

GENERAL ASSEMBLY OF NORTH CAROLINA

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Environment & Natural Resources
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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

1 good environmental health sanitation, the laws and regulations
2 governing sanitation in environmental health and the protection of the
3 public health;

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

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

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

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

23 "**§ 130A-35. County board of health; appointment; terms.**

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

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

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

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

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

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

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

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

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

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

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

21 "**§ 130A-37. District board of health.**

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

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

43 (c) Except as provided in this subsection, members of a district board of health
44 shall serve terms of three years. Two of the original members shall serve terms of one

1 year and two of the original members shall serve terms of two years. No member shall
2 serve more than three consecutive three-year terms unless the member is the only
3 person residing in the district who represents one of the ~~six~~ professions designated in
4 subsection (b) of this section. County commissioner members shall serve only as long as
5 the member is a county commissioner. When a representative of the general public is
6 appointed due to the unavailability of a licensed physician, a licensed dentist, a licensed
7 optometrist, a licensed veterinarian, a registered ~~nurse or a licensed pharmacist,~~ nurse, a
8 licensed pharmacist, or a professional engineer that member shall serve only until a
9 licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a
10 registered ~~nurse or a licensed pharmacist,~~ nurse, a licensed pharmacist, or a professional
11 engineer becomes available for appointment. The county commissioner members may
12 appoint a member for less than a three-year term to achieve a staggered term structure.

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

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

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

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

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

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

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

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

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

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

43 "**§ 130A-340. Review procedures and appeals.**

1 (a) The Department, upon request by an applicant for an improvement permit,
2 shall provide a technical review of any scientific data and system design submitted by
3 the applicant. The data and system design shall be evaluated by professional peers of
4 those who prepared the data and system design. The results of the technical review
5 shall be available prior to a decision by the local health department and shall not affect
6 an applicant's right to a contested hearing under Chapter 150B of the General Statutes.

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

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

12 "(g) Prior to denial of an improvement permit, the local health department shall
13 advise the applicant of possible site modifications or alternative systems, and shall
14 provide a brief description of those systems. When an improvement permit is denied,
15 the local health department shall issue the site evaluation in writing stating the reasons
16 for the unsuitable classification. The evaluation shall also inform the applicant of the
17 right to an informal review by the Department and of the right to appeal under G.S.
18 130A-24."

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

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

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

38 "**§ 130A-341. Consideration of a site with existing fill.**

39 Upon application to the local health department, a site that has existing fill,
40 including one on which fill material was placed prior to July 1, 1977, and that has sand
41 or loamy sand for a depth of at least 36 inches below the existing ground surface, shall
42 be evaluated for an on-site sewage system. The Commission for Health Services shall
43 adopt rules to implement this section."

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

3 **"§ 130A-342. Aerobic systems.**

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

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

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

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

18 **"§ 130A-343. Experimental and innovative systems permitted.**

19 (a) The Commission for Health Services shall adopt rules for the approval and
20 permitting of experimental and innovative sanitary sewage systems. The rules shall
21 address the criteria to be considered prior to issuing a permit for such a system,
22 requirements for preliminary design plans and specifications that must be submitted,
23 methodology to be used, standards for monitoring and evaluating the system, research
24 evaluation of the system, the plan of work for monitoring system performance and
25 maintenance, and any additional matters the Commission for Health Services deems
26 appropriate.

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

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