

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

2

HOUSE BILL 268*
Committee Substitute Favorable 4/17/89

Short Title: On-Site Sewage Reg. Changes.

(Public)

Sponsors:

Referred to:

February 20, 1989

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES IN THE LAWS RELATING TO TRAINING 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. G.S. 130A-35 reads as rewritten:

20 "**§ 130A-35. County board of health; appointment; terms.**

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

23 (b) The members of a county board of health shall be appointed by the county
24 board of commissioners. The board shall be composed of 11 members. The composition
25 of the board shall reasonably reflect the population makeup of the county and shall
26 include: one physician licensed to practice medicine in this State, one licensed dentist,
27 one licensed optometrist, one licensed veterinarian, one registered nurse, one licensed
28 pharmacist, one county ~~commissioner and four~~ commissioner, one professional engineer,
29 and three representatives of the general public. All members shall be residents of the
30 county. If there is not a licensed physician, a licensed dentist, a licensed optometrist, a
31 licensed veterinarian, a registered ~~nurse or a licensed pharmacist~~ nurse, a licensed
32 pharmacist, or a professional engineer available for appointment, an additional
33 representative of the general public shall be appointed. If however, one of the ~~six~~
34 designated professions has only one person residing in the county, the county
35 commissioners shall have the option of appointing that person or a member of the
36 general public.

37 (c) Except as provided in this subsection, members of a county board of health
38 shall serve three-year terms. No member may serve more than three consecutive three-
39 year terms unless the member is the only person residing in the county who represents
40 one of the ~~six~~ professions designated in subsection (b) of this section. The county
41 commissioner member shall serve only as long as the member is a county
42 commissioner. When a representative of the general public is appointed due to the
43 unavailability of a licensed physician, a licensed dentist, a licensed optometrist, a
44 licensed veterinarian, a registered ~~nurse or a licensed pharmacist~~ nurse, a licensed

1 pharmacist, or a professional engineer, that member shall serve only until a licensed
2 physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered
3 ~~nurse or a licensed pharmacist-nurse,~~ a licensed pharmacist, or a professional engineer
4 becomes available for appointment. In order to establish a uniform staggered term
5 structure for the board, a member may be appointed for less than a three-year term.

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

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

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

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

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

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

17 Sec. 3. G.S. 130A-37 reads as rewritten:

18 "**§ 130A-37. District board of health.**

19 (a) A district board of health shall be the ~~polycymaking,~~ policy-making, rule-
20 making and adjudicatory body for a district health department and shall be composed of
21 15 members; provided, a district board of health may be increased up to a maximum
22 number of 18 members by agreement of the boards of county commissioners in all
23 counties that comprise the district. The agreement shall be evidenced by concurrent
24 resolutions adopted by the affected boards of county commissioners.

25 (b) The county board of commissioners of each county in the district shall
26 appoint one county commissioner to the district board of health. The county
27 commissioner members of the district board of health shall appoint the other members
28 of the board, including at least one physician licensed to practice medicine in this State,
29 one licensed dentist, one licensed optometrist, one licensed veterinarian, one registered
30 ~~nurse and one licensed pharmacist-nurse,~~ one licensed pharmacist, and one professional
31 engineer. The composition of the board shall reasonably reflect the population makeup
32 of the entire district and provide equitable district-wide representation. All members
33 shall be residents of the district. If there is not a licensed physician, a licensed dentist, a
34 licensed optometrist, a licensed veterinarian, a registered ~~nurse or a licensed pharmacist~~
35 nurse, a licensed pharmacist, or a professional engineer available for appointment, an
36 additional representative of the general public shall be appointed. If however, one of the
37 ~~six~~-designated professions has only one person residing in the district, the county
38 commissioner members shall have the option of appointing that person or a member of
39 the general public.

40 (c) Except as provided in this subsection, members of a district board of health
41 shall serve terms of three years. Two of the original members shall serve terms of one
42 year and two of the original members shall serve terms of two years. No member shall
43 serve more than three consecutive three-year terms unless the member is the only
44 person residing in the district who represents one of the ~~six~~-professions designated in

1 subsection (b) of this section. County commissioner members shall serve only as long as
2 the member is a county commissioner. When a representative of the general public is
3 appointed due to the unavailability of a licensed physician, a licensed dentist, a licensed
4 optometrist, a licensed veterinarian, a registered ~~nurse or a licensed pharmacist~~, nurse, a
5 licensed pharmacist, or a professional engineer that member shall serve only until a
6 licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a
7 registered ~~nurse or a licensed pharmacist~~ nurse, a licensed pharmacist, or a professional
8 engineer becomes available for appointment. The county commissioner members may
9 appoint a member for less than a three-year term to achieve a staggered term structure.

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

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

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

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

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

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

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

25 (k) A district board of health is authorized to provide liability insurance for the
26 members of the board and the employees of the district health department. A district
27 board of health is also authorized to contract for the services of an attorney to represent
28 the board, the district health department and its employees, as appropriate. The purchase
29 of liability insurance pursuant to this subsection waives both the district board of
30 health's and the district health department's governmental immunity, to the extent of
31 insurance coverage, for any act or omission occurring in the exercise of a governmental
32 function. By entering into a liability insurance contract with the district board of health,
33 an insurer waives any defense based upon the governmental immunity of the district
34 board of health or the district health department."

35 Sec. 4. Appointment of a professional engineer shall be made at the vacancy
36 of the next public member on each local and district board of health as provided in
37 Sections 2 and 3 of this act.

38 Sec. 5. Article 11 of Chapter 130A of the General Statutes is amended by
39 adding a new section to read:

40 "**§ 130A-340. Review procedures and appeals.**

41 The Department, upon request by an applicant for an improvement permit, shall
42 provide a technical review of any scientific data and system design submitted by the
43 applicant. The data and system design shall be evaluated by professional peers of those
44 who prepared the data and system design. The results of the technical review shall be

1 available prior to a decision by the local health department and shall not affect an
2 applicant's right to a contested hearing under Chapter 150B of the General Statutes."

3 Sec. 6. G. S. 130A-335 is amended by adding a new subsection to read:

4 "(g) Prior to denial of an improvement permit, the local health department shall
5 advise the owner of possible site modifications or alternative systems, and shall provide
6 a brief description of those systems. When an improvement permit is denied, the local
7 health department shall issue the site evaluation in writing stating the reasons for the
8 unsuitable classification. The evaluation shall also inform the owner of his right to a
9 site classification review under the Department's rules citing the exact language of the
10 rules, a technical review under G.S. 130A-340, and of his right to appeal under G.S.
11 130A-24."

12 Sec. 7. G.S. 130A-335(f) reads as rewritten:

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

28 Sec. 8. Article 11 of Chapter 130A of the General Statutes is amended by
29 adding a new section to read:

30 "**§ 130A-341. Consideration of a site with existing fill.**

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

33 Sec. 9. Article 11 of Chapter 130A is amended by adding a new section to
34 read:

35 "**§ 130A-342. Aerobic systems.**

36 (a) Individual aerobic sewage treatment plants that are National Sanitation
37 Foundation, Standard 40, Class 1, and that are National Sanitation Foundation approved
38 shall be permitted under rules promulgated by the Commission for Health Services.
39 The Commission for Health Services may establish standards in addition to those set by
40 the National Sanitation Foundation.

41 (b) A permitted plant shall be operated and maintained by a certified wastewater
42 treatment facility operator employed by or under contract to the county in which the
43 plant is located.

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

4 Sec. 10. Article 11 of Chapter 130A of the General Statutes is amended by
5 adding a new section to read:

6 **"§ 130A-343. Experimental, innovative, and proprietary systems permitted.**

7 (a) The Commission for Health Services shall adopt rules for the approval and
8 permitting of experimental, innovative, and proprietary sanitary sewage systems. The
9 rules shall address the criteria to be considered prior to issuing a permit for such a
10 system, requirements for preliminary design plans and specifications that must be
11 submitted, methodology to be used, standards for monitoring and evaluating the system,
12 research evaluation of the system, the plan of work for monitoring system performance
13 and maintenance, and any additional matters the Commission for Health Services deems
14 appropriate.

15 (b) The Commission for Health Services shall also adopt rules concerning the
16 development of operation and maintenance programs to handle those systems."

17 Sec. 11. Section 7 of this act shall become effective July 1, 1989, and shall
18 apply to permits issued on or after that date. Sections 5 and 6 of this act shall become
19 effective October 1, 1989, and shall apply to permits applied for on or after that date.
20 The remainder of this act is effective upon ratification.