

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 268*
Committee Substitute Favorable 4/17/89
Environment & Natural Resources
Senate Committee Substitute Adopted 5/31/89

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

1 governing sanitation in environmental health and the protection of the
2 public health;

3 (5) Has had at least two years' experience in the field of environmental
4 health sanitation, or at least one year of ~~such~~ experience in the field of
5 environmental health sanitation plus one year of graduate study in the
6 sanitary ~~sciences~~; sciences, or at least one year of experience in the
7 field of environmental health sanitation plus a degree in environmental
8 health from an accredited university or college;

9 (6) Has passed an examination administered by the Board designed to test
10 for competence in the subject matters of environmental health
11 sanitation. The examination shall be in a form prescribed by the Board
12 and may be oral, written, or both. The examination for applicants shall
13 be held annually or more frequently as the Board may by rule
14 prescribe, at a time and place to be determined by the Board. A person
15 shall not be registered if such person fails to meet the minimum grade
16 requirements for examination specified by the Board. Failure to pass
17 an examination shall not prohibit such person from being examined at
18 subsequent times and places as specified by the Board; and

19 (7) Has paid a fee set by the Board not to exceed the cost of the
20 examination."

21 Sec. 2. G.S. 130A-35 reads as rewritten:

22 **"§ 130A-35. County board of health; appointment; terms.**

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

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

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

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

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

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

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

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

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

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

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

20 "**§ 130A-37. District board of health.**

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

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

42 (c) Except as provided in this subsection, members of a district board of health
43 shall serve terms of three years. Two of the original members shall serve terms of one
44 year and two of the original members shall serve terms of two years. No member shall

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

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

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

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

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

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

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

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

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

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

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

42 "**§ 130A-340. Review procedures and appeals.**

43 The Department, upon request by an applicant for an improvement permit, shall
44 provide a technical review of any scientific data and system design submitted by the

1 applicant. The data and system design shall be evaluated by professional peers of those
2 who prepared the data and system design. The results of the technical review shall be
3 available prior to a decision by the local health department and shall not affect an
4 applicant's right to a contested hearing under Chapter 150B of the General Statutes."

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

6 "(g) Prior to denial of an improvement permit, the local health department shall
7 advise the applicant of possible site modifications or alternative systems, and shall
8 provide a brief description of those systems. When an improvement permit is denied,
9 the local health department shall issue the site evaluation in writing stating the reasons
10 for the unsuitable classification. The evaluation shall also inform the applicant of the
11 right to an informal review by the Department and of the right to appeal under G.S.
12 130A-24."

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

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

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

31 **"§ 130A-341. Consideration of a site with existing fill.**

32 Upon application to the local health department, a site that has existing fill shall be
33 evaluated for an on-site sewage system. The Commission for Health Services shall
34 adopt rules to implement this section."

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

37 **"§ 130A-342. Aerobic systems.**

38 (a) Individual aerobic sewage treatment plants that are approved and listed in
39 accordance with the standards adopted by the the National Sanitation Foundation, Inc.
40 for Class I sewage treatment plants as set out in Standard 40, as amended, shall be
41 permitted under rules promulgated by the Commission for Health Services. The
42 Commission for Health Services may establish standards in addition to those set by the
43 National Sanitation Foundation, Inc.

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

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

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

9 **"§ 130A-343. Experimental and innovative systems permitted.**

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

18 (b) The Commission for Health Services shall adopt rules governing the
19 operation and maintenance of experimental and innovative sanitary sewage systems
20 approved and permitted under subsection (a) of this section."

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