

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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1

HOUSE BILL 912

Short Title: Amend Wastewater Systems Law.

(Public)

Sponsors: Representatives Redwine; and H. Hunter.

Referred to: Health & Environment.

April 12, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND ARTICLE 11 OF CHAPTER 130A OF THE GENERAL
3 STATUTES REGARDING WASTEWATER SYSTEMS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Article 11 of Chapter 130A of the General Statutes reads as
6 rewritten:

7 "ARTICLE 11.
8 "WASTEWATER SYSTEMS.

9 "§ 130A-333. Purpose.

10 The General Assembly finds and declares that continued installation, at a rapidly and
11 constantly accelerating rate, of septic tank systems and other types of wastewater systems
12 in a faulty or improper manner and in areas where unsuitable soil and population density
13 adversely affect the efficiency and functioning of these systems, has a detrimental effect
14 on the public health and environment through contamination of land, groundwater and
15 surface waters. Recognizing, however, that wastewater can be rendered ecologically safe
16 and the public health protected if methods of wastewater collection, treatment and
17 disposal are properly regulated and recognizing that wastewater collection, treatment and
18 disposal will continue to be necessary to meet the needs of an expanding population, the
19 General Assembly intends to ensure the regulation of wastewater collection, treatment

1 and disposal systems so that these systems may continue to be used, where appropriate,
2 without jeopardizing the public health.

3 **"§ 130A-334. Definitions.**

4 The following definitions shall apply throughout this Article:

5 (1) 'Construction' means any work at the site of placement done for the
6 purpose of preparing a residence, place of business or place of public
7 assembly for initial occupancy, or subsequent additions or modifications
8 which increase sewage flow.

9 (2) Repealed by Session Laws 1985, c. 462, s. 18.

10 (2a) 'Industrial process wastewater' means any water-carried waste resulting
11 from any process of industry, manufacture, trade, or business.

12 (3) 'Location' means the initial placement for occupancy of a residence,
13 place of business or place of public assembly.

14 (3a) 'Maintenance' means normal or routine maintenance including
15 replacement of broken pipes, cleaning, or adjustment to an existing
16 wastewater system.

17 (4), (5) Repealed by Session Laws 1985, c. 462, s. 18.

18 (6) 'Place of business' means a store, warehouse, manufacturing
19 establishment, place of amusement or recreation, service station, office
20 building or any other place where people work.

21 (7) 'Place of public assembly' means a fairground, auditorium, stadium,
22 church, campground, theater or any other place where people assemble.

23 (8) 'Public or community wastewater system' means a single system of
24 wastewater collection, treatment and disposal owned and operated by a
25 sanitary district, a metropolitan sewage district, a water and sewer
26 authority, a county or municipality or a public utility.

27 (9) 'Relocation' means the displacement of a residence or place of business
28 from one site to another.

29 (9a) 'Repair' means the extension, alteration, replacement, or relocation of
30 existing components of a wastewater system.

31 (10) 'Residence' means a private home, dwelling unit in a multiple family
32 structure, hotel, motel, summer camp, labor work camp, manufactured
33 home, institution or any other place where people reside.

34 (11) Repealed by Session Laws 1992, c. 944, s. 3, effective July 14, 1992.

35 (12) 'Septic tank system' means a subsurface wastewater system consisting of
36 a settling tank and a subsurface disposal field.

37 (13) 'Sewage' means the liquid and solid human body waste and liquid waste
38 generated by water-using fixtures and appliances, including those
39 associated with foodhandling. The term does not include industrial
40 process wastewater or sewage that is combined with industrial process
41 wastewater.

1 (14) 'Wastewater' means any sewage or industrial process wastewater
2 discharged, transmitted, or collected from a residence, place of business,
3 place of public assembly, or other places into a wastewater system.

4 (15) 'Wastewater system' means a system of wastewater collection,
5 treatment, and ~~disposal~~, disposal in single or multiple components,
6 including a privy, septic tank system, public or community wastewater
7 system, wastewater reuse or recycle system, mechanical or biological
8 wastewater treatment system, any other similar system, and any
9 chemical toilet used only for human waste.

10 **"§ 130A-335. Wastewater collection, treatment and disposal; rules.**

11 (a) A person owning or controlling a residence, place of business or a place of
12 public assembly shall provide ~~a~~ an approved wastewater system. A wastewater system
13 may include components for collection, treatment and disposal of wastewater.

14 (b) All wastewater systems shall be regulated by the Department under rules
15 adopted by the Commission except for the following wastewater systems that shall be
16 regulated by the Department under rules adopted by the Environmental Management
17 Commission:

18 (1) Wastewater collection, treatment, and disposal systems designed to
19 discharge effluent to the land surface or surface waters.

20 (2) Wastewater systems designed for groundwater remediation,
21 groundwater injection, or landfill leachate collection and disposal.

22 (3) Wastewater systems designed for the complete recycle or reuse of
23 industrial process wastewater.

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

27 (1) The local board of health, on its own motion, has requested the
28 Department to review its proposed rules concerning wastewater
29 systems; and

30 (2) The local board of health has adopted by reference the wastewater
31 system rules adopted by the Commission, with any more stringent
32 modifications or additions deemed necessary by the local board of
33 health to protect the public health; and

34 (3) The Department has found that the rules of the local board of health
35 concerning wastewater collection, treatment and disposal systems are at
36 least as stringent as rules adopted by the Commission and are sufficient
37 and necessary to safeguard the public health.

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

41 The Department shall review its findings under subsection (c) of this section upon
42 modification by the Commission of the rules applicable to wastewater systems. The
43 Department may deny, suspend, or revoke the approval of local board of health

1 wastewater system rules upon a finding that the local wastewater rules are not as stringent
2 as rules adopted by the Commission, are not sufficient and necessary to safeguard the
3 public health, or are not being enforced. Suspension and revocation of approval shall be
4 in accordance with G.S. 130A-23.

5 (e) The rules of the Commission and the rules of the local board of health shall
6 address at least the following: Wastewater characteristics; Design unit; Design capacity;
7 Design volume; Criteria for the design, installation, operation, maintenance and
8 performance of wastewater collection, treatment and disposal systems; Soil morphology
9 and drainage; Topography and landscape position; Depth to seasonally high water table,
10 rock and water impeding formations; Proximity to water supply wells, shellfish waters,
11 estuaries, marshes, wetlands, areas subject to frequent flooding, streams, lakes, swamps
12 and other bodies of surface or groundwaters; Density of wastewater collection, treatment
13 and disposal systems in a geographical area; Requirements for issuance, suspension and
14 revocation of permits; and Other factors which affect the effective operation and
15 performance of wastewater collection, treatment and disposal systems. The rules
16 regarding required design capacity and required design volume for wastewater systems
17 shall provide that exceptions may be granted upon a showing that a system is adequate to
18 meet actual daily water consumption.

19 (f) The rules of the Commission and the rules of the local board of health shall
20 classify systems of wastewater collection, treatment and disposal according to size, type
21 of treatment and any other appropriate factors. The rules shall provide construction
22 requirements, including pretreatment and system control requirements, standards for
23 ~~operation~~ operation, maintenance, monitoring, reporting, and ownership requirements for
24 each classification of systems of wastewater collection, treatment and disposal in order to
25 prevent, as far as reasonably possible, any contamination of the land, groundwater and
26 surface waters. The Department and local health departments may impose conditions on
27 the issuance of permits and may revoke the permits for failure of the system to satisfy the
28 conditions, the rules or this Article. The permits and authorizations shall be valid for a
29 period prescribed by the rules, except that improvement permits shall be valid ~~for a period~~
30 ~~of five years, and may be renewed without expiration~~ upon a showing satisfactory to the
31 Department or the local health department that the ~~system is in compliance with the current~~
32 ~~rules~~ site and soil conditions are unaltered, that the facility, design wastewater flow, and
33 wastewater characteristics are not increased, and that a wastewater system can be
34 installed that meets the permitting requirements in effect on the date the improvement
35 permit was issued and this Article. The period of time for which the permit is valid and a
36 statement that the permit is subject to revocation if site plans or the intended use change
37 shall be displayed prominently on both the application form for the permit and the permit.

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

1 the appeal held in the county in which the site for which the improvement permit was
2 requested is located.

3 (h) Except as provided in this subsection, a chemical or portable toilet may be
4 placed at any location where the chemical or portable toilet can be operated and
5 maintained under sanitary conditions. A chemical or portable toilet shall not be used as a
6 replacement or substitute for a water closet or urinal where a water closet or urinal
7 connected to a permanent wastewater treatment system is required by the North Carolina
8 State Building Code, except that a chemical or portable toilet may be used to supplement
9 a water closet or urinal during periods of peak use. A chemical or portable toilet shall not
10 be used as an alternative to the repair of a water closet, urinal, or wastewater treatment
11 system. It shall be unlawful to discharge sewage or other waste from a chemical or
12 portable toilet used for human waste except into a wastewater system that has been
13 approved by the Department under rules adopted by the Commission or by the
14 Environmental Management Commission or at a site that is permitted by the Department
15 under G.S. 130A-291.1.

16 **§ 130A-336. Improvement permit and authorization for wastewater system**
17 **construction required.**

18 (a) Any proposed site for a residence, place of business, or place of public
19 assembly in an area not served by an approved wastewater system shall be evaluated by
20 the local health department in accordance with rules adopted by the Commission. An
21 improvement permit issued in compliance with the rules of the Commission shall include:
22 a description of the facility the proposed site is to serve; the recommended wastewater
23 system; the design wastewater flow and characteristics; a plat of the property showing the
24 specific location of the facility, the site for the proposed wastewater system, property
25 lines, water supplies, surface waters; the conditions for any site modifications; and any
26 other information required by the rules of the Commission. The improvement permit
27 shall not be affected by change in ownership of the site for the wastewater system
28 provided the site for the wastewater system and the facility it is to serve remain under the
29 ownership or control of the person owning the facility. No person shall commence or
30 assist in the construction, location, or relocation of a residence, place of business, or place
31 of public assembly in an area not served by an approved wastewater system unless an
32 improvement permit and authorization for wastewater system construction is obtained
33 from the local health department. This requirement shall not apply to a manufactured
34 residence exhibited for sale or stored for later sale and intended to be located at another
35 site after sale.

36 (b) The local health department shall issue an ~~improvement permit~~ authorization for
37 wastewater system construction authorizing work to proceed and the installation or repair
38 of a wastewater system when ~~the person installing the wastewater system~~ the person installing the wastewater system submits to the
39 local health department the proposed wastewater system and system layout and the local
40 health department has determined after a field investigation that the conditions of the
41 improvement permit are met and that the proposed system can be installed and operated
42 in compliance with this Article and rules adopted pursuant to this Article. No person
43 shall commence or assist in the installation, construction, or repair of a wastewater

1 system unless an ~~improvement permit authorization~~ for wastewater system construction
2 has been obtained from the Department or the local health department. No improvement
3 permit or authorization for wastewater system construction shall be required for
4 maintenance of a wastewater system. The Department and the local health department
5 may impose conditions on the issuance of an improvement ~~permit~~ permit and an
6 authorization for wastewater system construction.

7 (c) Unless the Commission otherwise provides by rule, plans, and specifications
8 for all wastewater systems designed for the collection, treatment, and disposal of
9 industrial process wastewater shall be reviewed and approved by the Department prior to
10 the issuance of an improvement permit by the local health department.

11 **"§ 130A-337. Inspection; operation permit ~~or certificate of completion~~ required.**

12 (a) No system of wastewater collection, treatment and disposal shall be covered or
13 placed into use by any person until an inspection by the local health department has
14 determined that the system has been installed or repaired in accordance with any
15 conditions of the improvement ~~permit~~ permit and authorization for wastewater system
16 construction, the ~~rules~~ rules, and this Article.

17 (b) Upon determining that the system is properly installed or repaired and that the
18 system or an existing system is capable of being operated in accordance with the
19 conditions of the improvement ~~permit~~ permit and authorization for wastewater system
20 construction, the rules, this Article and any conditions to be imposed in the operation
21 permit, as applicable, the local health department shall issue an operation permit
22 authorizing the residence, place of business or place of public assembly to be occupied
23 and for the system to be placed into ~~use~~ use or reuse. ~~However, if the system is limited to a~~
24 ~~single septic tank system without a pump or other appurtenances serving a single one-family~~
25 ~~dwelling, then a certificate of completion shall be issued instead of an operation permit; also, if~~
26 ~~the system is limited to a single septic tank system without a pump or other appurtenances~~
27 ~~servng a single residence other than a one-family dwelling, or serving a place of business or a~~
28 ~~place of public assembly and having a design daily flow of not more than 480 gallons, then a~~
29 ~~certificate of completion shall be issued instead of an operation permit. A certificate of~~
30 ~~completion shall be issued when the septic tank system is properly installed or repaired and is~~
31 ~~capable of being operated in accordance with the conditions of the improvement permit, the rules~~
32 ~~and this Article.~~

33 (c) Upon determination that an existing wastewater system has a valid operation
34 permit ~~or a valid certificate of completion~~ and is operating properly in a manufactured home
35 park, the local health department shall issue authorization in writing for a manufactured
36 home to be connected to the existing system and to be occupied. Notwithstanding G.S.
37 130A-336, an improvement permit and an authorization for wastewater system
38 construction is not required for the connection of a manufactured home to an existing
39 system with a valid operation permit ~~or a valid certificate of completion~~ in a manufactured
40 home park.

41 (d) No person shall occupy a residence, place of business or place of public
42 assembly, or place a wastewater system into use or reuse for a residence, place of
43 business or place of public assembly until an operation permit ~~or a certificate of completion~~
44 has been issued or authorization has been obtained pursuant to G.S. 130A-337(c).

1 **"§ 130A-338. ~~Improvement permit~~ Authorization for wastewater system construction**
2 **or authorization required before other permits to be issued.**

3 Where construction, location or relocation is proposed to be done upon a residence,
4 place of business or place of public assembly, no permit required for electrical, plumbing,
5 heating, air conditioning or other construction, location or relocation activity under any
6 provision of general or special law shall be issued until an ~~improvement permit~~
7 authorization for wastewater system construction has been issued under ~~G.S. 130A-336~~
8 G.S. 130A-336(a) or authorization has been obtained under G.S. 130A-337(c).

9 **"§ 130A-339. Limitation on electrical service.**

10 No person shall allow permanent electrical service to a residence, place of business or
11 place of public assembly upon construction, location or relocation until the official
12 electrical inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the
13 electrical supplier that the required ~~improvement permit~~ permit, authorization for
14 wastewater system construction, and an operation ~~permit, a certificate of completion permit~~
15 or authorization under G.S. 130A-337(c) has been obtained. Temporary electrical service
16 necessary for constructing a residence, place of business or place of public assembly can
17 be provided upon compliance with G.S. 130A-338.

18 **"§ 130A-340. Review procedures and appeals.**

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

26 **"§ 130A-341. Consideration of a site with existing fill.**

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

32 **"§ 130A-342. Aerobic systems.**

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

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

41 (c) The performance of individual aerobic treatment plants is to be documented by
42 the counties and sent to the Department of Environment, Health, and Natural ~~Resources.~~
43 Resources annually.

1 **"§ 130A-343. Experimental and innovative systems permitted.**

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

9 (b) The Commission shall adopt rules governing the operation and maintenance of
10 experimental and innovative wastewater systems approved and permitted under
11 subsection (a) of this section.

12 (c) The Department shall provide a listing of all approved experimental and
13 innovative wastewater systems to the local health departments annually.

14 **"§ 130A-344. North Carolina On-Site Wastewater Systems Institute.**

15 (a) The North Carolina On-Site Wastewater Systems Institute is created. The
16 Department shall provide staff for the Institute. The Institute shall gather information,
17 study problems, review applications and substantiating data for the approval of
18 experimental and innovative systems, advise the Department of its recommendations, and
19 prepare other reports on sanitary sewage systems, wastewater systems and their
20 management.

21 (b) The North Carolina On-Site Wastewater Systems Institute shall have a Board
22 of Directors consisting of 11 members. The members shall serve on a voluntary basis at
23 no cost to the State. The members shall be appointed as follows:

- 24 (1) One member from the On-Site Sewage Program of the Department,
25 appointed by the Governor.
- 26 (2) One member who is a local health director, appointed by the General
27 Assembly upon the recommendation of the Speaker of the House of
28 Representatives.
- 29 (3) One member who is an environmental health supervisor from a local
30 health department, appointed by the General Assembly upon the
31 recommendation of the Speaker of the House of Representatives.
- 32 (4) One member who is an environmental health specialist, appointed by
33 the General Assembly upon the recommendation of the Speaker of the
34 House of Representatives.
- 35 (5) Four members who are in the sanitary sewage system business, one of
36 whom is a manufacturer, one of whom is a supplier, one of whom is a
37 pumper or installer, and one of whom is an operator, appointed by the
38 General Assembly upon the recommendation of the President Pro
39 Tempore of the Senate.
- 40 (6) One member who is actively involved with residential development in
41 North Carolina or has extensive experience in the field of residential
42 development, appointed by the General Assembly upon the
43 recommendation of the Speaker of the House of Representatives.

- 1 (7) One member from the public at large, appointed by the General
2 Assembly upon the recommendation of the Speaker of the House of
3 Representatives.
- 4 (8) The President or Executive Director of the North Carolina Septic Tank
5 Association, Inc., appointed by the General Assembly upon the
6 recommendation of the President Pro Tempore of the Senate.
- 7 (c) Legislative appointments shall be made in accordance with G.S. 120-121. A
8 vacancy in a legislative appointment shall be filled in accordance with G.S. 120-122.
- 9 (d) Each member shall serve for a two-year term that begins on July 1 of an odd-
10 numbered year and ends on June 30 of the next odd-numbered year. Appointments to fill
11 vacancies in the membership of the Board that occur due to resignation, dismissal, death,
12 or disability of a member shall be for the balance of the unexpired term and shall be made
13 by the same appointing authority that made the initial appointment.
- 14 (e) The member from the North Carolina Septic Tank Association, Inc., shall serve
15 as Chair of the Board for the first two years after the Board is created. Thereafter, the
16 Board shall elect a Chair annually at its first meeting of the year.
- 17 (f) The Board shall hold at least one meeting each year to conduct its business.
18 Subsequent meetings shall be at the call of the Chair or a majority of the Board members.
19 A majority of the members is a quorum."
20 Sec. 2. This act is effective upon ratification.