act of registering a professional soil scientist or an associate soil scientist under IC 25-40-4.

Sec. 8. "Soil scientist" means an individual who, by the individual's knowledge of the principles of soil science acquired by professional education and practical experience, is qualified to practice soil science.

Sec. 9. "Soil science" means the observation, identification, description, classification, mapping, evaluation, experimental investigation, and theoretical explanation of soils.

Sec. 10. "Soil" means the unconsolidated mineral or organic matter on the surface of the earth that has been subjected to and influenced by genetic and environmental factors of parent material, climate (including water and temperature effects), microorganisms, and topography, all acting over time and producing a product that differs from the material from which it is derived in many physical, chemical, biological, and

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morphological properties and characteristics.

Sec. 11. "Public practice of soil science" means the performance of service to the public in connection with soil science.

Sec. 12. "State chemist" refers to the state chemist appointed under IC 15-3-3-2.

Chapter 2. Board of Registration for Soil Scientists

Sec. 1. The board of registration for soil scientists is established. The board shall administer this article.

Sec. 2. Each member of the board must be:

(1) a resident of Indiana; and

(2) appointed by the governor.

Sec. 3. The board consists of five (5) members, including the following:

(1) Four (4) registered professional soil scientists who, at the time of appointment, include:

(A) one (1) member from federal, state, or local government;

(B) one (1) member involved in education in a teaching, research, or extension context; and

(C) two (2) members from industry or the private practice of soil science.

(2) One (1) member who represents the public at large.

Sec. 4. (a) Each board member serves a term of four (4) years.

(b) A board member may serve until the member's successor is appointed and qualified under this chapter.

(c) A board member may not serve more than two (2) consecutive terms.

Sec. 5. (a) The governor may remove a board member for cause.

(b) A vacancy in the membership of the board is filled by appointment of the governor for the unexpired term.

Sec. 6. Three (3) members of the board constitute a quorum.

Sec. 7. Each year the board shall elect from its members a chairman and a secretary.

Sec. 8. (a) At least thirty (30) days before the appointment of a board member under this chapter, the organizations representing professional soil scientists in Indiana shall jointly provide the governor with a list of not more than three (3) nominations for the appointment.

(b) Members appointed to the board shall be selected from the list submitted to the governor under subsection (a).

Sec. 9. (a) A member of the board who is not a state employee is not entitled to the minimum salary per diem provided by

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IC 4-10-11-2.1(b). However, the member is entitled to reimbursement for traveling expenses as provided in IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) A member of the board who is a state employee is entitled to reimbursement for traveling expenses as provided in IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Chapter 3. Duties and Powers of the Board

Sec. 1. (a) The board shall meet:

(1) at least one (1) time each calendar year; and

(2) at other times, when:

(A) the chairman; or

(B) a quorum of the board;

considers a meeting necessary.

(b) The members of the board must be notified of the date, time, and location of a meeting of the board at least ten (10) days before the meeting.

Sec. 2. Each year the board shall:

(1) determine the cost incurred in administering the program for the registration of soil scientists under this article; and

(2) if necessary, adjust the amount of the:

(A) registration fee charged under IC 25-40-4-10; and

(B) renewal fee charged under IC 25-40-6-3;

to ensure that the program is self-supporting.

Sec. 3. (a) The board shall determine the qualifications of applicants for registration.

(b) The board shall:

(1) require an applicant for registration to submit evidence of the applicant's qualifications; and

(2) judge an applicant on evidence of the applicant's professional competency and integrity under rules adopted by the board.

Sec. 4. (a) The board may adopt rules under IC 4-22-2 to establish a code of professional conduct for registered soil scientists.

(b) If the board adopts or amends a code of professional conduct under subsection (a), the board shall mail a copy of the code and

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any amendments to the code to all individuals listed on the roster published under section 7 of this chapter.

(c) A mailing under this section constitutes service for purposes of this article.

Sec. 5. (a) The attorney general shall act as legal adviser to the board and provide any legal assistance necessary to carry out this article.

(b) The board may employ private counsel at the expense of the board.

Sec. 6. (a) The board shall enter into a contract with the state chemist under which:

(1) the state chemist provides:

(A) clerical support;

(B) record keeping services; and

(C) office space;

to the board; and

(2) the board pays compensation to the state chemist at a rate and at intervals set by the contract.

(b) The contract entered into under this section may include provisions under which the state chemist, in exchange for compensation, fills needs of the board other than those described in subdivision (1).

Sec. 7. (a) Each year the board shall publish a roster including the names, addresses, and places of business of all registered soil scientists.

(b) Copies of the roster published under subsection (a) must be:

(1) made available to each registered soil scientist; and

(2) furnished to members of the public upon request.

Sec. 8. The board may adopt rules under IC 4-22-2 that are consistent with this article and reasonably required for the conduct of the board's responsibilities and duties.

Sec. 9. (a) The soil scientist registration fund is established to carry out the purposes of this article. The fund is administered by the board.

(b) The sources of money for the fund are the:

(1) registration fees paid under IC 25-40-4-10; and

(2) renewal fees paid under IC 25-40-6-3.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The board shall submit the money in the fund to the state chemist on an annual basis. All funds submitted to the state chemist under this section shall be paid to the treasurer of Purdue

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University to be used in meeting all necessary expenses in carrying out this article.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Chapter 4. Requirements for Registration as a Professional Soil Scientist or an Associate Soil Scientist

Sec. 1. To qualify for registration as a professional soil scientist under this chapter, an applicant must:

(1) satisfy the education requirement of section 2 of this chapter;

(2) pass the examinations described in section 3 of this chapter; and

(3) satisfy the work requirement of section 4 of this chapter.

Sec. 2. (a) The education requirement referred to in section 1 of this chapter consists of a bachelor's degree or advanced degree in soil science or a closely allied field in which the curriculum includes the following:

(1) At least fifteen (15) semester hours of course work in the soil sciences, including at least three (3) semester hours in courses that emphasize the field study of soils, such as soil genesis, morphology, classification, interpretation, and mapping.

(2) At least forty-five (45) semester hours of course work in supporting sciences, including biology, chemistry, crop science, engineering, geology, mathematics, physics, and statistics.

(b) The board shall determine which courses fulfill the requirements described in subsection (a)(1).

(c) The board shall specify the minimum number of credits in each type of supporting science that is needed to satisfy the requirement described in subsection (a)(2).

(d) If course credits used by an applicant to qualify for registration are in units other than semester hours, the board shall use the most generally accepted factor to convert the units to semester hour equivalents.

Sec. 3. The board shall require an applicant for registration as a professional soil scientist to pass:

(1) a written examination designed to demonstrate whether the applicant has the necessary knowledge and skill to exercise the responsibilities of the public practice of soil science; and

(2) an examination that evaluates field skills in soil

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morphology and landscape analysis.

Sec. 4. (a) The work requirement referred to in section 1 of this chapter consists of three (3) years of professional experience in soil science.

(b) Experience obtained while working on an advanced degree does not qualify toward the satisfaction of the work requirement of subsection (a). However, the board may allow up to:

(1) one (1) year of work credit for a master's degree; and

(2) two (2) years of work credit for a doctorate.

(c) The board shall:

(1) evaluate all work experience claimed by an applicant to satisfy the work requirement under this section; and

(2) determine the amount of work credit to grant to each applicant.

Sec. 5. A registered associate soil scientist who satisfies the work requirement of section 4 of this chapter is eligible to become a registered professional soil scientist.

Sec. 6. (a) To qualify for registration as an associate soil scientist under this chapter, an individual:

(1) must satisfy the education requirement of section 2 of this chapter and pass the examinations described in section 3 of this chapter; but

(2) is not required to satisfy the work requirement of section 4 of this chapter.

(b) The board may establish a maximum period during which an individual may be registered as an associate soil scientist.

Sec. 7. The board may require an individual applying for registration under this chapter to provide documentation of competency and integrity.

Sec. 8. Upon application by the individual, the board may allow the registration under this chapter of an individual who is registered as a soil scientist in a state that, as determined by the board, has standards for registration at least equal to those of this chapter.

Sec. 9. An individual who:

(1) seeks registration under this chapter; and

(2) is aggrieved by a determination of the board under this chapter;

may request administrative review under IC 25-40-9.

Sec. 10. (a) An individual applying for registration under this chapter must pay a nonrefundable registration fee in an amount established by rules adopted by the board under IC 4-22-2.

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(b) All registration fees collected by the board under this section shall be deposited in the fund established by IC 25-40-3-9.

(c) The board shall execute a bond, with corporate surety, in an amount to be determined by the board.

Chapter 5. Certificates; Seal or Stamp

Sec. 1. (a) Upon receipt of the registration fee required by IC 25-40-4-10, the board shall issue a registration certificate to an applicant who, in the opinion of the board, satisfies all the requirements for registration under IC 25-40-4.

(b) Each certificate must show the full name of the board.

Sec. 2. The issuance of a registration certificate to a professional soil scientist by the board is prima facie evidence that the individual named on the certificate is entitled to all the rights and privileges of a registered professional soil scientist while the certificate remains in force.

Sec. 3. A replacement certificate may be issued to replace a certificate that has been lost, destroyed, or mutilated, subject to the rules of the board.

Sec. 4. Each registered professional soil scientist may obtain and use a seal or stamp of registration. The design of the seal or stamp must:

(1) be authorized by the board; and

(2) contain:

(A) the soil scientist's name and registration number; and

(B) the legend "Registered Professional Soil Scientist".

Sec. 5. After a soil scientist's registration is suspended or revoked, the soil scientist may not:

(1) affix the soil scientist's signature, stamp, or seal; or

(2) certify any report or other document;

unless the registration has been renewed or reissued.

Chapter 6. Renewal of Certificates; Continuing Education

Sec. 1. A registration certificate issued under IC 25-40-5 expires three (3) years after it is issued, at a time and date designated by the board.

Sec. 2. The board shall adopt rules under IC 4-22-2 establishing continuing education requirements that must be met for the renewal of registration certificates. The requirements established by the board must involve the description and evaluation of soils in the field.

Sec. 3. (a) An individual applying for the renewal of a certificate of registration under this chapter must pay a nonrefundable renewal fee in an amount established by rules adopted by the

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board under IC 4-22-2.

(b) All renewal fees collected by the board under this section must be deposited in the fund established by IC 25-40-3-9.

Sec. 4. The board shall notify each individual registered under this article of:

(1) the date of expiration of the individual's certificate; and

(2) the amount of the renewal fee established by the board.

Sec. 5. If an individual fails to pay the renewal fee within ninety (90) days after the expiration date established by the board under this chapter, the board shall:

(1) suspend the individual's registration under this article; and

(2) delete the individual's name from the roster published under IC 25-40-3-7;

until the renewal fee is paid.

Sec. 6. (a) If an individual fails to pay the renewal fee for two (2) years, the board shall revoke the individual's certificate of registration.

(b) If an individual whose certificate has been revoked under subsection (a) desires to be reregistered, the individual:

(1) must submit an application to the board; and

(2) shall be considered as a new applicant.

Chapter 7. Activities Prohibited to Individuals Who Are Not Registered Professional Soil Scientists

Sec. 1. Except for:

(1) an individual described in IC 25-40-1-1; and

(2) an individual who is not a registered professional soil scientist but is authorized by statute or administrative rule to prepare a report or document;

it is unlawful for an individual other than a registered professional soil scientist or a subordinate under the direction of a registered professional soil scientist to prepare a soil science report or document that is required to be prepared by a registered professional soil scientist under a statute, an administrative rule, or a client's request.

Sec. 2. An individual who is not a registered professional soil scientist may not:

(1) use; or

(2) assume or advertise in any way;

a title or description tending to convey the impression that the individual is a registered professional soil scientist.

Chapter 8. Proceedings Against a Registered Soil Scientist

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Sec. 1. The board may investigate:

(1) a suspected violation by a registered soil scientist of:

(A) the code of professional conduct adopted under IC 25-40-3-4; or

(B) other rules of the board concerning professional competency and integrity; or

(2) other grounds for action against a registered soil scientist under this chapter.

Sec. 2. (a) The board may file a proposed complaint to condition, suspend, or revoke the registration of a soil scientist.

(b) The soil scientist to whom a proposed complaint is addressed may:

(1) agree to the terms of the proposed complaint; or

(2) within twenty (20) days after receiving the proposed complaint, request an informal review of the proposed complaint before the board.

(c) The failure of a registered soil scientist to request an informal review under subsection (b)(2) constitutes an agreement to the terms of the proposed complaint.

Sec. 3. (a) An individual or organization may bring a complaint of fraud, deceit, gross negligence, or misconduct against a registered soil scientist.

(b) A complaint brought under subsection (a) must be:

(1) in writing;

(2) sworn to by:

(A) the individual; or

(B) an officer of the organization;

making the complaint; and

(3) filed with the board within two (2) years after the incident alleged in the complaint.

Sec. 4. (a) The board shall consider:

(1) a request for an informal review of a proposed complaint brought under section 2 of this chapter; or

(2) a complaint brought under section 3 of this chapter;

during a meeting of the board.

(b) The board may adopt rules under IC 4-22-2 to compel a registered soil scientist to respond to matters to which a proposed complaint under section 2 of this chapter or a complaint brought under section 5 of this chapter relates.

(c) The board may adopt rules under IC 4-22-2 establishing procedures for the conduct of a meeting under this section, including the subpoena of witnesses and documents.

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(d) A meeting held under this section shall be conducted in an informal manner. However, the board shall keep a written record of the proceeding.

(e) As soon as possible following a meeting under this section, the board shall make a determination and:

(1) terminate its proceedings on the proposed complaint under section 2 of this chapter or the complaint brought under section 5 of this chapter; or

(2) issue a determination under IC 4-21.5-3-6 to condition, suspend, or revoke the registration of the professional soil scientist.

Sec. 5. A registered soil scientist who receives a determination under section 4 of this chapter shall:

(1) comply with the terms of the determination; or

(2) request administrative review under IC 25-40-9.

Sec. 6. (a) The board may:

(1) suspend the registration of;

(2) refuse to renew the registration of;

(3) revoke the registration of;

(4) reprimand; or

(5) place on probation;

a registered soil scientist for any grounds set forth in subsection (b).

(b) The board may take action under subsection (a) against a registered soil scientist who is found to have:

(1) committed fraud or deceit in obtaining registration under this article;

(2) committed gross negligence, incompetence, or misconduct in the public practice of soil science;

(3) been convicted by a court of law of:

(A) a felony; or

(B) a crime involving moral turpitude;

(4) committed a violation of the code of professional conduct adopted by the board under IC 25-40-3-4; or

(5) committed an unlawful act set forth in section 7 of this chapter.

Sec. 7. An individual who knowingly or intentionally does any of the following commits a Class B misdemeanor:

(1) Falsely professes to be a registered soil scientist in violation of IC 25-40-7.

(2) Presents or attempts to use as one's own the registration or a seal of another.

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(3) Gives false or forged evidence to:

(A) the board; or

(B) a member of the board;

in order to obtain registration.

(4) Falsely impersonates another soil scientist.

(5) Uses or attempts to use a certificate of registration that is suspended, revoked, or expired.

Chapter 9. Administrative Review and Judicial Review

Sec. 1. If requested, an administrative review of a determination made by the board under IC 25-40-3, IC 25-40-4, or IC 25-40-8 shall be conducted before an administrative law judge appointed by the natural resources commission under IC 14-10-2-2.

Sec. 2. The parties to the proceeding include:

(1) the individual taking administrative review of the determination by the board; and

(2) the board.

Sec. 3. An administrative law judge appointed under section 1 of this chapter is the ultimate authority for the board for the purposes of IC 4-21.5-3-27, and the order of the administrative law judge disposing of a proceeding is a final order.

Sec. 4. A party who is dissatisfied with a final order rendered by an administrative law judge in a proceeding under this chapter may obtain judicial review of the final order under IC 4-21.5-5.

SECTION 2. [EFFECTIVE JANUARY 1, 1999] **(a) Notwithstanding IC 25-40-2-4, as added by this act, the terms of members appointed initially to the Indiana board of registration for soil scientists established by IC 25-40-2-1 are as follows:**

(1) One (1) member is appointed for a term of one (1) year.

(2) One (1) member is appointed for a term of two (2) years.

(3) One (1) member is appointed for a term of three (3) years.

(4) Two (2) members are appointed for a term of four (4) years.

(b) The board shall waive education and examination requirements for registration under IC 25-40-4, as added by this act, for an individual who, on January 1, 1999, is:

(1) certified as a soil classifier or soil scientist by:

(A) the American Registry of Certified Professionals in Agronomy, Crops, and Soils (ARCPACS); or

(B) the Indiana Association of Professional Soil Classifiers (IAPSC); and

(2) in good standing as a professional soil scientist.

(c) The board shall waive the education and examination

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requirements for registration under IC 25-40-4, as added by this act, of an individual who is practicing as a soil scientist similarly to those who qualify under subsection (b), but who is not certified by ARCPACS and IAPSC if the individual:

(1) has at least five (5) years of experience in evaluating soil morphology and soil landscapes and has submitted reports dealing with environmental aspects of soil science acceptable to:

(A) a county board of health;

(B) the state department of health;

(C) the department of environmental management; or

(D) a similar agency; and

(2) provides to the satisfaction of the board:

(A) examples of the individual's professional work; and

(B) names of people who can evaluate the individual's professional competence and adherence to ethical standards.

(d) This SECTION expires January 1, 2000.

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SENATE MOTION

Mr. President: I move that Senator Lewis be removed as second author and that Senator Young be removed as coauthor of Senate Bill 272 and that Senator Gery be added as coauthor therewith.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Natural Resources, to which was referred Senate Bill 272, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 5, before "Definitions" insert "**Applicability and**".

Page 1, between lines 5 and 6, begin a new paragraph and insert:

"Sec. 1. This article does not apply to the following individuals:

(1) An officer or employee of the:

(A) federal government;

(B) state government; or

(C) local government;

while engaged in providing soil science services for the officer's or employee's employer.

(2) An individual engaged solely in soil science research or the instruction of soil science.

(3) An individual not engaged in the public practice of soil science.

(4) A professional engineer registered under IC 25-31 who applies soil science to the practice of engineering.

(5) A professional geologist certified under IC 25-17.6 who applies soil science to the practice of geology.

(6) A person who is a certified professional erosion and sediment control specialist (CPESC) or soil conservationist who uses soil science in making land use decisions for the conservation of soil and water resources.

(7) A professional wetlands specialist who applies soil science for the purpose of making wetland delineations or determinations.".

Page 1, line 6, delete "1" and insert "**2**".

Page 1, line 8, delete "2" and insert "**3**".

Page 1, line 10, delete "3" and insert "**4**".

Page 1, line 13, delete "4" and insert "**5**".

Page 1, line 14, delete "a professional" and insert "**an associate**".

Page 1, line 15, delete "5" and insert "**6**".

Page 2, line 3, delete "6" and insert "**7**".

Page 2, line 6, delete "7" and insert "**8**".

Page 2, line 10, delete "8" and insert "**9**".

Page 2, line 13, delete "9" and insert "**10**".

Page 2, line 21, delete "10" and insert "**11**".

Page 2, line 23, delete "11" and insert "**12**".

Page 5, delete lines 17 through 20, begin a new paragraph and

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insert:

"**(d) The board shall submit the money in the fund to the state chemist on an annual basis. All funds submitted to the state chemist under this section shall be paid to the treasurer of Purdue University to be used in meeting all necessary expenses in carrying out this article.**".

Page 9, delete lines 1 through 19.

Page 9, line 20, delete "Sec. 2." and insert "**Sec. 1.**".

Page 9, line 21, delete "exempted under section 1 of this chapter;" and insert "**described in IC 25-40-1-1;**".

Page 9, line 32, delete "Sec. 3." and insert "**Sec. 2.**".

Page 12, line 38, delete "may" and insert "**shall**".

Page 12, line 38, delete "requirement" and insert "**and examination requirements**".

Page 12, line 40, delete "but" and insert "**similarly to those who qualify under subsection (b), but who**".

Page 12, delete line 42, begin a new line block indented and insert:

"**(1) has at least five (5) years of experience in evaluating soil morphology and soil landscapes and has submitted reports dealing with environmental aspects of soil science acceptable to:**

(A) a county board of health;

(B) the state department of health;

(C) the department of environmental management; or

(D) a similar agency; and

(2) provides to the satisfaction of the board:

(A) examples of the individual's professional work; and

(B) names of people who can evaluate the individual's professional competence and adherence to ethical standards.".

Page 13, delete lines 1 through 5.

and when so amended that said bill do pass.

(Reference is to Senate Bill 272 as introduced.)

SERVER, Chairperson

Committee Vote: Yeas 7, Nays 1.

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