

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 268*

Short Title: On-Site Sewage Reg. Changes.

(Public)

Sponsors: Representative Redwine.

Referred to: Commerce.

February 20, 1989

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES IN THE LAWS RELATING TO TRAINING AND CONTINUING EDUCATION FOR SANITARIANS, LOCAL HEALTH BOARD MEMBERSHIP, REVIEW AND APPEAL PROCEDURES FOR IMPROVEMENT PERMIT APPLICATIONS, AND PERMITTING OF ON-SITE SEWAGE SYSTEMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90A-53 reads as rewritten:

"§ 90A-53. Qualifications and examination for registration as a sanitarian.

The Board shall issue certificates to qualified persons as registered sanitarians. A certificate as a registered sanitarian shall be issued to any person upon the Board's determination that such person:

- (1) Has made application to the Board on a form prescribed by the Board;
- (2) Is of good moral character;
- (3) Has received a degree from a post-secondary educational institution rated as acceptable by the Board with a minimum of 15 semester hours or its equivalent in the physical and/or biological sciences;
- (4) Has satisfactorily completed a course in specialized instruction and training approved by the Board which course shall be designed as to content and so administered as to present sufficient knowledge of the needs properly to be served by public health sanitation, the elements of good environmental health sanitation, the laws and regulations governing sanitation in environmental health and the protection of the public health;

- 1 (5) Has had at least two years' experience in the field of environmental
2 health sanitation, or at least one year of ~~such~~ experience in the field of
3 environmental health sanitation plus one year of graduate study in the
4 sanitary ~~sciences;~~ sciences, or at least one year of experience in the
5 field of environmental health sanitation plus a degree in environmental
6 health from an accredited university or college;
- 7 (6) Has passed an examination administered by the Board designed to test
8 for competence in the subject matters of environmental health
9 sanitation. The examination shall be in a form prescribed by the Board
10 and may be oral, written, or both. The examination for applicants shall
11 be held annually or more frequently as the Board may by rule
12 prescribe, at a time and place to be determined by the Board. A person
13 shall not be registered if such person fails to meet the minimum grade
14 requirements for examination specified by the Board. Failure to pass
15 an examination shall not prohibit such person from being examined at
16 subsequent times and places as specified by the Board; and
- 17 (7) Has paid a fee set by the Board not to exceed the cost of the
18 examination."

19 Sec. 2. Article 8 of Chapter 130A is amended by adding a new section to
20 read:

21 **"§ 130A-227.1. Mandatory continuing education courses for sanitarians who**
22 **administer the rules regarding sanitary sewage systems.**

23 (a) By July 1, 1990, the Department shall establish and administer a continuing
24 education program for sanitarians who administer the rules regarding sanitary sewage
25 systems. Continuing education requirements established by the Department shall
26 specify the number of hours of continuing education courses required of sanitarians who
27 administer the rules regarding sanitary sewage systems and shall include mandatory
28 courses in conventional and nonconventional sanitary sewage systems and any
29 additional courses deemed necessary by the Department to train sanitarians who
30 administer the rules regarding sanitary sewage systems adequately in conventional and
31 nonconventional sanitary sewage systems. The Department may withhold authorization
32 to act as its agent from any sanitarian who administers the rules regarding sanitary
33 sewage systems who fails to satisfy the continuing education requirements adopted by
34 the Commission for Health Services. The Commission for Health Services shall adopt
35 rules to implement the provisions of this subsection.

36 (b) Beginning July 1, 1990, all registered sanitarians who administer the rules
37 regarding sanitary sewage systems shall satisfy the continuing education requirements
38 adopted by the Commission for Health Services as provided by this section."

39 Sec. 3. G.S. 130A-35 reads as rewritten:

40 **"§ 130A-35. County board of health; appointment; terms.**

41 (a) A county board of health shall be the policy-making, rule-making and
42 adjudicatory body for a county health department.

43 (b) The members of a county board of health shall be appointed by the county
44 board of commissioners. The board shall be composed of 11 members. The composition

1 of the board shall reasonably reflect the population makeup of the county and shall
2 include: one physician licensed to practice medicine in this State, one licensed dentist,
3 one licensed optometrist, one licensed veterinarian, one registered nurse, one licensed
4 pharmacist, one county ~~commissioner~~ and ~~four~~ commissioner, one professional engineer
5 or certified sanitary sewage system contractor, and three representatives of the general
6 public. All members shall be residents of the county. If there is not a licensed physician,
7 a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered ~~nurse~~ or a
8 ~~licensed pharmacist~~ nurse, a licensed pharmacist, or a professional engineer or certified
9 sanitary sewage system contractor available for appointment, an additional
10 representative of the general public shall be appointed. If however, one of the ~~six~~
11 designated professions has only one person residing in the county, the county
12 commissioners shall have the option of appointing that person or a member of the
13 general public.

14 (c) Except as provided in this subsection, members of a county board of health
15 shall serve three-year terms. No member may serve more than three consecutive three-
16 year terms unless the member is the only person residing in the county who represents
17 one of the ~~six~~ professions designated in subsection (b) of this section. The county
18 commissioner member shall serve only as long as the member is a county
19 commissioner. When a representative of the general public is appointed due to the
20 unavailability of a licensed physician, a licensed dentist, a licensed optometrist, a
21 licensed veterinarian, a registered ~~nurse~~ or a ~~licensed pharmacist~~ nurse, a licensed
22 pharmacist, or a professional engineer or certified sanitary sewage system contractor,
23 that member shall serve only until a licensed physician, a licensed dentist, a licensed
24 optometrist, a licensed veterinarian, a registered ~~nurse~~ or a ~~licensed pharmacist~~ nurse, a
25 licensed pharmacist, or a professional engineer or certified sanitary sewage system
26 contractor becomes available for appointment. In order to establish a uniform staggered
27 term structure for the board, a member may be appointed for less than a three-year term.

28 (d) Vacancies shall be filled for any unexpired portion of a term.

29 (e) A chairperson shall be elected annually by a county board of health. The local
30 health director shall serve as secretary to the board.

31 (f) A majority of the members shall constitute a quorum.

32 (g) A member may be removed from office by the county board of
33 commissioners for cause.

34 (h) A member may receive a per diem in an amount established by the county
35 board of commissioners. Reimbursement for subsistence and travel shall be in
36 accordance with a policy set by the county board of commissioners.

37 (i) The board shall meet at least quarterly. The chairperson or three of the
38 members may call a special meeting."

39 Sec. 4. G.S. 130A-37 reads as rewritten:

40 "**§ 130A-37. District board of health.**

41 (a) A district board of health shall be the policymaking, rule-making and
42 adjudicatory body for a district health department and shall be composed of 15
43 members; provided, a district board of health may be increased up to a maximum
44 number of 18 members by agreement of the boards of county commissioners in all

1 counties that comprise the district. The agreement shall be evidenced by concurrent
2 resolutions adopted by the affected boards of county commissioners.

3 (b) The county board of commissioners of each county in the district shall
4 appoint one county commissioner to the district board of health. The county
5 commissioner members of the district board of health shall appoint the other members
6 of the board, including at least one physician licensed to practice medicine in this State,
7 one licensed dentist, one licensed optometrist, one licensed veterinarian, one registered
8 ~~nurse and one licensed pharmacist-nurse~~, one licensed pharmacist, and one professional
9 engineer or certified sanitary sewage system contractor. The composition of the board
10 shall reasonably reflect the population makeup of the entire district and provide
11 equitable district-wide representation. All members shall be residents of the district. If
12 there is not a licensed physician, a licensed dentist, a licensed optometrist, a licensed
13 veterinarian, a registered ~~nurse or a licensed pharmacist-nurse~~, a licensed pharmacist, or a
14 professional engineer or certified sanitary sewage system contractor available for
15 appointment, an additional representative of the general public shall be appointed. If
16 however, one of the ~~six~~-designated professions has only one person residing in the
17 district, the county commissioner members shall have the option of appointing that
18 person or a member of the general public.

19 (c) Except as provided in this subsection, members of a district board of health
20 shall serve terms of three years. Two of the original members shall serve terms of one
21 year and two of the original members shall serve terms of two years. No member shall
22 serve more than three consecutive three-year terms unless the member is the only
23 person residing in the district who represents one of the ~~six~~-professions designated in
24 subsection (b) of this section. County commissioner members shall serve only as long as
25 the member is a county commissioner. When a representative of the general public is
26 appointed due to the unavailability of a licensed physician, a licensed dentist, a licensed
27 optometrist, a licensed veterinarian, a registered ~~nurse or a licensed pharmacist-nurse~~, a
28 licensed pharmacist, or a professional engineer or certified sanitary sewage system
29 contractor that member shall serve only until a licensed physician, a licensed dentist, a
30 licensed optometrist, a licensed veterinarian, a registered ~~nurse or a licensed pharmacist~~
31 nurse, a licensed pharmacist, or a professional engineer or certified sanitary sewage
32 system contractor becomes available for appointment. The county commissioner
33 members may appoint a member for less than a three-year term to achieve a staggered
34 term structure.

35 (d) Whenever a county shall join or withdraw from an existing district health
36 department, the district board of health shall be dissolved and a new board shall be
37 appointed as provided in subsection (c).

38 (e) Vacancies shall be filled for any unexpired portion of a term.

39 (f) A chairperson shall be elected annually by a district board of health. The local
40 health director shall serve as secretary to the board.

41 (g) A majority of the members shall constitute a quorum.

42 (h) A member may be removed from office by the district board of health for
43 cause.

1 (i) A member may receive a per diem in an amount established by the county
2 commissioner members of the district board of health. Reimbursement for subsistence
3 and travel shall be in accordance with a policy set by the county commissioner members
4 of the district board of health.

5 (j) The board shall meet at least quarterly. The chairperson or three of the
6 members may call a special meeting.

7 (k) A district board of health is authorized to provide liability insurance for the
8 members of the board and the employees of the district health department. A district
9 board of health is also authorized to contract for the services of an attorney to represent
10 the board, the district health department and its employees, as appropriate. The purchase
11 of liability insurance pursuant to this subsection waives both the district board of
12 health's and the district health department's governmental immunity, to the extent of
13 insurance coverage, for any act or omission occurring in the exercise of a governmental
14 function. By entering into a liability insurance contract with the district board of health,
15 an insurer waives any defense based upon the governmental immunity of the district
16 board of health or the district health department."

17 Sec. 5. Appointment of a professional engineer or a certified sanitary sewage
18 system contractor shall be made at the vacancy of the next public member on each local
19 and district board of health as provided in Sections 3 and 4 of this act.

20 Sec. 6. Article 11 of Chapter 130A of the General Statutes is amended by
21 adding a new section to read:

22 "**§ 130A-340. Review procedures and appeals.**

23 (a) The Department of Human Resources shall provide a technical review of any
24 scientific data and system design submitted by an applicant for an improvement permit
25 to substantiate that a site is suitable for a ground absorption system. The data and
26 system design shall be evaluated by the professional peers within the Department of
27 Human Resources of those who prepared the data and system design. The technical
28 review shall be available prior to a final agency decision and shall not affect an
29 applicant's right to a contested hearing under Chapter 150B of the General Statutes.

30 (b) A person denied an improvement permit for a site located in a county
31 governed by the rules adopted by the Commission for Health Services may appeal the
32 decision as provided by G.S. 130A-24(b), (c), and (d) or may appeal the decision as
33 provided by G.S. 130A-24(a)."

34 Sec. 7. G. S. 130A-335 is amended by adding a new subsection to read:

35 "(g) Prior to denial of an improvement permit, the local health department shall
36 advise the owner of possible site modifications or alternative systems, and shall provide
37 a brief description of those systems. When an improvement permit is denied, the local
38 health department shall issue the site evaluation in writing stating the reasons for the
39 unsuitable classification. The evaluation shall also inform the owner of his right to a
40 site classification review under the Department's rules citing the exact language of the
41 rules, a technical review under G.S. 130A-340, and of his right to appeal under G.S.
42 130A-24 and G.S. 130A-340(b)."

43 Sec. 8. G.S. 130A-335(f) reads as rewritten:

1 "(f) The rules of the Commission and the rules of the local board of health shall
2 classify sanitary systems of sewage collection, treatment and disposal according to size,
3 type of treatment and any other appropriate factors. The rules shall provide construction
4 requirements, standards for operation and ownership requirements for each
5 classification of sanitary systems of sewage collection, treatment and disposal in order
6 to prevent, as far as reasonably possible, any contamination of the land, groundwater
7 and surface waters. The Department and local health departments may impose
8 conditions on the issuance of permits and may revoke the permits for failure of the
9 system to satisfy the conditions, the rules or this Article. The permits shall be valid for a
10 period ~~prescribed by the rules of five years~~ and may be renewed upon a showing
11 satisfactory to the Department or the local health department that the system is in
12 compliance with the current rules and this Article. The period of time for which the
13 permit is valid and a statement that the permit is subject to revocation if site plans or the
14 intended use change shall be displayed prominently on both the application form for the
15 permit and the permit."

16 Sec. 9. Article 11 of Chapter 130A of the General Statutes is amended by
17 adding a new section to read:

18 **"§ 130A-341. Consideration of a site with existing fill.**

19 The Commission for Health Services shall provide by rule that a site that has
20 existing fill shall be evaluated for an on-site sewage system."

21 Sec. 10. Article 11 of Chapter 130A is amended by adding a new section to
22 read:

23 **"§ 130A-342. Aerobic systems.**

24 (a) Individual aerobic sewage treatment plants that are National Sanitation
25 Foundation, Standard 40, Class 1, and that are National Sanitation Foundation approved
26 shall be permitted under rules promulgated by the Commission for Health Services and
27 the Environmental Management Commission. The Commission for Health Services
28 and the Environmental Management Commission may establish standards in addition to
29 those set by the National Sanitation Foundation.

30 (b) The plants shall be inspected at least every six months by a certified
31 wastewater treatment facility operator who is a county employee, an independent
32 contractor approved by the local health board, or is under contract to the county to
33 conduct such inspections.

34 (c) The performance of individual aerobic treatment plants is to be documented
35 by the counties and sent to the Department of Human Resources or the Department of
36 Natural Resources and Community Development as appropriate."

37 Sec. 11. Article 11 of Chapter 130A of the General Statutes is amended by
38 adding a new section to read:

39 **"§ 130A-343. Experimental, innovative, and proprietary systems permitted.**

40 (a) The Environmental Management Commission and the Commission for
41 Health Services shall adopt rules for the approval and permitting of experimental,
42 innovative, and proprietary sanitary sewage systems. The rules shall address the criteria
43 to be considered prior to issuing a permit for such a system, requirements for
44 preliminary design plans and specifications that must be submitted, methodology to be

1 used, standards for monitoring and evaluating the system, research evaluation of the
2 system, the plan of work for monitoring system performance and maintenance, and any
3 additional matters the Environmental Management Commission and the Commission
4 for Health Services deem appropriate.

5 (b) The Environmental Management Commission and the Commission for
6 Health Services shall also adopt rules concerning the development of operation and
7 maintenance programs to handle those systems."

8 Sec. 12. Section 8 of this act shall become effective July 1, 1989, and shall
9 apply to permits issued on or after that date. Sections 6 and 7 of this act shall become
10 effective October 1, 1989, and shall apply to permits applied for on or after that date.
11 The remainder of this act is effective upon ratification.