

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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HOUSE BILL 376
Committee Substitute Favorable 4/2/25
Committee Substitute #2 Favorable 4/16/25
Fourth Edition Engrossed 4/30/25

Short Title: Various On-Site Wastewater & Well Provisions.

(Public)

Sponsors:

Referred to:

March 13, 2025

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES TO ON-SITE WASTEWATER PROVISIONS
AND TO MAKE VARIOUS CHANGES TO THE PRIVATE DRINKING WATER WELL
PROGRAM ADMINISTRATION AND PERMITTING.

The General Assembly of North Carolina enacts:

ON-SITE WASTEWATER BOARD CHANGES

SECTION 1.(a) G.S. 90A-73 reads as rewritten:

"§ 90A-73. Creation and membership of the Board.

(a) Creation and Appointments. – There is created the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board. The Board shall consist of nine members appointed to three-year terms as follows:

...

(j) Term Limits. – No member of the Board may serve more than two consecutive three-year terms."

SECTION 1.(b) This section is effective when it becomes law and applies to Board terms beginning on or after July 1, 2026.

SECTION 2.(a) G.S. 90A-77, as amended by S.L. 2024-49, reads as rewritten:

"§ 90A-77. Certification requirements.

(a) Certification. – The Board shall issue a certificate to an applicant who satisfies all of the following conditions:

- (1) Is at least 18 years of age.
- (2) Submits a properly completed application with all required supporting documents for the certification being applied for to the Board.
- (3) For grade level II contractor certification, applicant shall satisfy the following conditions:
 - a. Complete the basic on-site wastewater education approved by the Board for any level.
 - b. Complete any additional class hours required for grade level II.
- (3a) For grade level IV contractor certification, applicant shall satisfy the following conditions:
 - a. Hold current and satisfactory certification of grade level II for a minimum of two years prior to application for grade level IV.
 - b. Complete any additional class hours required for grade level IV.



- (3b) For inspector certification, applicant shall satisfy the following conditions:
- a. Complete the point-of-sale inspector education approved by the Board.
 - b. Complete any additional class hours required for point-of-sale inspector certification.
 - c. Hold current and satisfactory certification of grade level IV contractor, or Authorized On-Site Wastewater Evaluator or subsurface operator certification for a minimum of two years.
 - d. In lieu of the experience requirements in this subdivision, an applicant may instead complete the approved education requirements for the grade IV contractor certification as required by the Board. This sub-subdivision shall not apply to a person certified as a grade II contractor.
- (3c) For Authorized On-Site Wastewater Evaluator, applicant shall complete the Authorized On-Site Wastewater Evaluator education approved by the Board.
- (3d) For Private Compliance Inspector, applicant shall satisfy the following conditions:
- a. Complete the Private Compliance Inspector education approved by the Board.
 - b. Complete any additional class hours required by the Board for compliance inspector certification.
 - c. Have a minimum of 5 years of experience as a certified contractor, Authorized On-Site Wastewater Evaluator, subsurface operator, or a registered environmental health specialist with experience in on-site wastewater matters.
 - d. Not be employed by a local health department.
- (4) Repealed by Session Laws 2010-31, s. 13.2(l), effective July 1, 2010.
- (5) Completes any additional training program designed by the Board specific to the grade level for which the applicant is applying.
- (6) Pays the applicable fees set by the Board for the particular application.
- (7) Passes a written or oral examination that tests the applicant's proficiency in all of the following areas:
- a. Principles of public and environmental health associated with on-site wastewater systems.
 - b. Principles of construction and safety.
 - c. Technical and practical knowledge of on-site wastewater systems.
 - d. Laws and rules related to the installation, construction, repair, point-of-sale inspection, evaluation, or private compliance inspection of on-site wastewater systems.
- (8) Holds sufficient general liability coverage and professional liability coverage for the project as well as errors and omissions coverage, where applicable.

...."

SECTION 2.(b) G.S. 90A-78 reads as rewritten:

"§ 90A-78. Certification renewal.

(a) Renewal. – All certifications shall expire on December 31 of each year unless they are renewed. To renew a certification, a contractor, inspector, Authorized On-Site Wastewater Evaluator, or Private Compliance Inspector must meet all of the following conditions:

- (1) Submit an application for renewal on the form prescribed by the Board, which includes all supporting documents requested on the renewal ~~form~~form, and proof that the applicant holds sufficient liability coverage pursuant to G.S. 90A-77(a)(8).

(2) Meet the following continuing education requirements:

- a. Grade level II contractor: 3 hours per year.
- b. Grade level IV contractor: 6 hours per year.
- c. Point-of-sale inspector: 6 hours per year.
- d. Authorized on-site wastewater evaluator: 12 hours per year.
- e. Private compliance inspector: 12 hours per year.
- f. For persons holding more than one certification issued by the Board, the higher annual hours continuing education requirement of all certificates held.

(3) Pay the certification renewal fee.

(4) Submit the ~~renewal~~ completed renewal package by November 15 annually.

...."

SECTION 2.(c) This section becomes effective January 1, 2026, and applies to applications for certification or certificate renewal on or after that date.

ON-SITE WASTEWATER SYSTEM CHANGES

SECTION 3.(a) G.S. 130A-335 reads as rewritten:

"§ 130A-335. Wastewater collection, treatment and disposal; rules.

...

(c) A wastewater system subject to approval under rules of the Commission shall be reviewed and approved under rules of a local board of health in the following circumstances:

- (1) The local board of health, on its own motion, has requested the Department to review its proposed rules concerning wastewater systems; and
- (2) The local board of health has adopted by reference the wastewater system rules adopted by the Commission, with any more stringent modifications or additions deemed necessary by the local board of health to protect the public health. ~~Local boards of health shall use historical experience to establish modifications or additions to rules established by the Commission; and~~ health; and
- (3) The Department ~~has~~ has, consistent with subsection (c3) of this section, found that the rules, including modifications or additions to the Commission's rules, of the local board of health concerning wastewater collection, treatment and disposal systems are at least as stringent as rules adopted by the Commission and are sufficient and necessary to safeguard the public health.

...

(c3) The Department shall determine the validity of proposals from local boards of health seeking modifications or additions to rules established by the Commission based on whether the rules are at least as stringent as rules adopted by the Commission and necessary to protect the public health. The Department shall hold public hearings and notice those hearings on the Department's webpage upon application for modification or addition of Commission rules by the local health department. The Department shall make its findings available to the public before approving or denying a proposed modification or addition.

(d) The Department may, upon its own motion, upon the request of a local board of health or upon the request of a citizen of an affected county, review its findings under subsection (c) of this section.

The Department shall review its findings under subsection (c) of this section upon modification by the Commission of the rules applicable to wastewater systems. The Department may deny, suspend, or revoke the approval of local board of health wastewater system rules upon a finding that the local wastewater rules are not as stringent as rules adopted by the Commission, are not sufficient and necessary to safeguard the public health, or are not being enforced. Suspension and revocation of approval shall be in accordance with G.S. 130A-23.

1 ...

2 (f) The rules of the Commission and the rules of the local board of health shall classify

3 systems of wastewater collection, treatment and disposal according to size, type of treatment and

4 any other appropriate factors. The rules shall provide construction requirements, including

5 pretreatment and system control requirements, standards for operation, maintenance, monitoring,

6 reporting, and ownership requirements for each classification of systems of wastewater

7 collection, treatment and disposal in order to prevent, as far as reasonably possible, any

8 contamination of the land, groundwater and surface waters. The Department and local health

9 departments may impose conditions on the issuance of permits and may revoke the permits for

10 failure of the system to satisfy the conditions, the rules, or this Article. Permits other than

11 improvement permits shall be valid for a period prescribed by rule. Improvement permits shall

12 be valid upon a showing satisfactory to the Department or the local health department that the

13 site and soil conditions are unaltered, that the facility, design wastewater flow, and wastewater

14 characteristics are not increased, and that a wastewater system can be installed that meets the

15 permitting requirements in effect on the date the Improvement Permit was issued. Improvement

16 permits for which a plat is provided shall be valid without expiration. Improvement permits for

17 which a site plan is provided shall be valid for five years. The period of time for which the permit

18 is valid and a statement that the permit is subject to revocation if the site plan or plat, whichever

19 is applicable, or the intended use changes shall be displayed prominently on both the application

20 form for the permit and the permit.

21 "

22 **SECTION 3.(b)** G.S. 130A-336 reads as rewritten:

23 **"§ 130A-336. Improvement permit and construction authorization required.**

24 ...

25 (b) The local health department shall issue a ~~construction authorization~~ Construction

26 Authorization authorizing work to proceed and the installation or repair of a wastewater system

27 when it has determined after a field investigation that the system can be installed and operated in

28 compliance with this Article and rules adopted pursuant to this Article. This ~~construction~~

29 ~~authorization~~ Construction Authorization shall be valid for a period equal to the period of validity

30 of the ~~improvement permit~~ and may be issued at the same time the ~~improvement permit~~ is issued.

31 Improvement Permit. No person shall commence or assist in the installation, construction, or

32 repair of a wastewater system unless an ~~improvement permit~~ Improvement Permit and a

33 ~~construction authorization~~ Construction Authorization have been obtained from the Department

34 or the local health department unless that person is acting in accordance with the conditions and

35 criteria of an engineered option permit pursuant to G.S. 130A-336.1 or the Authorized On-Site

36 Wastewater Evaluator permit option pursuant to G.S. 130A-336.2. No ~~improvement permit~~

37 Improvement Permit or ~~construction authorization~~ Construction Authorization shall be required

38 for maintenance of a wastewater system. The Department and the local health department may

39 impose conditions on the issuance of an ~~improvement permit~~ Improvement Permit and a

40 ~~construction authorization~~ Construction Authorization.

41 "

42 **SECTION 3.(c)** G.S. 130A-337 reads as rewritten:

43 **"§ 130A-337. Inspection; operation permit required.**

44 (a) No system of wastewater collection, treatment and disposal shall be covered or placed

45 into use by any person until an inspection by the local health department has determined that the

46 system has been installed or repaired in accordance with any conditions of the Improvement

47 Permit, the Construction Authorization, the rules, and this Article.

48 (a1) Notwithstanding subsection (a) of this section, an applicant may contract with an

49 Authorized On-Site Wastewater Evaluator certified pursuant to Article 5 of Chapter 90A of the

50 General Statutes or an engineer licensed pursuant to Chapter 89C of the General Statutes to

51 conduct any required verifications or inspections. The evaluator or engineer shall provide the

applicant with written verification that all conditions of the Improvement Permit and Construction Authorization have been met, including an as-built drawing meeting the standards and scale of the local health department issuing the Construction Authorization as certified by the ~~evaluator~~, ~~evaluator~~ or engineer. The applicant may cover the system and place it into operation upon receipt of the ~~evaluator's~~ written verification and shall submit the verification to the local health department within two business days of receipt of the verification. The Department, the Department's authorized agents, and the local health department shall be discharged and released from any liabilities, duties, and responsibilities imposed by statute or common law from any claim arising out of or attributed to the on-site wastewater system installation.

...

(b) ~~Upon determining that the system is properly installed or repaired and that the system is capable of being operated in installation or repair of a wastewater system in accordance with the conditions of the Improvement Permit, the rules, this Article and any conditions to be imposed in the operation permit, Permit and the Construction Authorization, including any site modification conditions noted in the Improvement Permit or Construction Authorization, as applicable, applicable, or upon receipt of written verification submitted pursuant to subsection (a1) or (a2) of this section,~~ the local health department shall issue an operation permit authorizing the residence, place of business or place of public assembly to be occupied and for the system to be placed into use or reuse. A local health department shall not withhold issuance of an Operation Permit if all conditions specified in the Improvement Permit and Construction Authorization have been met, and the installation complies with all applicable laws and rules. Conditions added to the Operation Permit shall be consistent with the applicable rules and are enforceable as requirements of the permit.

...."

SECTION 3.(d) This section is effective when it becomes law and applies to permits applied for on or after that date.

ALLOW AUTHORIZED ON-SITE WASTEWATER EVALUATOR TO PREPARE A SITE DENIAL LETTER FOR SUBSURFACE WASTEWATER SYSTEMS

SECTION 3.5.(a) Definitions. – For purposes of this section, "Application Submittal Rule" means 15A NCAC 02T .0604 (Application Submittal).

SECTION 3.5.(b) Application Submittal Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Application Submittal Rule as provided in subsection (c) of this section.

SECTION 3.5.(c) Implementation. – A letter from either the local county health department or an Authorized On-Site Wastewater Evaluator certified pursuant to Article 5 of Chapter 90A of the General Statutes denying the site for all subsurface systems shall be submitted to the Division by the applicant.

SECTION 3.5.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Application Submittal Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 3.5.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

PRIVATE DRINKING WATER WELL PROGRAM CHANGES

SECTION 4.(a) G.S. 87-96 reads as rewritten:

"§ 87-96. Conflict with other laws.

(a) The provisions of any law, rule, or local ordinance which establish standards ~~affording greater protection to~~ for testing of groundwater resources ~~or public health, safety, or welfare~~ shall prevail, within the jurisdiction to which they apply, over the provisions of this Article and rules adopted pursuant to this Article.

~~(b) Rules relating to public health, wells, or groundwater adopted by the Commission for Public Health shall prevail over this Article, Article and rules adopted pursuant to this Article, and rules adopted by a local board of health pursuant to subsection (c) of this section. Article.~~
This Article shall not be construed to repeal any law or rule in effect as of July 1, 1989.

(c) A local board of health may adopt ~~by reference rules adopted by the Environmental Management Commission pursuant to this Article, and may adopt~~ more stringent rules for testing of water resources when necessary to protect the public health."

SECTION 4.(b) G.S. 87-97 reads as rewritten:

"§ 87-97. Permitting and testing of private drinking water wells.

(a) ~~Mandatory Local Well Programs. Authority.~~ – Each county, through the local health department that serves the county, shall implement ~~a the~~ private drinking water well permitting, ~~inspection, and testing program. and inspection program~~ established and adopted by the Environmental Management Commission. The local health department shall be the exclusive authority for the permitting of wells and well systems as described in G.S. 143-138(b17)(2). Local health departments shall administer the program and enforce the minimum well construction, permitting, inspection, repair, and testing requirements set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay or refuse to permit a well that can be constructed or repaired and operated in compliance with the requirements set out in this Article and rules adopted pursuant to this Article.

...

(e) Issuance of Permit. – In accordance with G.S. 87-97.1 and G.S. 87-97.2, within 30 days of receipt of an application to construct or repair a well, a local health department shall make a determination whether the proposed private drinking water well can be constructed or repaired and operated in compliance with this Article and rules adopted pursuant to this Article and shall issue a permit or denial accordingly. If a local health department fails to act within 30 days, the permit shall automatically be issued, and the local health department may challenge issuance of the permit as provided in Chapter 150B of the General Statutes. If an application to construct or repair a well is submitted by the applicant to the local health department and accompanied by a copy of a Notice of Intent to Construct, as described in G.S. 130A-336.1 and G.S. 130A-336.2, the local health department shall make a determination on the permit application within 10 business days of receipt of the application. If the local health department does not issue the permit within 10 business days and the Notice of Intent includes a proposed well area, the local health department shall accept the proposed well area in their permit and the permit shall automatically be issued. The local health department ~~may~~ shall impose any conditions on the issuance of a construction permit or repair permit that ~~it determines to be~~ are necessary to ensure compliance with this Article and rules adopted pursuant to this Article. Notwithstanding any other provision of law, no permit for a well that is in compliance with this Article and the rules adopted pursuant to this Article shall be denied on the basis of a local government policy or ordinance that discourages or prohibits the drilling of new wells.

...."

SECTION 4.(c) G.S. 130A-39 reads as rewritten:

"§ 130A-39. Powers and duties of a local board of health.

...

(b) A local board of health may adopt a more stringent rule in an area regulated by the Commission for Public Health or the Environmental Management Commission where, in the opinion of the local board of health, a more stringent rule is required to protect the public health; otherwise, the rules of the Commission for Public Health or the rules of the Environmental Management Commission shall prevail over local board of health rules. However, a local board of health may not adopt a rule concerning the grading, operating, and permitting of food and lodging facilities as listed in Part 6 of Article 8 of this Chapter and as defined in G.S. 130A-247(1), or a rule concerning the permitting of private drinking water wells, as defined in G.S. 87-85, except for testing standards as set out in G.S. 87-96, and a local board of health may adopt rules concerning wastewater collection, treatment and disposal systems which are not designed to discharge effluent to the land surface or surface waters only in accordance with G.S. 130A-335(c).

...."

SECTION 4.(d) All local boards of health rules concerning the permitting of private drinking water wells, as defined in G.S. 87-85, except for testing standards as set out in G.S. 87-96 and fees adopted pursuant to G.S. 130A-39, in effect when this act becomes law are repealed.

EFFECTIVE DATE

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.