

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 764  
HOUSE BILL 268

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;
- (5) Has had at least two years' experience in the field of environmental health sanitation, or at least one year of ~~such~~ experience in the field of environmental health sanitation plus one year of graduate study in the sanitary ~~sciences~~; sciences, or at least one year of experience in the field of environmental health sanitation plus a degree in environmental health from an accredited university or college;
- (6) Has passed an examination administered by the Board designed to test for competence in the subject matters of environmental health sanitation. The examination shall be in a form prescribed by the Board and may be oral, written, or both. The examination for applicants shall be held annually or more frequently as the Board may by rule prescribe, at a time and place to be determined by the Board. A person shall not be registered if such person fails to meet the minimum grade

requirements for examination specified by the Board. Failure to pass an examination shall not prohibit such person from being examined at subsequent times and places as specified by the Board; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and to have the appeal held in the county in which the site for which the improvement permit was requested is located."

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

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

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

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

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

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

**"§ 130A-342. Aerobic systems.**

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

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

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 11th day of August, 1989.