

1 *Senate* BILL NO. 90  
 2 INTRODUCED BY *Colby Stuy*  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE  
 5 PROFESSION OF SOIL CLASSIFYING; CREATING A BOARD OF SOIL  
 6 CLASSIFIERS TO LICENSE AND REGISTER PROFESSIONAL SOIL  
 7 CLASSIFIERS; SETTING STANDARDS FOR THE LICENSING AND  
 8 REGISTRATION OF SOIL CLASSIFIERS; AND PROVIDING A PENALTY."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. That in order to safeguard life, health and  
 12 property, and to promote the public welfare, there is a new  
 13 R.C.M. section numbered 82A-1602.28 that reads as follows:

14 82A-1602.28. Board of soil classifiers -- appointment  
 15 -- qualifications -- terms -- removal. (1)There is a board  
 16 of soil classifiers.

17 (2) The board consists of three (3) members appointed  
 18 by the governor. Each member of the board shall be a  
 19 citizen of the United States and a resident of this state  
 20 for at least two (2) years. At least two (2) members must  
 21 be professional soil classifiers who have had at least four

22 (4) years practice of soil classifying as defined in  
 23 subsection (7) of section (2). One member may be a citizen  
 24 at large.

25 (3) Each member shall serve a term of three (3) years

1 staggered so that the term of one member expires on June 30  
 2 each year. Initial appointments made following the  
 3 effective date of this section shall be for terms of one  
 4 (1), two (2), or three (3) years, in order to stagger the  
 5 terms in subsequent years.

6 (4) The governor may remove an appointed member of the  
 7 board for misconduct, incompetence, or neglect of duty,  
 8 after notice and hearing.

9 Section 2. Definitions. As used in this chapter:

10 (1) "Soil classifier" means a professional soil  
 11 classifier as defined in subsection (2) of this section.

12 (2) "Professional soil classifier" means a person who  
 13 by reason of his special knowledge of the physical, chemical  
 14 and biological sciences applicable to soils as natural  
 15 bodies and of the methods and principles of soil  
 16 classification as acquired by soils education and soil  
 17 classification experience in the formation, morphology,  
 18 description and mapping of soils is qualified to practice  
 19 soil classifying and who has been duly licensed by the board  
 20 of soil classifiers.

21 (3) "Soil classifier-in-training" means a person who  
 22 complies with the requirements for education and character  
 23 and who has passed an examination in the fundamental soil  
 24 and related subjects as provided for in sections 4, 5, 6,  
 25 and 7 of this chapter.

1 (4) "Soil" means all of the groups of natural bodies  
2 occupying the unconsolidated portion of the earth's surface  
3 capable of supporting plant life and having properties due  
4 to the combined effect of climate and living organisms, as  
5 modified by topography and time, upon parent materials.

6 (5) "Kind of soil" means a group of natural bodies  
7 that has a discrete combination of landscape, morphological,  
8 chemical and physical properties.

9 (6) "Soil classification" means plotting the  
10 boundaries, describing and evaluating the kinds of soil as  
11 to their behavior and response to management under the  
12 various uses.

13 (7) "Practice of soil classifying and practice of  
14 professional soil classifying" means any service or work the  
15 adequate performance of which requires education in the  
16 physical, chemical, biological and soil sciences, training  
17 and experience in the application of the special knowledge  
18 of these sciences to soil classification, the soil  
19 classification by accepted principles and methods,  
20 investigation, evaluation and consultation on the effect of  
21 measured, observed, and inferred soil properties upon the  
22 various uses, the preparation of soil descriptions, maps and  
23 reports and interpretive drawings, maps and reports of soil  
24 properties and the effect of soil properties upon the  
25 various uses, and the effect of the various uses upon kinds

1 of soil, any of which embraces such service or work either  
2 public or private incidental to the practice of soil  
3 classifying.

4 A person is practicing or offering to practice soil  
5 classifying within the meaning and intent of this chapter  
6 when he by verbal claim, sign, advertisement, letterhead,  
7 card or use of some other title represents himself to be a  
8 soil classifier. This does not include the practice of soil  
9 classifying by persons exempt under the provisions of  
10 section 3(2) nor the work ordinarily performed by persons  
11 who sample and test soil for fertility status or  
12 construction materials and engineering surveys and soundings  
13 to determine soil properties influencing the design and  
14 construction of engineering and architectural projects. A  
15 person does not practice soil classifying unless he offers  
16 soil classifying services to or performs soil classifying  
17 services for the public.

18 (8) "Department" means the department of professional  
19 and occupational licensing provided for in Title 82A,  
20 chapter 16.

21 (9) "Board" means the board of soil classifiers  
22 established in section 82A-1602.28.

23 (10) "Responsible charge" means direct control and  
24 personal supervision of soil classification.

25 Section 3. Right to practice restricted -- exemptions.

1 (1) A person may not practice or offer to practice  
 2 professional soil classifying unless he is registered with  
 3 the board of soil classifiers and licensed to practice by  
 4 the board, or unless he is exempt under subsection (2) of  
 5 this section.

6 (2) This chapter does not prevent or restrict:

7 (a) Temporary permits. The practice or offer to  
 8 practice soil classifying by a person not a resident or  
 9 having no established place of business in this state  
 10 provided such person is legally qualified by the provisions  
 11 of this chapter to practice soil classifying as defined  
 12 herein in his own state which extends similar privileges to  
 13 persons registered under this chapter provided the person  
 14 makes application accompanied by the appropriate application  
 15 fee to the board in writing prior to his practicing or  
 16 offering to practice soil classifying. The board may grant  
 17 a temporary permit for a definite period of time not to  
 18 exceed one year to do a specific job only.

19 (b) Employees and subordinates. The work of an  
 20 employee or a subordinate of a person holding a certificate  
 21 of registration under this chapter or an employee of a  
 22 person practicing lawfully under subsection (1) of this  
 23 section, provided such work does not include final soil  
 24 classifying decisions and is done under the direct  
 25 supervision of and verified by a person holding a

1 certificate of registration under this chapter or a person  
 2 practicing lawfully under subsection (1) of this section.

3 (c) The practice of soil classifying by any person  
 4 regularly employed to perform soil classifying services  
 5 solely for his employer or for a subsidiary or affiliated  
 6 corporation of his employer providing the soil classifying  
 7 performed is in connection with the property, products or  
 8 services of his employer.

9 Section 4. General requirements for licensing --  
 10 professional soil classifier. To be eligible for licensing  
 11 as a professional soil classifier or certification as soil  
 12 classifier-in-training, an applicant must be of good  
 13 character and reputation and shall submit a written  
 14 application to the board containing such information as the  
 15 board may require, together with five (5) references, three  
 16 (3) of which shall be professional soil classifiers having  
 17 personal knowledge of his soil classification experience; or  
 18 in the case of an application for certification as a soil  
 19 classifier-in-training, by three (3) character references.

20 Section 5. Licensing without examination --  
 21 professional soil classifier. An applicant otherwise  
 22 qualified shall be admitted to be licensed as a professional  
 23 soil classifier without examination within one (1) year  
 24 after July 1, 1975, if he is:

25 (1) A person of good character who has been a resident

1 of the state of Montana for at least one (1) year  
 2 immediately preceding the date of his application and was a  
 3 practicing soil classifier on July 1, 1975, and meets the  
 4 requirements of this chapter and has performed work of a  
 5 character satisfactory to the board; or,

6 (2) A person holding a certificate of registration in  
 7 the practice of soil classifying on the basis of comparable  
 8 qualifications issued to him by a proper authority of  
 9 another state, possession or territory of the United States  
 10 and who in the opinion of the board meets the requirements  
 11 of this chapter.

12 Section 6. Registration and licensing with examination  
 13 -- professional soil classifier. An applicant otherwise  
 14 qualified shall be registered and licensed as a professional  
 15 soil classifier if he has successfully passed an examination  
 16 in the principles and practice of soil classifying as  
 17 prescribed by the board and has one (1) of the following  
 18 additional qualifications:

19 (1) Is a graduate of a soils curriculum approved by  
 20 the board as satisfactory and with a specific record of an  
 21 additional four (4) years or more of soil classification  
 22 experience of a grade and character which indicates to the  
 23 board that the applicant is competent to practice soil  
 24 classifying and who holds a valid soil  
 25 classifier-in-training certificate; or,

1 (2) Is a person who has satisfactorily completed a  
 2 soils curriculum not approved by the board and eight (8)  
 3 years or more of experience in soil classification work of a  
 4 character and grade which indicates to the board that the  
 5 applicant is competent to practice soil classifying; or,

6 (3) Is a person who holds a valid soil  
 7 classifier-in-training certificate with a specific record of  
 8 four (4) years or more of soil classification experience as  
 9 a soil classifier-in-training of a grade and character which  
 10 indicates to the board that the applicant is competent to  
 11 practice soil classifying; or,

12 (4) Is a person with experience of not less than four  
 13 (4) years of soil classification research or as a teacher of  
 14 soils in a college or university offering an approved soils  
 15 curriculum of four (4) years or more, and a minimum of two  
 16 (2) years of soil classification experience of a character  
 17 and grade which indicates to the board that the applicant is  
 18 competent to practice soil classifying.

19 Section 7. Qualifications of soil classifier-in-  
 20 training. Unless otherwise qualified, a person shall be  
 21 certified as a soil classifier-in-training, which  
 22 certification is valid for four (4) years, if he is a person  
 23 who is:

24 (1) A graduate of a soil curriculum approved by the  
 25 board and has passed an examination in the fundamentals of

1 soil classification; or,

2 (2) An applicant who has completed a soil curriculum  
3 not approved by the board and who has a specific record of  
4 four (4) years of soil classification experience of a grade  
5 and character satisfactory to the board and who passes an  
6 examination in the fundamentals of soil classification.

7 Section 8. Applications. Application for license as a  
8 professional soil classifier or for certification as a soil  
9 classifier-in-training shall be on a form prescribed and  
10 furnished by the board, shall contain statements made under  
11 oath showing the applicant's education, a detailed summary  
12 of his experience, and references as required by this  
13 chapter and shall be accompanied by an application fee  
14 established by the board of not less than five dollars (\$5)  
15 nor more than twenty-five dollars (\$25).

16 Section 9. Registration and licensing fees.  
17 Registration and licensing fees shall be charged by the  
18 department as follows:

19 (1) The original licensing fee for professional soil  
20 classifiers shall not exceed forty dollars (\$40), and as set  
21 by the board.

22 (2) The registration fee for soil  
23 classifier-in-training certification shall not exceed twenty  
24 dollars (\$20), and as set by the board.

25 Section 10. Powers of the board. The board may:

1 (1) make rules encompassing a code of ethics which  
2 shall be binding on all persons licensed under or subject to  
3 this chapter;

4 (2) provide by rule for the issuance, display and  
5 setting an annual renewal fee for every person properly  
6 qualified to be licensed or renewed by the board.

7 (3) devise examinations, to be administered by the  
8 department under section 82A-1603, to applicants for  
9 licensing as professional soil classifiers or for  
10 certification as a soil classifier-in-training.

11 (4) sit in judgment in hearings held under section  
12 82A-1605(2) on the suspension or revocation of a license.

13 Section 11. Department to provide supporting services.  
14 The department shall provide supporting services to the  
15 board as directed under section 82A-1603, and shall make an  
16 annual report on behalf of the board concerning its  
17 activities and finances. The department shall, within the  
18 appropriation of the board, reimburse appointed members for  
19 their mileage and necessary actual expenses while on the  
20 business of the board, and may pay compensation of  
21 twenty-five dollars (\$25) to each member for each day  
22 actually engaged in business of the board.

23 Section 12. Violation and penalties. (1) A person  
24 commits a misdemeanor if he:

25 (a) practices or offers to practice professional soil

5890

1 classifying in this state without being licensed or exempt;  
 2 (b) presents or attempts to use a license of another;  
 3 (c) gives false or forged evidence of any kind to the  
 4 board or any member thereof in obtaining or attempting to  
 5 obtain a license;  
 6 (d) falsely impersonates any other licensee;  
 7 (e) attempts to use an expired or revoked or  
 8 nonexistent license;  
 9 (f) practices or offers to practice when not  
 10 qualified;  
 11 (g) falsely claims that he is licensed under this  
 12 chapter; or  
 13 (h) violates any provision of this chapter.

14 (2) A person, firm, partnership, organization,  
 15 association or other entity is guilty of a misdemeanor if he  
 16 or it uses or employs the words "soil classifier" or  
 17 "professional soil classifier" or any modification or  
 18 derivative thereof in its name or form of business or  
 19 activity except as authorized by this chapter.

20 Section 13. Attorney for board. The attorney general  
 21 of the state shall render to the board opinions on all  
 22 questions of law relating to the interpretation of this act  
 23 or arising in administration thereof. The attorney general  
 24 shall further act as attorney for the said board in all  
 25 actions and proceedings brought by or against it under or

1 pursuant to any of the provisions of this act.

-End-