

HOUSE BILL NO. 943

INTRODUCED BY DAVIS
BY REQUEST OF THE BOARD OF SANITARIANS

IN THE HOUSE

FEBRUARY 19, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON BUSINESS & ECONOMIC DEVELOPMENT.

 FIRST READING.

FEBRUARY 22, 1991 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

 POSTED ON CONSENT CALENDAR.

FEBRUARY 23, 1991 CONSENT CALENDAR, QUESTIONS AND ANSWERS.

 ENGROSSING REPORT.

FEBRUARY 26, 1991 THIRD READING, PASSED.
 AYES, 97; NOES, 1.

 TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 26, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON PUBLIC HEALTH, WELFARE, & SAFETY.

 FIRST READING.

MARCH 23, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

MARCH 27, 1991 SECOND READING, CONCURRED IN.

MARCH 28, 1991 THIRD READING, CONCURRED IN.
 AYES, 46; NOES, 2.

 RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 10, 1991 RECEIVED FROM SENATE.

APRIL 11, 1991 SECOND READING, AMENDMENTS
 CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 943
 2 INTRODUCED BY [Signature]
 3 BY REQUEST OF THE BOARD OF SANITARIANS

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 LAWS RELATING TO THE LICENSURE AND REGULATION OF
 7 SANITARIANS; AUTHORIZING THE BOARD OF SANITARIANS TO MEET
 8 FOUR TIMES ANNUALLY; CLARIFYING THE DEFINITION OF PRACTICE
 9 OF THE PROFESSION OF SANITARIAN; PROVIDING FOR THE STATUS OF
 10 SANITARIAN-IN-TRAINING; EXEMPTING CERTAIN STATE EMPLOYEES
 11 FROM REGULATION; CLARIFYING AND DETAILING THE RULEMAKING
 12 AUTHORITY OF THE BOARD OF SANITARIANS; AUTHORIZING RULES FOR
 13 EDUCATIONAL EQUIVALENCY, CONTINUING EDUCATION, AND
 14 DISCIPLINE; AUTHORIZING THE ADOPTION OF A SCHEDULE OF FEES;
 15 AUTHORIZING ENFORCEMENT BY INJUNCTION AND OTHER RELIEF;
 16 AMENDING SECTIONS 37-40-101, 37-40-102, 37-40-201,
 17 37-40-301, 37-40-302, 37-40-303, 37-40-304, 37-40-305,
 18 37-40-311, AND 37-40-312, MCA; REPEALING SECTIONS 37-40-306
 19 AND 37-40-307, MCA; AND PROVIDING AN EFFECTIVE DATE."

20
 21 STATEMENT OF INTENT
 22 A statement of intent is required for this bill because
 23 [sections 4 and 6] grant rulemaking authority to the board
 24 of sanitarians. It is the intent of the legislature that the
 25 board of sanitarians adopt rules:

- 1 (1) establishing standards of professional conduct in
- 2 order to maintain the integrity, dignity, and competency of
- 3 the profession;
- 4 (2) governing the conduct of matters before the board
- 5 including meetings, recordkeeping, rulemaking, hearings, and
- 6 other matters;
- 7 (3) establishing educational equivalency requirements
- 8 to determine qualifications for licensure;
- 9 (4) establishing procedures and passing scores for
- 10 examinations for applicants for licensure;
- 11 (5) establishing requirements for continuing education
- 12 to maintain professional knowledge and competence as a
- 13 condition of continued licensure;
- 14 (6) defining qualifications for sanitarian-in-training
- 15 status and issuance of a permit;
- 16 (7) establishing a schedule of nonrefundable fees to
- 17 cover costs incurred in regulation of the profession; and
- 18 (8) defining unprofessional conduct as a basis for
- 19 disciplinary action.

20
 21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 22 **Section 1.** Section 37-40-101, MCA, is amended to read:
 23 "37-40-101. **Definitions.** Unless the context requires
 24 otherwise, as used in this chapter, the following
 25 definitions apply:



1 (1) "Board" means the board of sanitarians provided for
2 in 2-15-1861.

3 (2) "Department" means the department of commerce
4 provided for in Title 2, chapter 15, part 18.

5 (3) "Registered sanitarian" means a sanitarian licensed
6 under this chapter.

7 (4) "Sanitarian", within the meaning and intent of this
8 chapter, shall mean a person who, by reason of his special
9 knowledge of the physical, biological, and chemical sciences
10 and the principles and methods of public health acquired by
11 professional education and practical experience through
12 inspectional, educational, and/or enforcement duties, is
13 qualified to practice the profession of sanitarian.

14 (5) "Practice the profession of sanitarian" means
15 ~~planning,--inspectional,--educational,--or--enforcement--duties~~
16 ~~in-the-field-of-environmental-sanitation;:~~

17 (a) giving advice on or enforcing compliance with state
18 and local regulations applicable to local government
19 jurisdictions and programs concerning food service, food
20 processing, public accommodations, trailer courts,
21 campgrounds, day-care centers, schools, swimming pools and
22 spas, air pollution, solid and hazardous waste collection
23 and disposal, sewage treatment and disposal, vector control,
24 underground storage tanks, drinking water, land subdivision,
25 and milk sanitation;

1 (b) cooperating with government agencies on matters of
2 public and environmental health, including epidemiological
3 investigations and emergency response to investigations; and

4 (c) providing educational and training programs in
5 environmental standards and public health.

6 (6) "Sanitarian-in-training" means a person who meets
7 the minimum educational qualifications required for a
8 sanitarian's license and who works under the supervision of
9 a licensed sanitarian. Sanitarians-in-training may, with
10 board approval, work in a public health agency for a period
11 not to exceed 1 year and be considered exempt from the
12 licensing and registration requirements of 37-40-301."

13 **Section 2.** Section 37-40-102, MCA, is amended to read:
14 **"37-40-102. Exemptions.** Persons exempt from the
15 requirements of this chapter, unless practicing the
16 profession of sanitarian, are:

17 (1) any person teaching, lecturing, or engaging in
18 research in environmental sanitation, but only insofar as
19 such activities are performed as part of an academic
20 position in a college or university;

21 (2) any person who is a ~~sanitary--engineer,--public~~
22 ~~health---engineer,~~ registered professional engineer, or
23 engineer-in-training;

24 (3) any public health officer employed pursuant to
25 50-2-116; and

1 (4) any person employed by a federal governmental
2 agency, but only at such times as the person is carrying out
3 the functions of his employment; or

4 (5) state employees unless expressly required by
5 statute, regulation, or position description to be
6 registered as a sanitarian."

7 **Section 3.** Section 37-40-201, MCA, is amended to read:

8 "37-40-201. Chairman -- meetings. The board shall
9 appoint one of its members chairman. The board shall meet at
10 least once four times annually and at such other times as
11 agreed upon. ~~The board shall not meet more than four times a~~
12 ~~year."~~

13 **Section 4.** Section 37-40-203, MCA, is amended to read:

14 "37-40-203. Rulemaking power. (1) The board may adopt
15 rules consistent with ~~this chapter for its administration~~
16 the purposes of this chapter, as it considers necessary.

17 (2) The board's rulemaking and hearing functions shall
18 be in accordance with the Montana Administrative Procedure
19 Act. The board shall adopt rules:

20 (a) establishing standards of professional conduct in
21 order to maintain a high standard of integrity, dignity, and
22 competency in the profession of sanitarian, including
23 competency in specific fields of sanitation;

24 (b) governing the conduct of matters before the board;

25 (c) governing educational equivalency requirements, as

1 provided in 37-40-302, for registration of sanitarians;

2 (d) prescribing requirements for continuing education
3 to be met by registered sanitarians in order to maintain
4 their professional knowledge and competence and as a
5 condition to continuing in the practice of the profession of
6 sanitarian; and

7 (e) defining qualifications for sanitarian-in-training
8 status for issuance of the initial annual permit."

9 **Section 5.** Section 37-40-301, MCA, is amended to read:

10 "37-40-301. License required. A person may not practice
11 or offer to practice the profession of a sanitarian as
12 defined in this chapter or hold himself out in any manner to
13 be a licensed sanitarian unless he is the person is licensed
14 and registered under the provisions of this chapter."

15 **Section 6.** Section 37-40-302, MCA, is amended to read:

16 "37-40-302. Application -- examination -- certificate.

17 (1) A person wishing to practice the profession of
18 sanitarian may apply to the department for registration on a
19 form prescribed by the board.

20 (2) An applicant must possess a minimum of a bachelor's
21 degree in environmental health or its equivalent from an
22 accredited university or college and must pass an a written
23 examination and an oral interview given at a time and place
24 set by the board. The board shall establish procedures for
25 examination and determination of passing scores by rule.

1 (3) If the applicant meets the board's standards and
2 passes the examination prescribed by the board, the
3 department shall issue a certificate of registration upon
4 payment of the required fee.

5 (4) Holders of current certificates shall be entitled
6 to append to their name the initials "R.S."

7 **Section 7.** Section 37-40-303, MCA, is amended to read:

8 "37-40-303. Licensing sanitarians from other states.
9 The department ~~shall~~ may issue a license without examination
10 to a person who applies to the department, pays a fee
11 prescribed by the board, and submits satisfactory proof to
12 the board that the person:

13 (1) he is of good moral character; and

14 (2) he is registered or licensed as a sanitarian ~~in a~~
15 ~~state--which--has--requirements--comparable--to--those--in--this~~
16 ~~state~~ in another state; and

17 (3) has met the same qualifications for licensure as
18 applicants registered by examination under this chapter."

19 **Section 8.** Section 37-40-304, MCA, is amended to read:

20 "37-40-304. Fees -- renewal. (1) An applicant for a
21 license shall pay a fee set by the board in an amount
22 commensurate with examination and administrative costs.

23 (2) A registered sanitarian may renew his license by
24 paying an annual fee set by the board and submitting proof
25 of continuing education as prescribed by the board.

1 (3) Renewal fees are due July 1 of the renewal year. If
2 the renewal fee is not paid, the license expires. Licenses
3 which have lapsed for failure to pay renewal fees may be
4 reissued under rules adopted by the board."

5 **Section 9.** Section 37-40-305, MCA, is amended to read:

6 "37-40-305. Deposit of fees. ~~All fees collected by the~~
7 ~~department shall be deposited in the state--special--revenue~~
8 ~~fund--for--the--use--of--the--board, subject to 37-1-101(6). The~~
9 board shall adopt a schedule of nonrefundable fees to be
10 charged by the department and to be paid into the state
11 special revenue fund for the use of the board. The fees
12 charged must be reasonably related to the cost incurred in
13 regulating the practice of the profession of sanitarian."

14 **Section 10.** Section 37-40-311, MCA, is amended to read:

15 "37-40-311. Suspension or revocation of license. (1)
16 The board may suspend or revoke a license, put a licensee on
17 probation, reprimand a licensee, or refuse to issue or renew
18 a license for the following reasons:

19 (a) unprofessional conduct as defined by rule of the
20 board;

21 (b) fraud and deceit in obtaining a license;

22 (c) ~~gross~~ negligence, incompetency, or misconduct in
23 the practice as a sanitarian; or

24 (d) the conviction of a crime involving moral
25 turpitude.

1 (2) Any person may bring charges of ~~fraud, deceit,~~
 2 ~~gross negligence, incompetency, or misconduct against a~~
 3 ~~registrant. The charges shall be made by affidavit,~~
 4 ~~subscribed and sworn to by the person making them, and filed~~
 5 ~~with the department. Charges, unless dismissed by the board~~
 6 ~~as unfounded or trivial, must be heard by the board within 3~~
 7 ~~months after the date on which they were made. violating~~
 8 ~~standards of conduct. The board may deny, suspend, or revoke~~
 9 ~~a license or place a licensee on probation, or reprimand a~~
 10 ~~licensee after a hearing held under the provisions of the~~
 11 ~~Montana Administrative Procedure Act.~~

12 (3) The board may require a registrant to take a
 13 written or oral examination, or both, in a proceeding to
 14 reprimand or to revoke, suspend, or refuse to renew a
 15 license.

16 (4) If, after a hearing, a majority of the board votes
 17 in favor of sustaining the charges, the board shall
 18 reprimand or place the sanitarian on probation or suspend,
 19 deny, refuse to renew, or revoke the certificate of
 20 registration of the professional sanitarian.

21 (5) The board, for reasons it considers sufficient, may
 22 reissue a certificate of registration to a person whose
 23 certificate has been revoked if a majority of the members of
 24 the board vote in favor of the reissuance. A new certificate
 25 of registration, to replace a certificate revoked, lost,

1 destroyed, or mutilated, may be issued by the department,
 2 subject to the rules of the board."

3 **Section 11.** Section 37-40-312, MCA, is amended to read:
 4 "37-40-312. **Penalty.** (1) A person who offers his
 5 services as a sanitarian or uses, assumes, or advertises in
 6 any way any title or description tending to convey the
 7 impression that he is a registered sanitarian who does not
 8 hold the license specified by this chapter is guilty of a
 9 misdemeanor and is punishable by a fine not to exceed \$500
 10 or imprisonment for not longer than 6 months, or both.

11 (2) The board may enforce the provisions of this
 12 chapter by injunction or any other appropriate proceeding."

13 **NEW SECTION. Section 12. Repealer.** Sections 37-40-306
 14 and 37-40-307, MCA, are repealed.

15 **NEW SECTION. Section 13. Effective date.** [This act] is
 16 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0943, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the laws relating to the licensure and regulation of sanitarians; authorizing the Board of Sanitarians to meet four times annually, clarifying the definition of professional sanitarians; providing for the status of sanitarian-in-training; exempting certain state employees from regulation; clarifying and detailing the rulemaking authority of the Board of Sanitarians; authorizing rules for educational equivalency, continuing education, and discipline; authorizing the adoption of a schedule of fees; authorizing enforcement by injunction and other relief.


ASSUMPTIONS:

1. Approximately 159 licensees will enroll in the continuing education. The board will process 20 sanitarian-in-training applications.
2. Approximately ten pages of rules will be required to address the establishment of standards of professional conduct, board procedures, educational equivalency, procedures and passing scores for examinations, requirements for continuing education and qualifications for sanitarian-in-training applicants.
3. Board expenses will include supplies, communications, postage, printing and administrative overhead charges.
4. The Professional and Occupational Licensing Bureau (POL Bureau) will collect license fees and process the adoption of rules, applications and licenses, examinations, registry of licensees, continuing education and board meetings. Administrative overhead charges for the above services must be reflected in the POL Bureau budget.
5. The Board of Sanitarians currently has a sufficient fund balance in its state special revenue account to afford the proposed additional services without an increase in license and/or application fees.
6. Current law is represented by the executive budget recommendation for the Board of Sanitarians.

FISCAL IMPACT:

Board of Sanitarians:

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Personal Services	728	728	0	728	728	0
Operating Costs	8,532	12,002	3,470	8,502	11,972	3,470
Total	9,260	12,730	3,470	9,230	12,700	3,470
<u>Funding:</u>						
State Special	9,260	12,730	3,470	9,230	12,700	3,470


 ROD SUNDSTED, BUDGET DIRECTOR
 Office of Budget and Program Planning
 DATE 2-22-91


 ERVIN DAVIS, PRIMARY SPONSOR
 DATE 2-23-91

Fiscal Note for HB0943, as introduced.

HB 943

1 HOUSE BILL NO. 943

2 INTRODUCED BY DAVIS

3 BY REQUEST OF THE BOARD OF SANITARIANS

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 6 LAWS RELATING TO THE LICENSURE AND REGULATION OF
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 10 SANITARIAN-IN-TRAINING; EXEMPTING CERTAIN STATE EMPLOYEES
 11 FROM REGULATION; CLARIFYING AND DETAILING THE RULEMAKING
 12 AUTHORITY OF THE BOARD OF SANITARIANS; AUTHORIZING RULES FOR
 13 EDUCATIONAL EQUIVALENCY, CONTINUING EDUCATION, AND
 14 DISCIPLINE; AUTHORIZING THE ADOPTION OF A SCHEDULE OF FEES;
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 16 AMENDING SECTIONS 37-40-101, 37-40-102, 37-40-201,
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 18 37-40-311, AND 37-40-312, MCA; REPEALING SECTIONS 37-40-306
 19 AND 37-40-307, MCA; AND PROVIDING AN EFFECTIVE DATE."

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21 STATEMENT OF INTENT

22 A statement of intent is required for this bill because
 23 [sections 4 and 6] grant rulemaking authority to the board
 24 of sanitarians. It is the intent of the legislature that the
 25 board of sanitarians adopt rules:

1 (1) establishing standards of professional conduct in
 2 order to maintain the integrity, dignity, and competency of
 3 the profession;

4 (2) governing the conduct of matters before the board
 5 including meetings, recordkeeping, rulemaking, hearings, and
 6 other matters;

7 (3) establishing educational equivalency requirements
 8 to determine qualifications for licensure;

9 (4) establishing procedures and passing scores for
 10 examinations for applicants for licensure;

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 12 to maintain professional knowledge and competence as a
 13 condition of continued licensure;

14 (6) defining qualifications for sanitarian-in-training
 15 status and issuance of a permit;

16 (7) establishing a schedule of nonrefundable fees to
 17 cover costs incurred in regulation of the profession; and

18 (8) defining unprofessional conduct as a basis for
 19 disciplinary action.

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21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 37-40-101, MCA, is amended to read:

23 "37-40-101. **Definitions.** Unless the context requires
 24 otherwise, as used in this chapter, the following
 25 definitions apply:

THIRD READING

1 (1) "Board" means the board of sanitarians provided for
2 in 2-15-1861.

3 (2) "Department" means the department of commerce
4 provided for in Title 2, chapter 15, part 18.

5 (3) "Registered sanitarian" means a sanitarian licensed
6 under this chapter.

7 (4) "Sanitarian", within the meaning and intent of this
8 chapter, shall mean a person who, by reason of his special
9 knowledge of the physical, biological, and chemical sciences
10 and the principles and methods of public health acquired by
11 professional education and practical experience through
12 inspectional, educational, and/or enforcement duties, is
13 qualified to practice the profession of sanitarian.

14 (5) "Practice the profession of sanitarian" means
15 ~~planning, inspectional, educational, or enforcement duties~~
16 ~~in the field of environmental sanitation;~~

17 (a) giving advice on or enforcing compliance with state
18 and local regulations applicable to local government
19 jurisdictions and programs concerning food service, food
20 processing, public accommodations, trailer courts,
21 campgrounds, day-care centers, schools, swimming pools and
22 spas, air pollution, solid and hazardous waste collection
23 and disposal, sewage treatment and disposal, vector control,
24 underground storage tanks, drinking water, land subdivision,
25 and milk sanitation;

1 (b) cooperating with government agencies on matters of
2 public and environmental health, including epidemiological
3 investigations and emergency response to investigations; and

4 (c) providing educational and training programs in
5 environmental standards and public health.

6 (6) "Sanitarian-in-training" means a person who meets
7 the minimum educational qualifications required for a
8 sanitarian's license and who works under the supervision of
9 a licensed sanitarian. Sanitarians-in-training may, with
10 board approval, work in a public health agency for a period
11 not to exceed 1 year and be considered exempt from the
12 licensing and registration requirements of 37-40-301."

13 **Section 2.** Section 37-40-102, MCA, is amended to read:
14 "37-40-102. Exemptions. Persons exempt from the
15 requirements of this chapter, ~~unless practicing the~~
16 ~~profession of sanitarian,~~ are:

17 (1) any person teaching, lecturing, or engaging in
18 research in environmental sanitation, but only insofar as
19 such activities are performed as part of an academic
20 position in a college or university;

21 (2) any person who is a ~~sanitary engineer,~~ ~~public~~
22 ~~health engineer,~~ registered professional engineer, or
23 engineer-in-training;

24 (3) any public health officer employed pursuant to
25 50-2-116; and

1 (4) any person employed by a federal governmental
2 agency, but only at such times as the person is carrying out
3 the functions of his employment; or

4 (5) state employees unless expressly required by
5 statute, regulation, or position description to be
6 registered as a sanitarian; AND

7 (6) ANY PERSON NOT EMPLOYED BY A GOVERNMENTAL ENTITY IN
8 AN OFFICIAL REGULATORY CAPACITY."

9 **Section 3.** Section 37-40-201, MCA, is amended to read:

10 "37-40-201. Chairman -- meetings. The board shall
11 appoint one of its members chairman. The board shall meet at
12 least once four times annually and at such other times as
13 agreed upon. ~~The board shall not meet more than four times a~~
14 ~~year."~~

15 **Section 4.** Section 37-40-203, MCA, is amended to read:

16 "37-40-203. Rulemaking power. (1) The board may adopt
17 rules consistent with ~~this chapter--for--its--administration~~
18 the purposes of this chapter, as it considers necessary.

19 (2) The board's rulemaking and hearing functions shall
20 be in accordance with the Montana Administrative Procedure
21 Act. The board shall adopt rules:

22 (a) establishing standards of professional conduct in
23 order to maintain a high standard of integrity, dignity, and
24 competency in the profession of sanitarian, including
25 competency in specific fields of sanitation;

1 (b) governing the conduct of matters before the board;
2 (c) governing educational equivalency requirements, as
3 provided in 37-40-302, for registration of sanitarians;

4 (d) prescribing requirements for continuing education
5 to be met by registered sanitarians in order to maintain
6 their professional knowledge and competence and as a
7 condition to continuing in the practice of the profession of
8 sanitarian; and

9 (e) defining qualifications for sanitarian-in-training
10 status for issuance of the initial annual permit."

11 **Section 5.** Section 37-40-301, MCA, is amended to read:

12 "37-40-301. License required. A person may not practice
13 or offer to practice the profession of a sanitarian as
14 defined in this chapter or hold himself out in any manner
15 to be a licensed sanitarian unless he is the person is licensed
16 and registered under the provisions of this chapter."

17 **Section 6.** Section 37-40-302, MCA, is amended to read:

18 "37-40-302. Application -- examination -- certificate.
19 (1) A person wishing to practice the profession of
20 sanitarian may apply to the department for registration on a
21 form prescribed by the board.

22 (2) An applicant must possess a minimum of a bachelor's
23 degree in environmental health or its equivalent from an
24 accredited university or college and must pass an a written
25 examination and an oral interview given at a time and place

1 set by the board. The board shall establish procedures for
 2 examination and determination of passing scores by rule.

3 (3) If the applicant meets the board's standards and
 4 passes the examination prescribed by the board, the
 5 department shall issue a certificate of registration upon
 6 payment of the required fee.

7 (4) Holders of current certificates shall be entitled
 8 to append to their name the initials "R.S."

9 **Section 7.** Section 37-40-303, MCA, is amended to read:

10 "**37-40-303. Licensing sanitarians from other states.**
 11 The department ~~shall~~ may issue a license without examination
 12 to a person who applies to the department, pays a fee
 13 prescribed by the board, and submits satisfactory proof to
 14 the board that the person:

15 (1) he is of good moral character; and

16 (2) he is registered or licensed as a sanitarian ~~in--a~~
 17 ~~state--which--has--requirements--comparable-to-those-in-this~~
 18 ~~state in another state; and~~

19 (3) has met the same qualifications for licensure as
 20 applicants registered by examination under this chapter."

21 **Section 8.** Section 37-40-304, MCA, is amended to read:

22 "**37-40-304. Fees -- renewal.** (1) An applicant for a
 23 license shall pay a fee set by the board in an amount
 24 commensurate with examination and administrative costs.

25 (2) A registered sanitarian may renew his license by

1 paying an annual fee set by the board and submitting proof
 2 of continuing education as prescribed by the board.

3 (3) Renewal fees are due July 1 of the renewal year. If
 4 the renewal fee is not paid, the license expires. Licenses
 5 which have lapsed for failure to pay renewal fees may be
 6 reissued under rules adopted by the board."

7 **Section 9.** Section 37-40-305, MCA, is amended to read:

8 "**37-40-305. Deposit of fees.** ~~All-fees-collected-by-the~~
 9 ~~department-shall-be-deposited-in-the-state--special--revenue~~
 10 ~~fund--for--the-use-of-the-board, subject-to-37-1-101(6).~~ The
 11 board shall adopt a schedule of nonrefundable fees to be
 12 charged by the department and to be paid into the state
 13 special revenue fund for the use of the board. The fees
 14 charged must be reasonably related to the cost incurred in
 15 regulating the practice of the profession of sanitarian."

16 **Section 10.** Section 37-40-311, MCA, is amended to read:

17 "**37-40-311. Suspension or revocation of license.** (1)
 18 The board may suspend or revoke a license, put a licensee on
 19 probation, reprimand a licensee, or refuse to issue or renew
 20 a license for the following reasons:

21 (a) unprofessional conduct as defined by rule of the
 22 board;

23 (b) fraud and deceit in obtaining a license;

24 (c) gross negligence, incompetency, or misconduct in
 25 the practice as a sanitarian; or

1 (d) the conviction of a crime involving moral
2 turpitude.

3 (2) Any person may bring charges of fraud,--deceit,
4 gross--negligence,--incompetency,--or--misconduct--against-a
5 registrant,--The--charges--shall--be--made---by---affidavit,
6 subscribed-and-sworn-to-by-the-person-making-them,--and-filed
7 with--the-department,--Charges,--unless-dismissed-by-the-board
8 as-unfounded-or-trivial,--must-be-heard-by-the-board-within-3
9 months-after-the-date-on-which--they--were--made, violating
10 standards of conduct. The board may deny, suspend, or revoke
11 a license or place a licensee on probation, or reprimand a
12 licensee after a hearing held under the provisions of the
13 Montana Administrative Procedure Act.

14 (3) The board may require a registrant to take a
15 written or oral examination, or both, in a proceeding to
16 reprimand or to revoke, suspend, or refuse to renew a
17 license.

18 (4) If, after a hearing, a majority of the board votes
19 in favor of sustaining the charges, the board shall
20 reprimand or place the sanitarian on probation or suspend,
21 deny, refuse to renew, or revoke the certificate of
22 registration of the professional sanitarian.

23 (5) The board, for reasons it considers sufficient, may
24 reissue a certificate of registration to a person whose
25 certificate has been revoked if a majority of the members of

1 the board vote in favor of the reissuance. A new certificate
2 of registration, to replace a certificate revoked, lost,
3 destroyed, or mutilated, may be issued by the department,
4 subject to the rules of the board."

5 **Section 11.** Section 37-40-312, MCA, is amended to read:

6 "37-40-312. Penalty. (1) A person who offers his
7 services as a sanitarian or uses, assumes, or advertises in
8 any way any title or description tending to convey the
9 impression that he is a registered sanitarian who does not
10 hold the license specified by this chapter is guilty of a
11 misdemeanor and is punishable by a fine not to exceed \$500
12 or imprisonment for not longer than 6 months, or both.

13 (2) The board may enforce the provisions of this
14 chapter by injunction or any other appropriate proceeding."

15 NEW SECTION. **Section 12. Repealer.** Sections 37-40-306
16 and 37-40-307, MCA, are repealed.

17 NEW SECTION. **Section 13. Effective date.** [This act] is
18 effective July 1, 1991.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 23, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 943 (third reading copy -- blue), respectfully report that House Bill No. 943 be amended and as so amended be concurred in:

1. Page 5, line 6.

Following: "sanitarian;"

Strike: "AND"

Insert: "or"

2. Page 5, lines 7 and 8.

Following: "ENTITY" on line 7

Strike: remainder of line 7 through "CAPACITY" on line 8

Insert: "or not under contract with a governmental entity for the performance of an official regulatory function"

Signed: _____


Dorothy Eck, Chairman

3/23/91 LP
Amq. Coord.

SB 3/23
Sec. of Senate

11:45

SENATE

HB 943

1 HOUSE BILL NO. 943

2 INTRODUCED BY DAVIS

3 BY REQUEST OF THE BOARD OF SANITARIANS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO THE LICENSURE AND REGULATION OF
7 SANITARIANS; AUTHORIZING THE BOARD OF SANITARIANS TO MEET
8 FOUR TIMES ANNUALLY; CLARIFYING THE DEFINITION OF PRACTICE
9 OF THE PROFESSION OF SANITARIAN; PROVIDING FOR THE STATUS OF
10 SANITARIAN-IN-TRAINING; EXEMPTING CERTAIN STATE EMPLOYEES
11 FROM REGULATION; CLARIFYING AND DETAILING THE RULEMAKING
12 AUTHORITY OF THE BOARD OF SANITARIANS; AUTHORIZING RULES FOR
13 EDUCATIONAL EQUIVALENCY, CONTINUING EDUCATION, AND
14 DISCIPLINE; AUTHORIZING THE ADOPTION OF A SCHEDULE OF FEES;
15 AUTHORIZING ENFORCEMENT BY INJUNCTION AND OTHER RELIEF;
16 AMENDING SECTIONS 37-40-101, 37-40-102, 37-40-201,
17 37-40-301, 37-40-302, 37-40-303, 37-40-304, 37-40-305,
18 37-40-311, AND 37-40-312, MCA; REPEALING SECTIONS 37-40-306
19 AND 37-40-307, MCA; AND PROVIDING AN EFFECTIVE DATE."

20
21 STATEMENT OF INTENT

22 A statement of intent is required for this bill because
23 [sections 4 and 6] grant rulemaking authority to the board
24 of sanitarians. It is the intent of the legislature that the
25 board of sanitarians adopt rules:

1 (1) establishing standards of professional conduct in
2 order to maintain the integrity, dignity, and competency of
3 the profession;

4 (2) governing the conduct of matters before the board
5 including meetings, recordkeeping, rulemaking, hearings, and
6 other matters;

7 (3) establishing educational equivalency requirements
8 to determine qualifications for licensure;

9 (4) establishing procedures and passing scores for
10 examinations for applicants for licensure;

11 (5) establishing requirements for continuing education
12 to maintain professional knowledge and competence as a
13 condition of continued licensure;

14 (6) defining qualifications for sanitarian-in-training
15 status and issuance of a permit;

16 (7) establishing a schedule of nonrefundable fees to
17 cover costs incurred in regulation of the profession; and

18 (8) defining unprofessional conduct as a basis for
19 disciplinary action.

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 37-40-101, MCA, is amended to read:

23 "37-40-101. **Definitions.** Unless the context requires
24 otherwise, as used in this chapter, the following
25 definitions apply:

1 (1) "Board" means the board of sanitarians provided for
2 in 2-15-1861.

3 (2) "Department" means the department of commerce
4 provided for in Title 2, chapter 15, part 18.

5 (3) "Registered sanitarian" means a sanitarian licensed
6 under this chapter.

7 (4) "Sanitarian", within the meaning and intent of this
8 chapter, shall mean a person who, by reason of his special
9 knowledge of the physical, biological, and chemical sciences
10 and the principles and methods of public health acquired by
11 professional education and practical experience through
12 inspectional, educational, and/or enforcement duties, is
13 qualified to practice the profession of sanitarian.

14 (5) "Practice the profession of sanitarian" means
15 ~~planning, inspectional, educational, or enforcement duties~~
16 ~~in the field of environmental sanitation;~~

17 (a) giving advice on or enforcing compliance with state
18 and local regulations applicable to local government
19 jurisdictions and programs concerning food service, food
20 processing, public accommodations, trailer courts,
21 campgrounds, day-care centers, schools, swimming pools and
22 spas, air pollution, solid and hazardous waste collection
23 and disposal, sewage treatment and disposal, vector control,
24 underground storage tanks, drinking water, land subdivision,
25 and milk sanitation;

1 (b) cooperating with government agencies on matters of
2 public and environmental health, including epidemiological
3 investigations and emergency response to investigations; and

4 (c) providing educational and training programs in
5 environmental standards and public health.

6 (6) "Sanitarian-in-training" means a person who meets
7 the minimum educational qualifications required for a
8 sanitarian's license and who works under the supervision of
9 a licensed sanitarian. Sanitarians-in-training may, with
10 board approval, work in a public health agency for a period
11 not to exceed 1 year and be considered exempt from the
12 licensing and registration requirements of 37-40-301."

13 **Section 2.** Section 37-40-102, MCA, is amended to read:
14 "37-40-102. Exemptions. Persons exempt from the
15 requirements of this chapter, ~~unless practicing the~~
16 ~~profession of sanitarian,~~ are:

17 (1) any person teaching, lecturing, or engaging in
18 research in environmental sanitation, but only insofar as
19 such activities are performed as part of an academic
20 position in a college or university;

21 (2) any person who is a ~~sanitary engineer, public~~
22 ~~health engineer,~~ registered professional engineer, or
23 engineer-in-training;

24 (3) any public health officer employed pursuant to
25 50-2-116; and

1 (4) any person employed by a federal governmental
 2 agency, but only at such times as the person is carrying out
 3 the functions of his employment; or

4 (5) state employees unless expressly required by
 5 statute, regulation, or position description to be
 6 registered as a sanitarian; AND OR

7 (6) ANY PERSON NOT EMPLOYED BY A GOVERNMENTAL ENTITY IN
 8 AN OFFICIAL-REGULATORY-CAPACITY OR NOT UNDER CONTRACT WITH A
 9 GOVERNMENTAL ENTITY FOR THE PERFORMANCE OF AN OFFICIAL
 10 REGULATORY FUNCTION."

11 **Section 3.** Section 37-40-201, MCA, is amended to read:

12 "37-40-201. Chairman -- meetings. The board shall
 13 appoint one of its members chairman. The board shall meet at
 14 least once four times annually and at such other times as
 15 agreed upon. ~~The board shall not meet more than four times a~~
 16 ~~year."~~

17 **Section 4.** Section 37-40-203, MCA, is amended to read:

18 "37-40-203. Rulemaking power. (1) The board may adopt
 19 rules consistent with ~~this chapter for its administration~~
 20 the purposes of this chapter, as it considers necessary.

21 (2) The board's rulemaking and hearing functions shall
 22 be in accordance with the Montana Administrative Procedure
 23 Act. The board shall adopt rules:

24 (a) establishing standards of professional conduct in
 25 order to maintain a high standard of integrity, dignity, and

1 competency in the profession of sanitarian, including
 2 competency in specific fields of sanitation;

3 (b) governing the conduct of matters before the board;

4 (c) governing educational equivalency requirements, as
 5 provided in 37-40-302, for registration of sanitarians;

6 (d) prescribing requirements for continuing education
 7 to be met by registered sanitarians in order to maintain
 8 their professional knowledge and competence and as a
 9 condition to continuing in the practice of the profession of
 10 sanitarian; and

11 (e) defining qualifications for sanitarian-in-training
 12 status for issuance of the initial annual permit."

13 **Section 5.** Section 37-40-301, MCA, is amended to read:

14 "37-40-301. License required. A person may not practice
 15 or offer to practice the profession of a sanitarian as
 16 defined in this chapter or hold himself out in any manner to
 17 be a licensed sanitarian unless he is the person is licensed
 18 and registered under the provisions of this chapter."

19 **Section 6.** Section 37-40-302, MCA, is amended to read:

20 "37-40-302. Application -- examination -- certificate.

21 (1) A person wishing to practice the profession of
 22 sanitarian may apply to the department for registration on a
 23 form prescribed by the board.

24 (2) An applicant must possess a minimum of a bachelor's
 25 degree in environmental health or its equivalent from an

1 accredited university or college and must pass ~~an~~ a written
 2 examination and an oral interview given at a time and place
 3 set by the board. The board shall establish procedures for
 4 examination and determination of passing scores by rule.

5 (3) If the applicant meets the board's standards and
 6 passes the examination prescribed by the board, the
 7 department shall issue a certificate of registration upon
 8 payment of the required fee.

9 (4) Holders of current certificates shall be entitled
 10 to append to their name the initials "R.S."

11 **Section 7.** Section 37-40-303, MCA, is amended to read:

12 **"37-40-303. Licensing sanitarians from other states.**
 13 The department ~~shall~~ may issue a license without examination
 14 to a person who applies to the department, pays a fee
 15 prescribed by the board, and submits satisfactory proof to
 16 the board that the person:

- 17 (1) he is of good moral character; and
- 18 (2) he is registered or licensed as a sanitarian ~~in--a~~
 19 ~~state--which--has--requirements--comparable--to--those--in--this~~
 20 state in another state; and
- 21 (3) has met the same qualifications for licensure as
 22 applicants registered by examination under this chapter."

23 **Section 8.** Section 37-40-304, MCA, is amended to read:

24 **"37-40-304. Fees -- renewal.** (1) An applicant for a
 25 license shall pay a fee set by the board in an amount

1 commensurate with examination and administrative costs.

2 (2) A registered sanitarian may renew his license by
 3 paying an annual fee set by the board and submitting proof
 4 of continuing education as prescribed by the board.

5 (3) Renewal fees are due July 1 of the renewal year. If
 6 the renewal fee is not paid, the license expires. Licenses
 7 which have lapsed for failure to pay renewal fees may be
 8 reissued under rules adopted by the board."

9 **Section 9.** Section 37-40-305, MCA, is amended to read:

10 **"37-40-305. Deposit of fees.** ~~All fees collected by the~~
 11 ~~department shall be deposited in the state special revenue~~
 12 ~~fund for the use of the board, subject to 37-1-101(6). The~~
 13 board shall adopt a schedule of nonrefundable fees to be
 14 charged by the department and to be paid into the state
 15 special revenue fund for the use of the board. The fees
 16 charged must be reasonably related to the cost incurred in
 17 regulating the practice of the profession of sanitarian."

18 **Section 10.** Section 37-40-311, MCA, is amended to read:

19 **"37-40-311. Suspension or revocation of license.** (1)
 20 The board may suspend or revoke a license, put a licensee on
 21 probation, reprimand a licensee, or refuse to issue or renew
 22 a license for the following reasons:

- 23 (a) unprofessional conduct as defined by rule of the
 24 board;
- 25 (b) fraud and deceit in obtaining a license;

1 (c) gross negligence, incompetency, or misconduct in
2 the practice as a sanitarian; or

3 (d) the conviction of a crime involving moral
4 turpitude.

5 (2) Any person may bring charges of ~~fraud, deceit,~~
6 ~~gross negligence, incompetency, or misconduct against a~~
7 ~~registrant. The charges shall be made by affidavit,~~
8 ~~subscribed and sworn to by the person making them, and filed~~
9 ~~with the department. Charges, unless dismissed by the board~~
10 ~~as unfounded or trivial, must be heard by the board within 3~~
11 ~~months after the date on which they were made.~~ violating
12 standards of conduct. The board may deny, suspend, or revoke
13 a license or place a licensee on probation, or reprimand a
14 licensee after a hearing held under the provisions of the
15 Montana Administrative Procedure Act.

16 (3) The board may require a registrant to take a
17 written or oral examination, or both, in a proceeding to
18 reprimand or to revoke, suspend, or refuse to renew a
19 license.

20 (4) If, after a hearing, a majority of the board votes
21 in favor of sustaining the charges, the board shall
22 reprimand or place the sanitarian on probation or suspend,
23 deny, refuse to renew, or revoke the certificate of
24 registration of the professional sanitarian.

25 (5) The board, for reasons it considers sufficient, may

1 reissue a certificate of registration to a person whose
2 certificate has been revoked if a majority of the members of
3 the board vote in favor of the reissuance. A new certificate
4 of registration, to replace a certificate revoked, lost,
5 destroyed, or mutilated, may be issued by the department,
6 subject to the rules of the board."

7 **Section 11.** Section 37-40-312, MCA, is amended to read:
8 "37-40-312. Penalty. (1) A person who offers his
9 services as a sanitarian or uses, assumes, or advertises in
10 any way any title or description tending to convey the
11 impression that he is a registered sanitarian who does not
12 hold the license specified by this chapter is guilty of a
13 misdemeanor and is punishable by a fine not to exceed \$500
14 or imprisonment for not longer than 6 months, or both.

15 (2) The board may enforce the provisions of this
16 chapter by injunction or any other appropriate proceeding."

17 NEW SECTION. **Section 12.** Repealer. Sections 37-40-306
18 and 37-40-307, MCA, are repealed.

19 NEW SECTION. **Section 13.** Effective date. [This act] is
20 effective July 1, 1991.

-End-