

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

S

1

SENATE BILL 907\*

Short Title: Certification of Wastewater Site Evaluators. (Public)

---

Sponsors: Senators Hartsell and Weinstein.

---

Referred to: Agriculture/Environment/Natural Resources.

---

April 3, 2003

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR THE CERTIFICATION OF WASTEWATER SITE  
3 EVALUATORS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 3 of Chapter 90A of the General Statutes is amended  
6 by adding a new Part to read:

7 "Part 3. Certification of Wastewater Site Evaluators.

8 **"§ 90A-48. Purpose.**

9 The purposes of this Part are to reduce nonpoint source pollution in order to protect  
10 the public health and to conserve and protect the quality of the water resources of the  
11 State, to protect the investment of homeowners and others who purchase property  
12 served by wastewater systems, and to promote the highest of technical competence and  
13 ethical standards among those who design and install wastewater systems by requiring  
14 examination of site evaluators and certification of their competency.

15 **"§ 90A-48.1. Definitions.**

16 (a) As used in this Part:

- 17 (1) 'Certified Site Evaluator' means a person who is certified by the  
18 Commission under this Part.  
19 (2) 'Commission' means the Water Pollution Control System Operators  
20 Certification Commission.  
21 (3) 'Wastewater system' means a wastewater system, as defined in G.S.  
22 130A-334, that is designed to treat 3,000 gallons of wastewater per day  
23 or less and that disposes of effluent by means of a subsurface disposal  
24 field.

25 (b) The definitions set out in G.S. 130A-334 apply to this Part.

26 **"§ 90A-48.2. Certified Site Evaluator; functions.**

27 (a) A Certified Site Evaluator may perform any of the following functions:

- 28 (1) Collection of site-specific information necessary for the design,  
29 permitting, and installation of a wastewater system.

- 1           (2) Evaluation and recommendation of specific wastewater system  
2 technologies on the basis of their applicability to a particular site.
- 3           (3) Development of performance criteria for the operation of a wastewater  
4 system.
- 5           (4) Development of installation, operation, and maintenance requirements  
6 for a wastewater system.
- 7           (5) Determination as to whether an improvement permit or an  
8 authorization to construct should be issued for a site to be served by a  
9 wastewater system.

10       (b) A Certified Site Evaluator may not perform the practice of soil science unless  
11 the Certified Site Evaluator is also a Licensed Soil Scientist under the provisions of  
12 Chapter 89F of the General Statutes.

13       (c) An application for an improvement permit or an authorization to construct for  
14 construction that will be served by a wastewater system shall be certified by a Certified  
15 Site Evaluator before the application is submitted to a local health department. An  
16 application for an improvement permit or an authorization to construct for construction  
17 that will be served by a wastewater system shall be reviewed and approved or denied  
18 only by a Certified Site Evaluator employed by the local health department.

19       (d) No person shall perform the duties of a Certified Site Evaluator without being  
20 certified as provided in this Part. A Certified Site Evaluator may be assisted by other  
21 persons if the Certified Site Evaluator directly supervises and assumes responsibility for  
22 the work.

23 **"§ 90A-48.3. Qualifications for certification; training; examination.**

24       (a) The Commission shall develop and administer a certification program for a  
25 Certified Site Evaluator that provides for training, examination of applicants, and  
26 investigation of the qualifications of applicants. An applicant for certification must be  
27 one or more of the following:

- 28           (1) A Professional Engineer licensed under Chapter 89C of the General  
29 Statutes.
- 30           (2) A Licensed Geologist licensed under Chapter 89E of the General  
31 Statutes.
- 32           (3) A Licensed Soil Scientist licensed under Chapter 89F of the General  
33 Statutes.
- 34           (4) A Registered Sanitarian licensed under Article 4 of Chapter 90A of the  
35 General Statutes.

36       (b) The Commission, in cooperation with the Division of Environmental Health  
37 of the Department of Environment and Natural Resources and the Cooperative  
38 Extension Service, shall develop and administer a training program for Certified Site  
39 Evaluators. An applicant for initial certification shall complete 30 hours of classroom  
40 instruction prior to taking the examination. In order to remain certified, a Certified Site  
41 Evaluator shall complete 45 hours of approved additional training during each three-  
42 year period following initial certification.

43       (c) The certificate of a Certified Site Evaluator who fails to complete approved  
44 additional training within 60 days of the end of the three-year period is void. A Certified

1 Site Evaluator whose certificate is voided by reason of failure to complete approved  
2 additional training may be renewed only if the person reapplies to the Commission for  
3 certification, pays the examination fee, and successfully completes the examination.

4 **"§ 90A-48.4. Fees; certificate renewals.**

5 (a) An applicant for certification under this Part shall pay a fee of three hundred  
6 dollars (\$300.00) for the examination and initial certification.

7 (b) A Certified Site Evaluator shall pay an annual renewal fee of one hundred  
8 dollars (\$100.00). The certificate of a Certified Site Evaluator who fails to pay the  
9 annual renewal fee within 30 days after the fee is due is void and may be renewed only  
10 by payment of the annual renewal fee plus a late fee of one hundred dollars (\$100.00).  
11 A Certified Site Evaluator who fails to pay the annual renewal fee and late fee within  
12 120 days may be recertified only as provided in G.S. 90A-48.3(c).

13 **"§ 90A-48.5. Suspension; revocation of certificate.**

14 (a) The Commission, in accordance with the provisions of Chapter 150B of the  
15 General Statutes, may suspend or revoke the certificate of any Certified Site Evaluator  
16 who:

17 (1) Engages in fraud or deceit in connection with obtaining certification or  
18 in connection with the performance of the duties of a Certified Site  
19 Evaluator.

20 (2) Fails to exercise reasonable care, judgment, or use of the site  
21 evaluator's knowledge and ability in the performance of the duties of a  
22 Certified Site Evaluator.

23 (b) In addition to suspension or revocation of a certificate, the Commission may  
24 levy a civil penalty of not more than one thousand dollars (\$1,000) per violation against  
25 any Certified Site Evaluator or person acting as a Certified Site Evaluator for a violation  
26 of any requirement of this Part.

27 (c) The clear proceeds of civil penalties levied pursuant to this subsection shall  
28 be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S.  
29 115C-457.2.

30 **"§ 90A-48.6. Rules.**

31 The Commission shall adopt rules to implement the provisions of this Part."

32 **SECTION 2.** G.S. 130A-334 is amended by adding a new subdivision to  
33 read:

34 "(1) 'Certified Site Evaluator' means a person who is certified under the  
35 provisions of Part 3 of Article 3 of Chapter 90A of the General  
36 Statutes."

37 **SECTION 3.** G.S. 130A-336 reads as rewritten:

38 **"§ 130A-336. Improvement permit and authorization for wastewater system**  
39 **construction required.**

40 (a) Any proposed site for a residence, place of business, or place of public  
41 assembly in an area not served by an approved wastewater system shall be evaluated by  
42 the local health department in accordance with rules adopted pursuant to this Article. An  
43 improvement permit shall be issued in compliance with the rules adopted pursuant to  
44 this Article. An improvement permit shall include:

- 1 (1) For permits that are valid without expiration, a plat or, for permits that
- 2 are valid for five years, a site plan.
- 3 (2) A description of the facility the proposed site is to serve.
- 4 (3) The proposed wastewater system and its location.
- 5 (4) The design wastewater flow and characteristics.
- 6 (5) The conditions for any site modifications.
- 7 (6) Any other information required by the rules of the Commission.

8 (a1) The improvement permit shall not be affected by change in ownership of the  
9 site for the wastewater system provided both the site for the wastewater system and the  
10 facility the system serves are unchanged and remain under the ownership or control of  
11 the person owning the facility. No person shall commence or assist in the construction,  
12 location, or relocation of a residence, place of business, or place of public assembly in  
13 an area not served by an approved wastewater system unless an improvement permit  
14 and an authorization for wastewater system construction are obtained from the local  
15 health department. This requirement shall not apply to a manufactured residence  
16 exhibited for sale or stored for later sale and intended to be located at another site after  
17 sale.

18 (b) The local health department shall issue an authorization for wastewater  
19 system construction authorizing work to proceed and the installation or repair of a  
20 wastewater system when it has determined after a field investigation that the system can  
21 be installed and operated in compliance with this Article and rules adopted pursuant to  
22 this Article. This authorization for wastewater system construction shall be valid for a  
23 period equal to the period of validity of the improvement permit, not to exceed five  
24 years, and may be issued at the same time the improvement permit is issued. No person  
25 shall commence or assist in the installation, construction, or repair of a wastewater  
26 system unless an improvement permit and an authorization for wastewater system  
27 construction have been obtained from the Department or the local health department.  
28 No improvement permit or authorization for wastewater system construction shall be  
29 required for maintenance of a wastewater system. The Department and the local health  
30 department may impose conditions on the issuance of an improvement permit and an  
31 authorization for wastewater system construction.

32 (c) Unless the Commission otherwise provides by rule, plans, and specifications  
33 for all wastewater systems designed for the collection, treatment, and disposal of  
34 industrial process wastewater shall be reviewed and approved by the Department prior  
35 to the issuance of an authorization for wastewater system construction by the local  
36 health department.

37 (d) If a local health department repeatedly fails to issue or deny improvement  
38 permits for conventional septic tank systems within 60 days of receiving completed  
39 applications for the permits, then the Department of Environment and Natural  
40 Resources may withhold public health funding from that local health department.

41 (e) When a local health department issues an improvement permit or  
42 authorization to construct based upon work performed by a Licensed Soil Scientist and  
43 a Certified Site Evaluator, the improvement permit or authorization to construct shall  
44 bear a statement that reads:

1       The soil and site work necessary to issue this improvement permit or authorization  
2 to construct was performed by: \_\_\_\_\_, a Licensed Soil Scientist, License  
3 # \_\_\_\_\_, and \_\_\_\_\_, a Certified Site Evaluator, Certification #  
4 \_\_\_\_\_.

5       (f) When a local health department denies an application for an improvement  
6 permit or authorization to construct prepared by a Licensed Soil Scientist and Certified  
7 Site Evaluator, the denial shall specifically identify the provisions of G.S. 130A-336 or  
8 rules adopted pursuant to G.S. 130A-336 on which the denial was based. No complete  
9 application for an improvement permit or authorization to construct prepared by a  
10 Licensed Soil Scientist and Certified Site Evaluator shall be denied without prior  
11 contact between the applicant and local health department as documented in a written  
12 permit application review checklist. Prior to health department denial, the written permit  
13 application review checklist must be given to the applicant which identifies the date and  
14 time of contacts between the local health department and applicant to resolve  
15 deficiencies in the soil evaluation or proposed wastewater system."

16       **SECTION 4.** Article 2 of Chapter 47 of the General Statutes is amended by  
17 adding a new section to read:

18 **"§ 47-30.1A. Plats and subdivision; additional requirements for lots not served by**  
19 **a public sewer system.**

20       A Licensed Soil Scientist licensed under Chapter 89F of the General Statutes who is  
21 also a Certified Site Evaluator certified under G.S. 90A-48 shall prepare a signed and  
22 sealed report that determines the soil types within the proposed subdivision and states  
23 the potential of each proposed lot to be permitted for a wastewater system by the local  
24 health department in accordance with Article 11 of Chapter 130A of the General  
25 Statutes. Unless otherwise prescribed by a local planning board, the report shall address  
26 topography, landscape position, soil morphology, saprolite morphology, soil depth,  
27 depth to seasonal high water table, presence of any restrictive horizons, estimated long  
28 term acceptance rate of wastewater application, and any additional information pertinent  
29 to the siting and approval of a proposed wastewater system."

30       **SECTION 5.** G.S. 47-30.2(a) reads as rewritten:

31       "(a) The board of commissioners of each county shall, by resolution, designate by  
32 name one or more persons experienced in mapping or land records management as a  
33 Review Officer to review each ~~map and plat~~ map, plat, and soil scientist report required  
34 to be submitted for review before the map or plat is presented to the register of deeds for  
35 recording. Each person designated a Review Officer shall, if reasonably feasible, be  
36 certified as a property mapper pursuant to G.S. 147-54.4. A resolution designating a  
37 Review Officer shall be recorded in the county registry and indexed on the grantor  
38 index in the name of the Review Officer."

39       **SECTION 6.** G.S. 143B-301 reads as rewritten:

40 **"§ 143B-301. Water Pollution Control System Operators Certification**  
41 **Commission – members; selection; removal; compensation; quorum;**  
42 **services.**

43       (a) The Water Pollution Control System Operators Certification Commission  
44 shall consist of ~~4-13~~ \_\_\_\_\_ members. Two members shall be from the animal agriculture

1 industry and shall be appointed to three-year terms by the Commissioner of Agriculture.  
2 ~~Nine-Eleven~~ members shall be appointed by the Secretary of Environment and Natural  
3 Resources with the approval of the Environmental Management Commission ~~with the~~  
4 ~~following qualifications:~~ to three-year terms as follows:

5 (1) ~~Two members~~ One member shall be currently employed as a water  
6 pollution control facility ~~operators,~~operator, water pollution control  
7 system ~~superintendents,~~superintendent or ~~directors,~~director, water and  
8 sewer ~~superintendents,~~superintendent or ~~directors,~~director, or an  
9 equivalent ~~positions,~~position with a North Carolina  
10 municipality; municipality, to a term that expires on 1 July of years  
11 evenly divisible by three.

12 (2) One member shall be currently employed as a water pollution control  
13 facility operator, water pollution control system superintendent or  
14 director, water and sewer superintendent or director, or an equivalent  
15 position with a North Carolina municipality, to a term that expires on 1  
16 July of years that precede by one year those years that are evenly  
17 divisible by three.

18 ~~(2)~~(3) One member shall be manager of a North Carolina municipality  
19 having a population of more than 10,000 as of the most recent federal  
20 census; census, to a term that expires on 1 July of years that follow by  
21 one year those years that are evenly divisible by three.

22 ~~(3)~~(4) One member shall be manager of a North Carolina municipality  
23 having a population of less than 10,000 as of the most recent federal  
24 census; census, to a term that expires on 1 July of years evenly divisible  
25 by three.

26 ~~(4)~~(5) One member shall be employed by a private industry and shall be  
27 responsible for supervising the treatment or pretreatment of industrial  
28 wastewater; wastewater, to a term that expires on 1 July of years that  
29 precede by one year those years that are evenly divisible by three.

30 ~~(5)~~(6) One member who is a faculty member of a four-year college or  
31 university and whose major field is related to wastewater  
32 treatment; treatment, to a term that expires on 1 July of years that  
33 follow by one year those years that are evenly divisible by three.

34 (7) One member who is a faculty member of a four-year college or  
35 university and whose major field is related to water pollution control,  
36 to a term that expires on 1 July of years evenly divisible by three.

37 ~~(6)~~(8) One member who is employed by the Department of Environment and  
38 Natural Resources and works in the field of water pollution ~~control,~~  
39 control, pursuant to Article 21 of Chapter 143 of the General Statutes,  
40 who shall serve ~~as~~at the pleasure of the Secretary and shall be the  
41 Chairman-Cochair of the ~~Commission;~~Commission.

42 (9) One member who is employed by the Department of Environment and  
43 Natural Resources and works in the field of wastewater systems,  
44 pursuant to Article 11 of Chapter 130A of the General Statutes, who

1                   shall serve at the pleasure of the Secretary and shall be the Cochair of  
2                   the Commission.

3           ~~(7)~~(10)One member who is employed by a commercial water pollution  
4           control system operating ~~firm; and firm,~~ to a term that expires on 1 July  
5           of years that follow by one year those years that are evenly divisible by  
6           three.

7           ~~(8)~~(11)One member shall be currently employed as a water pollution control  
8           system collection operator, superintendent, director, or equivalent  
9           position with a North Carolina ~~municipality-~~municipality, to a term  
10          that expires on 1 July of years that precede by one year those years that  
11          are evenly divisible by three.

12          (b) ~~Appointments to the Commission shall be for a term of three years. Terms~~  
13          ~~shall be staggered so that three terms shall expire on 30 June of each year, except that~~  
14          ~~members-~~Members of the Commission shall serve until their successors are appointed  
15          and duly qualified as provided by G.S. 128-7.

16          (c) The Commission shall elect a ~~Vice-Chairman~~Vice-Chair from among its  
17          members. The ~~Vice-Chairman~~Vice-Chair shall serve ~~from the time of his election until~~  
18          ~~30 June of the following year, or until his successor is elected.~~a one-year term, subject  
19          to reelection.

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

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

26          (f) The members of the Commission shall receive per diem and necessary travel  
27          and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S.  
28          143B-15.

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

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

33          **SECTION 7.** In order to provide for a system of staggered three-year terms  
34          for the members of the Water Pollution Control System Operators Certification  
35          Commission, the following provisions shall apply:

36                  (1) The term of the member appointed to serve in the position established  
37                  by G.S. 143B-301(a)(1) shall be four years and shall expire on 1 July  
38                  2007.

39                  (2) The term of the member appointed to serve in the position established  
40                  by G.S. 143B-301(a)(2) shall be three years and shall expire on 1 July  
41                  2006.

42                  (3) The term of the member appointed to serve in the position established  
43                  by G.S. 143B-301(a)(3) shall be five years and shall expire on 1 July  
44                  2008.

- 1 (4) The term of the member appointed to serve in the position established  
2 by G.S. 143B-301(a)(4) shall be four years and shall expire on 1 July  
3 2007.
- 4 (5) The term of the member appointed to serve in the position established  
5 by G.S. 143B-301(a)(5) shall be three years and shall expire on 1 July  
6 2006.
- 7 (6) The term of the member appointed to serve in the position established  
8 by G.S. 143B-301(a)(6) shall be five years and shall expire on 1 July  
9 2008.
- 10 (7) The term of the member initially appointed to serve in the position  
11 established by G.S. 143B-301(a)(7) shall be four years and shall expire  
12 on 1 July 2007.
- 13 (8) The term of the member appointed to serve in the position established  
14 by G.S. 143B-301(a)(10) shall be five years and shall expire on 1 July  
15 2008.
- 16 (9) The term of the member appointed to serve in the position established  
17 by G.S. 143B-301(a)(11) shall be three years and shall expire on 1 July  
18 2006.

19 **SECTION 8.** Unless an applicant is found to have engaged in conduct that  
20 would constitute grounds for suspension or revocation of certification under G.S.  
21 90A-48.5, as enacted by Section 1 of this act, the Water Pollution Control System  
22 Operators Certification Commission shall certify an applicant as a Certified Site  
23 Evaluator without examination if the applicant is qualified under G.S. 90A-48.3, as  
24 enacted by Section 1 of this act, and if the applicant demonstrates to the satisfaction of  
25 the Commission that the applicant has actively and continuously engaged in evaluation  
26 of sites for at least five years beginning 1 July 2000.

27 **SECTION 9.** Subdivisions (1) and (1a) of G.S. 130A-334 are recodified as  
28 subdivisions (1a) and (1b).

29 **SECTION 10.** This act constitutes a recent act of the General Assembly  
30 within the meaning of G.S. 150B-21.1. The Water Pollution Control System Operators  
31 Certification Commission may adopt temporary rules to implement the provisions of  
32 this act until 1 July 2005. Notwithstanding G.S. 150B-21.1(d), a temporary rule  
33 adopted in accordance with this section shall remain in effect until a permanent rule  
34 adopted to replace the temporary rule becomes effective. Prior to the adoption of  
35 temporary rules under this section, the Board shall:

- 36 (1) Consult with persons who may be interested in the subject matter of  
37 the temporary rule during the development of the text of the proposed  
38 temporary rule.
- 39 (2) Notify persons on the mailing list that the Commission maintains  
40 pursuant to G.S. 150B-21.2(d) and notify persons on the mailing list of  
41 its intent to adopt a temporary rule.
- 42 (3) Publish a notice of intent to adopt a temporary rule in the North  
43 Carolina Register. The notice shall set out the text of the proposed  
44 temporary rule and include the name of the person to whom questions



1                   and written comments on the proposed rule may be submitted. The  
2                   Board shall accept written comments on the proposed temporary rule  
3                   for at least 30 days after the notice of intent to adopt the temporary  
4                   rule as published in the North Carolina Register.

5                   (4)    Hold at least one public hearing on the proposed temporary rule.

6                   **SECTION 11.** Section 1 of this act is effective when it becomes law except  
7                   that G.S. 90A-48.2, 90A-48.4, and 90A-48.5, as enacted by Section 1 of this act,  
8                   become effective 1 July 2005. Sections 2 and 6 through 11 of this act are effective when  
9                   the act becomes law. Sections 3, 4, and 5 of this act become effective 1 July 2005.