

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 450

Environment and Natural Resources Committee Substitute Adopted 4/18/91

Finance Committee Substitute #2 Adopted 6/25/91

Short Title: Certify Water Pollution Control Operators.

(Public)

Sponsors:

Referred to:

April 1, 1991

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR THE CERTIFICATION OF WATER POLLUTION
2 CONTROL SYSTEM OPERATORS BY EXPANDING THE FUNCTIONS OF
3 THE WASTEWATER TREATMENT PLANT OPERATORS CERTIFICATION
4 COMMISSION AND TO RENAME THE COMMISSION AS THE WATER
5 POLLUTION CONTROL SYSTEM OPERATORS CERTIFICATION
6 COMMISSION.
7

8 The General Assembly of North Carolina enacts:

9 Section 1. Chapter 372 of the 1989 Session Laws is repealed.

10 Sec. 2. The catch line of Article 3 of Chapter 90A of the General Statutes
11 reads as rewritten:

12 **"ARTICLE 3.**

13 **"CERTIFICATION OF WASTEWATER TREATMENT PLANT**
14 **WATER POLLUTION CONTROL SYSTEM OPERATORS."**

15 Sec. 3. G.S. 90A-35 reads as rewritten:

16 **"§ 90A-35. (~~Effective until September 1, 1991~~) Purpose.**

17 It is the purpose of this Article to protect the public health and to conserve and
18 protect the quality of the water resources of the State and maintain the quality of
19 receiving ~~streams~~ waters as assigned by the North Carolina Environmental Management
20 Commission; to protect the public investment in ~~wastewater treatment facilities;~~ water
21 pollution control systems; to provide for the ~~classifying of wastewater treatment plants;~~
22 classification of water pollution control systems; to require the examination of
23 ~~wastewater treatment plant~~ water pollution control system operators and the certification

1 of their competency to supervise the operation of such ~~facilities; systems;~~ and to
2 establish procedures for such classification and certification."

3 Sec. 4. G.S. 90A-37 reads as rewritten:

4 "**§ 90A-37. (~~Effective until September 1, 1991~~)—Classification of wastewater**
5 **treatment facilities; water pollution control systems.**

6 The ~~Wastewater Treatment Plant Operators Certification~~ Commission, with the advice
7 and assistance of the Secretary of Environment, Health, and Natural Resources, shall
8 classify all ~~wastewater treatment facilities under the jurisdiction of the North Carolina~~
9 ~~Environmental Management Commission, as provided in G.S. 143-215.1, and those operated~~
10 ~~by institutions and agencies of the State of North Carolina.~~ water pollution control systems.
11 In making the classification, the ~~Wastewater Treatment Plant Operators Certification~~
12 Commission shall give due regard, among other factors, to the size of the ~~facility,~~
13 system, the nature of the wastes to be treated or removed from the wastewater, the
14 treatment process to be employed, and the degrees of skill, knowledge and experience
15 that the operator of the ~~wastewater treatment facility~~ water pollution control system must
16 have to supervise the operation of the ~~facility~~ system so as to adequately protect the
17 public health and maintain the water quality standards ~~in~~ of the receiving waters as
18 assigned by the North Carolina Environmental Management Commission."

19 Sec. 5. G.S. 90A-38 reads as rewritten:

20 "**§ 90A-38. (~~Effective until September 1, 1991~~)—Grades of certificates.**

21 (a) The ~~Wastewater Treatment Plant Operators Certification~~ Commission, with the
22 advice and assistance of the Secretary of Environment, Health, and Natural Resources,
23 shall establish grades and types of certification for ~~wastewater treatment plant~~ water
24 pollution control system operators corresponding to the classification of ~~wastewater~~
25 ~~treatment facilities; water pollution control systems.~~ The grades of certification shall be
26 ranked so that a person holding a certification in the highest grade is thereby affirmed
27 competent to operate ~~wastewater treatment facilities~~ water pollution control systems of
28 that type in the highest classification and any ~~treatment facility~~ water pollution control
29 system of that type in a lower classification; a person holding a certification in the next
30 highest grade is affirmed as competent to operate ~~wastewater treatment facilities~~ water
31 pollution control systems in the next-to-the-highest classification of that type and any
32 lower ~~classification;~~ classification of that type; and in a like manner through the range
33 of grades of certification and classification of ~~wastewater treatment facilities;~~ water
34 pollution control systems.

35 (b) No certificate shall be required under this Article to operate a conventional
36 septic tank system. For purposes of this section, 'conventional septic tank system'
37 means a subsurface sanitary sewage system consisting of a settling tank and a
38 subsurface disposal field without a pump or other appurtenances."

39 Sec. 6. G.S. 90A-39 reads as rewritten:

40 "**§ 90A-39. (~~Effective until September 1, 1991~~)—Operator qualifications and**
41 **examination.**

42 The ~~Wastewater Treatment Plant Operators Certification~~ Commission, with the advice
43 and assistance of the Secretary of Environment, Health, and Natural Resources, shall
44 establish minimum requirements of education, ~~experience~~ experience, and knowledge for

1 each grade of certification for ~~wastewater treatment plant operators, water pollution control~~
2 facility operators and shall establish procedures for receiving applications for
3 certification, conducting examinations, and making investigations of applicants as may
4 be necessary and appropriate to the end that prompt and fair consideration be given
5 every ~~application applicant and the wastewater treatment facilities that the water pollution~~
6 control systems within the State may be adequately supervised by certified operators."

7 Sec. 7. G.S. 90A-40 reads as rewritten:

8 "**§ 90A-40. (~~Effective until September 1, 1991~~)-Issuance of certificates.**

9 (a) An applicant, upon meeting satisfactorily the appropriate requirements, shall
10 be issued a suitable certificate by the ~~Wastewater Treatment Plant Operators Certification~~
11 ~~Commission designating the level of his competency. Certificates shall be permanent~~
12 ~~unless revoked for cause or replaced by one of a higher grade. Once issued, a certificate shall~~
13 be valid unless:

14 (1) The certificate holder voluntarily surrenders the certificate to the
15 Commission;

16 (2) The certificate is replaced by one of a higher grade;

17 (3) The certificate is revoked by the Commission for cause; or

18 (4) The certificate holder fails to pay the annual renewal fee when due.

19 (b) A certificate may be issued in an appropriate grade without examination to
20 any person who is properly registered on the 'National Association of Boards of
21 Certification' reciprocal registry and who meets all other requirements of rules adopted
22 under this Article.

23 (c) Repealed by Session Laws 1987, c. 582, s. 2.

24 (d) ~~Certificates in an appropriate grade will be issued without examination to any~~
25 ~~person or persons certified by the governing board in the case of a city, town, county,~~
26 ~~sanitary district, or other political subdivision, or by the owner in the case of a private~~
27 ~~utility or industry, to have been in responsible charge of its wastewater treatment~~
28 ~~facilities on the date the Wastewater Treatment Plant Operators Certification~~
29 ~~Commission notifies the governing board, or owner, of the classification of its treatment~~
30 ~~facility, and if the application for such certification is made within one year of the date~~
31 ~~of notification. A certificate so issued will be valid for use by the holder only in the~~
32 ~~treatment facility for which he had responsible charge at the time of his certification.~~
33 ~~Provided: that no certification shall be issued under this subsection after July 1, 1979.~~
34 ~~Operators of these facilities receiving initial notification of classification after July 1,~~
35 ~~1979, shall be eligible for a temporary certificate to be valid as provided in subsection~~
36 ~~(e).~~

37 (e) ~~Temporary certificates, in any grade and without examination, Temporary certificates~~
38 in an appropriate grade may be issued without examination to any person employed as a
39 wastewater treatment plant water pollution control system operator when the Wastewater
40 Treatment Plant Operators Certification Commission finds that the supply of certified
41 operators, operators or persons with training and experience necessary to certification, is
42 inadequate or when certificates without examination would formerly have been granted under
43 subsection (d) of this section for certification is inadequate. Temporary certificates shall
44 be valid for only one year, but may be renewed. Temporary certificates may be issued

1 with such special conditions or requirements relating to the place of employment of the
2 person holding the certificate, his supervision on a consulting or advisory basis, or other
3 matters as the ~~Wastewater Treatment Plant Operators Certification Commission~~ may deem
4 necessary to protect the public health and maintain the water quality standards ~~in~~ of the
5 receiving waters as assigned by the North Carolina Environmental Management
6 Commission.

7 (f) Certificates in an appropriate grade and type may be issued without
8 examination to water pollution control system operators who on 1 January 1992 hold
9 certificates of competency issued under the voluntary certification program
10 administered by the North Carolina Water Pollution Control Association."

11 Sec. 8. G.S. 90A-41 reads as rewritten:

12 **"§ 90A-41. (Effective until September 1, 1991) Revocation of certificate.**

13 The ~~Wastewater Treatment Plant Operators Certification Commission~~, in accordance
14 with the procedure set forth in Chapter 150B of the General Statutes of North Carolina,
15 Statutes, may suspend or revoke the certificate of an operator a certificate or may issue a
16 written reprimand to an operator when it is found if it finds that the operator has practiced
17 fraud or deception; that reasonable care, judgment, or the application of his knowledge
18 or ability was not used in the performance of his duties; or that the operator is
19 incompetent or unable to properly perform his duties."

20 Sec. 9. G.S. 90A-42 reads as rewritten:

21 **"§ 90A-42. (Effective until September 1, 1991) Fees.**

22 (a) The ~~Wastewater Treatment Plant Operators Certification Commission~~, in
23 establishing procedures for implementing the requirements of this Article, shall impose
24 the following schedule of fees:

25 (1) Examination including Certificate, ~~\$25.00;~~ \$75.00;

26 (2) Temporary Certificate, ~~\$35.00;~~ \$200.00;

27 (3) Temporary Certification Renewal, ~~\$50.00;~~ \$300.00;

28 (4) Conditional Certificate, ~~\$25.00;~~ \$75.00;

29 (5) Repealed by Session Laws 1987, c. 582, s. 3.

30 (6) Reciprocity Certificate, ~~\$50.00;~~ \$100.00;

31 (6a) Voluntary Conversion Certificate, \$50.00;

32 (7) Annual Renewal, ~~\$15.00;~~ \$30.00;

33 (8) Replacement of Certificate, ~~\$15.00;~~ \$20.00;

34 (9) Late Payment of Annual Renewal, ~~\$15.00~~ \$50.00 penalty in addition to
35 all current and past due fees; ~~and annual renewal fees plus one hundred~~
36 dollars (\$100.00) penalty per year for each year for which annual
37 renewal fees were not paid prior to the current year; and

38 (10) Mailing List Charges – The ~~Wastewater Treatment Plant Operators~~
39 ~~Certification Commission~~ may provide mailing lists of certified
40 wastewater treatment plant water pollution control system operators and
41 of wastewater treatment plants water pollution control system operators
42 to persons who request such lists. The charge for such lists shall be
43 five dollars (\$5.00) per 100 names of certified operators or treatment plants;

1 with a minimum charge of fifty dollars (\$50.00) twenty-five dollars
2 (\$25.00) for each such list provided.

3 (b) There is established within the Department a separate nonreverting fund into
4 which fees collected pursuant to this section shall be credited. Subject to appropriation
5 by the General Assembly, this fund shall be used to defray the costs of administering
6 this Article."

7 Sec. 10. G.S. 90A-43 reads as rewritten:

8 **"§ 90A-43. ~~(Effective until September 1, 1991)~~ Promotion of training and other**
9 **powers.**

10 The ~~Wastewater Treatment Plant Operators Certification Commission~~ and the Secretary
11 of Environment, Health, and Natural Resources are authorized to take all necessary and
12 appropriate steps in order to effectively and fairly achieve the purposes of this Article,
13 including, but not limited to, the providing of training for water pollution control system
14 operators and cooperating with educational institutions and private and public
15 ~~asssociations, associations, persons, or corporations~~ in the promotion of training for
16 ~~wastewater treatment~~ water pollution control system personnel."

17 Sec. 11. G.S. 90A-44 reads as rewritten:

18 **"§ 90A-44. Certified operators required.**

19 ~~On and after July 1, 1971, every~~ No person, firm, or corporation, municipal or
20 private, owning or having control of a ~~wastewater treatment works~~ water pollution
21 control system shall have the obligation of assuring that the operator in responsible
22 charge of such plant is duly certified by the Wastewater Treatment Plant Operators
23 Certification Commission under the provisions of this Article. for which a certified
24 operator is required under rules adopted by the Commission shall allow such system to
25 be operated by any person who does not hold a currently valid certificate in an
26 appropriate grade and type issued by the Commission. No person, after July 1, 1971,
27 No person shall perform the duties of an operator, in responsible charge of a wastewater
28 treatment works, a water pollution control system operator in responsible charge
29 without being duly certified under the provisions of this Article. No person shall
30 perform the duties of a water pollution control system operator who has not paid all fees
31 required under this Article."

32 Sec. 12. G.S. 90A-45 reads as rewritten:

33 **"§ 90A-45. ~~(Effective until September 1, 1991)~~ Commercial wastewater treatment**
34 **~~operation~~ water pollution control system operating firms.**

35 (a) ~~Every~~ Any person, firm, or corporation, municipal or private, owning or
36 having control of a ~~wastewater treatment works~~ water pollution control system may
37 contract with a responsible commercial ~~wastewater treatment works operation~~ water
38 pollution control system operating firm for operational and other services of that firm,
39 firm. and that Such firm shall designate an employee as the operator in responsible
40 ~~eharge. charge~~ charge of the water pollution control system. Such designee and other licensed
41 employees of the firm employee and any other employees who have been duly certified
42 under this Article shall be responsible for the total operation and maintenance of the
43 ~~wastewater treatment works~~ water pollution control system. Contractual Commercial
44 water pollution control system operating firms shall not be limited as to the number of

1 ~~facilities, systems, distance between facilities, systems, location of office or residence,~~
2 ~~frequency of visits, utilization of local persons who are not certified, or other internal~~
3 ~~management procedures.~~

4 (b) Any employee designated by the firm as operator in responsible charge must
5 ~~obtain certification from the Wastewater Treatment Plant Operators Certification~~ hold an
6 appropriate certificate issued by the Commission and must comply with all of the
7 requirements specified in Chapter 90A and the rules and reasonable standards of the
8 Commission, ~~applicable to all operators in responsible charge, designed to assure satisfactory~~
9 ~~operation of wastewater facilities.~~ of this Article and rules adopted by the Commission.

10 (c) The Commission may adopt rules requiring that any commercial water
11 pollution control system operating firm file an annual report with the Commission as to
12 the operation of such system."

13 Sec. 13. Article 3 of Chapter 90A of the General Statutes is amended by
14 adding a new section to read:

15 "**§ 90A-46. Definitions.**

16 The following definitions shall apply throughout this Article:

- 17 (1) 'Commercial water pollution control system operating firm' means a
18 person who contracts to operate a water pollution control system for
19 any person who holds a permit for a water pollution control system,
20 other than an employee of the permittee.
- 21 (2) 'Commission' means the Water Pollution Control System Operators
22 Certification Commission.
- 23 (3) 'Waste' has the same meaning as in G.S. 143-213.
- 24 (4) 'Operator' means a person who holds a currently valid certificate as a
25 water pollution control system operator issued by the Commission
26 under rules adopted pursuant to this Article.
- 27 (5) 'Operator in responsible charge' means the person designated by a
28 person owning or having control of a water pollution control system as
29 the operator of record of the water pollution control system and who
30 has primary responsibility for the operation of such system.
- 31 (6) 'Water pollution control system' means a system for the collection,
32 treatment, or disposal of waste for which a permit is required under
33 rules adopted by either the North Carolina Environmental
34 Management Commission or the Commission for Health Services."

35 Sec. 14. The catch line of Part 9 of Article 7 of Chapter 143B of the General
36 Statutes reads as rewritten:

37 **"PART 9. WASTEWATER TREATMENT PLANT WATER POLLUTION**
38 **CONTROL SYSTEM OPERATORS CERTIFICATION COMMISSION."**

39 Sec. 15. G.S. 143B-300 reads as rewritten:

40 **"§ 143B-300. Wastewater Treatment Plant Water Pollution Control System**
41 **Operators Certification Commission – creation; powers and duties.**

42 (a) There is hereby created the ~~Wastewater Treatment Plant~~ Water Pollution
43 Control System Operators Certification Commission to be located in the Department of
44 Environment, Health, and Natural Resources. The Commission shall adopt rules with

1 respect to the certification of ~~wastewater treatment plant~~ water pollution control system
 2 operators as provided by Article 3 of Chapter 90A of the General ~~Statutes of North~~
 3 ~~Carolina.~~ Statutes.

4 (b) The Commission shall adopt such rules, not inconsistent with the laws of this
 5 State, as may be required by the federal government for grants-in-aid for programs
 6 concerned with the certification of ~~wastewater treatment plant~~ water pollution control
 7 system operators which may be made available to the State by the federal government.
 8 This section is to be liberally construed in order that the State and its citizens may
 9 benefit from such grants-in-aid.

10 (c) The Commission may by rule delegate any of its powers, other than the
 11 power to adopt rules, to the Secretary of Environment, Health, and Natural Resources or
 12 his designee."

13 Sec. 16. G.S. 143B-301 reads as rewritten:

14 "**§ 143B-301. (Effective until September 1, 1991) Wastewater Treatment Plant-Water**
 15 **Pollution Control System Operators Certification Commission -**
 16 **members; selection; removal; compensation; quorum; services.**

17 (a) The Wastewater Treatment Plant-Water Pollution Control System Operators
 18 Certification Commission shall consist of ~~seven~~ nine members appointed by the
 19 Secretary of Environment, Health, and Natural Resources with the approval of the
 20 Environmental Management Commission with the following qualifications:

21 (1) Two members shall be currently employed as ~~wastewater treatment plant~~
 22 water pollution control facility operators, ~~wastewater plant-water~~
 23 pollution control system superintendents, superintendents or directors,
 24 water and sewer superintendents, superintendents or directors, or
 25 equivalent positions with a North Carolina municipality;

26 (2) One member shall be manager of a North Carolina municipality
 27 having a population of more than 10,000 as of the most recent federal
 28 census;

29 (3) One member shall be manager of a North Carolina municipality
 30 having a population of less than 10,000 as of the most recent federal
 31 census;

32 (4) One member shall be employed by a private industry and shall be
 33 responsible for supervising the treatment or pretreatment of industrial
 34 wastewater;

35 (5) One member who is a faculty member of a four-year college or
 36 university and whose major field is related to wastewater treatment;
 37 ~~and~~

38 (6) One member who is employed by the Department of Environment,
 39 Health, and Natural Resources and works in the field of water
 40 pollution control, who shall serve as Chairman of the ~~Commission.~~
 41 Commission;

42 (7) One member who is employed by a commercial water pollution
 43 control system operating firm; and

1 (8) One member shall be currently employed as a water pollution control
2 system collection operator, superintendent, director, or equivalent
3 position with a North Carolina municipality.

4 ~~(b) The initial members of the Commission shall be the members of the~~
5 ~~Wastewater Treatment Plant Operators Board of Certification who shall serve for a~~
6 ~~period equal to the remainder of their current terms on the Wastewater Treatment Plant~~
7 ~~Operators Board of Certification. At the end of the respective terms of office of the~~
8 ~~initial members of the Commission, their successors shall be appointed for staggered~~
9 ~~terms of three years and until their successors are appointed and qualify. Appointments~~
10 to the Commission shall be for a term of three years. Terms shall be staggered so that
11 three terms shall expire on 30 June of each year, except that members of the
12 Commission shall serve until their successors are appointed and duly qualified as
13 provided by G.S. 128-7.

14 ~~(c) The chairman of the Wastewater Treatment Plant Operators Certification~~
15 ~~Commission shall serve at the pleasure of the Secretary of Environment, Health, and~~
16 ~~Natural Resources. The Commission shall elect a Vice-Chairman from among its~~
17 ~~members. The Vice-Chairman shall serve from the time of his election until 30 June of~~
18 ~~the following year, or until his successor is elected.~~

19 (d) Any appointment to fill a vacancy on the Commission created by the
20 resignation, dismissal, death or disability of a member shall be for the balance of the
21 unexpired term.

22 (e) The Governor shall have the power to remove any member of the
23 Commission from office for misfeasance, malfeasance, and nonfeasance according to
24 the provisions of G.S. 143B-13.

25 (f) The members of the Commission shall receive per diem and necessary travel
26 and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S.
27 143B-15.

28 (g) A majority of the Commission shall constitute a quorum for the transaction of
29 business.

30 (h) All clerical and other services required by the Commission shall be supplied
31 by the Secretary of Environment, Health, and Natural Resources."

32 Sec. 17. Part 9 of Article 7 of Chapter 143B is amended by adding a new
33 section to read:

34 "**§ 143B-301.1. Definitions.**

35 The definitions set out in G.S. 90A-46 shall apply through this Part."

36 Sec. 18. This act shall not be construed to affect the validity of any certificate
37 issued by the Wastewater Treatment Plant Operators Certification Commission prior to
38 the date this act becomes effective.

39 Sec. 19. The Water Pollution Control Systems Operators Certification
40 Commission may establish an implementation schedule for the classification of water
41 pollution control systems and for the certification of water pollution control system
42 operators. Such schedule shall provide for the full implementation of this act by 1 July
43 1993.

1 Sec. 20. Members of the Wastewater Treatment Plant Operators Certification
2 Commission shall be initial members of the Water Pollution Control System Operators
3 Certification Commission. Each such member shall serve until 30 June of the year in
4 which his term on the Wastewater Treatment Plant Operators Certification Commission
5 expires and until his successor is appointed and duly qualified. Other initial
6 appointments to the Water Pollution Control System Operators Certification
7 Commission shall be made for a term of two, three, or four years to achieve staggered
8 terms as required by G.S. 143B-301(b).

9 Sec. 21. This act becomes effective 1 July 1991.