

Introduced by

Senators Klein, Magrum, Myrdal, Vedaa

Representatives Nelson, Weisz

1 A BILL for an Act to create and enact a new chapter to title 43 of the North Dakota Century  
2 Code, relating to regulation of onsite wastewater treatment system installers; to amend and  
3 reenact ~~section~~sections 23-35-02.2, 43-18.2-01, and 43-18.2-03 of the North Dakota Century  
4 Code, relating to the onsite wastewater recycling treatment technologies guide, permits for  
5 installation of an onsite wastewater treatment system, ~~and~~ investigation of onsite wastewater  
6 treatment systems, and sewer and water installers; to repeal section 23-35-02.3 of the North  
7 Dakota Century Code, relating to the onsite wastewater recycling technical committee; to  
8 provide a penalty; and to provide an effective date.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Section 23-35-02.2 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **23-35-02.2. Public health units to adoptAdoption of onsite wastewater recycling**  
13 **treatment technologies guide - Issuance of permit for onsite wastewater treatment**  
14 **system installation - Inspection - Penalty.**

- 15 1. Each public health unit and board of health shall adopt, administer, and enforce the  
16 statewide technical guide for onsite wastewater recycling treatment technologies and  
17 sewage distribution technologies established by the onsite wastewater recycling  
18 technical committee board.
- 19 2. In accordance with the statewide technical guide for onsite wastewater recycling  
20 treatment technologies, a public health unit or board of health shall issue a permit for  
21 installation of an onsite wastewater treatment system.
- 22 3. A person may not install an onsite wastewater treatment system without a permit  
23 issued under this section. If the public health unit or board of health denies a permit

1           under this section, the denial must be in writing and accompanied by findings of fact  
2           supporting the decision to deny the permit.

3           4. A public health unit and board of health may inspect a newly constructed onsite  
4           wastewater treatment system. If, upon inspection the public health unit or board of  
5           health determines any part of the system is not constructed in accordance with the  
6           minimum standards of the statewide technical guide, the permit applicant or installer,  
7           or both, shall correct the defects. A system may not be placed in service until all  
8           defects have been corrected.

9           5. A public health unit and board of health shall receive and investigate a report of  
10           unsanitary conditions in existence at an onsite wastewater system site or that any  
11           construction or work ~~regulated~~~~enforced~~ under this section is dangerous; unsafe;  
12           unsanitary; a nuisance; a risk to life, health, or property; or otherwise in violation of the  
13           statewide technical guide.

14           6. The public health unit or board of health may charge a fee, ~~not to exceed one hundred~~  
15           dollars, for issuance of a permit, conducting an inspection, reviewing a plan,  
16           evaluating a site, filing a variance request, and filing an appeal under this section.

17           7. Violation of the statewide technical guide for onsite wastewater recycling treatment  
18           technologies is an infraction for each violation. ~~Each day a violation continues is~~  
19           considered a separate offense.

20           **SECTION 2. AMENDMENT.** Section 43-18.2-01 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22           **43-18.2-01. Definitions.**

23           In this chapter, unless the context or subject matter otherwise requires:

- 24           1. "Board" means the state board of plumbing.
- 25           2. "Sewer and water contractor" means any person who installs, plans, and manages the  
26           installation and repair of building sewer and water service.
- 27           3. "Sewer and water installation" means the installation of building sewer and water  
28           service and the repair of existing building sewer and water service.
- 29           4. "Sewer and water installer" means any person, other than a sewer and water  
30           contractor, who installs and repairs building sewer and water service.

1 5. "Sewer and water service" does not include installing an onsite wastewater treatment  
2 system.

3 **SECTION 3. AMENDMENT.** Section 43-18.2-03 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **43-18.2-03. Licenses.**

6 ~~No~~A person, ~~firm, corporation, or limited liability company,~~ except ~~plumbers~~a plumber  
7 holding a valid ~~licenses~~license under chapter 43-18, may not engage in the business of sewer  
8 and water contractor or sewer and water installer unless registered and licensed by the board ~~to~~  
9 ~~do so~~under this chapter. ~~This~~A license issued under this chapter allows the licensee to do  
10 plumbing necessary for sewer and water installation. This chapter does not regulate the  
11 installation of an onsite wastewater treatment system.

12 **SECTION 4.** A new chapter to title 43 of the North Dakota Century Code is created and  
13 enacted as follows:

14 **Definitions.**

15 As used in this chapter:

- 16 1. "Board" means the onsite wastewater board.
- 17 2. "Board of health" has the meaning provided under section 23-35-01.
- 18 3. "Licensee" means an installer issued a license under this chapter.
- 19 4. "Public health unit" has the meaning provided under section 23-35-01.
- 20 5. "Regulatory authority" means a public health unit or board of health.

21 **Board - Appointment.**

- 22 1. Beginning on the effective date of this Act, the onsite wastewater board is comprised  
23 of the onsite wastewater recycling technical committee established under section  
24 23-35-02.3.
- 25 2. Beginning August 1, 2024, the governor shall replace the members of the board with  
26 five licensees:
  - 27 a. Four licensees, who are actively practicing installers, appointed by the governor;
  - 28 b. Three representatives from local public health units who are licensed  
29 environmental health practitioners in this state appointed by the governor from a  
30 list of names forwarded by local public health units; and

1 c. One representative from the department of environmental quality as appointed by  
2 the director of the department of environmental quality.

3 3. The terms of office of the initial appointed members must be staggered so no more  
4 than two terms expire on the thirty-first day of July of each year and thereafter the term  
5 of each member is three years. Each member shall qualify by taking the oath required  
6 of civil officers and shall hold office until a successor is appointed. The governor shall  
7 replace a vacancy on the board by appointment for the unexpired term. The governor  
8 may remove an appointed member from the board upon a showing of good cause.

9 **Board powers and duties.**

- 10 1. The board shall:
- 11 a. Adopt rules to implement this chapter, including setting education and experience
  - 12 qualifications for licensure and continuing education requirements for licensure
  - 13 renewal.
  - 14 b. Issue a license to a qualified applicant who pays the required fee.
  - 15 c. Elect from its membership a presiding officer and a secretary.
- 16 2. The board may hire an executive director or other staff to assist the board with
- 17 administration of this chapter.

18 **Application.**

19 This chapter applies to the installation of all onsite wastewater treatment systems within the

20 state.

21 **Licensure required - Penalty.**

22 Beginning January 1, 2025, a person may not engage in installing an onsite wastewater

23 treatment system unless licensed by the board. A violation of this section is an infraction.

24 **Exemptions.**

25 The board shall establish by rule exemptions to the licensure requirements of this chapter

26 which address installations for new construction. The rules adopted under this section may

27 distinguish between the type of system being installed and may require a property owner to

28 attend a board-approved training as a condition to perform the work.

29 **Licensure - Fees.**

30 The board shall issue the following licenses to a qualified applicant who pays the required

31 fee:

- 1       1. An apprentice installer license, which qualifies the licensee to work under a level one,  
2       two, or three license holder. The fee for licensure and license renewal as an  
3       apprentice installer is twenty-five dollars per year.
- 4       2. A level one installer license, which qualifies the licensee to install a septic tank and  
5       conventional trench system. The fee for licensure and license renewal as a level one  
6       installer is two hundred twenty-five dollars per year.
- 7       3. A level two installer license, which qualifies the licensee to install multiple tanks,  
8       mounds, at-grades, beds, and pressurized systems with pumps. The fee for licensure  
9       and license renewal as a level two installer is two hundred twenty-five dollars per year.
- 10      4. A level three master level installer license, which qualifies the licensee to install  
11      commercial systems, industrial systems, and systems that accept more than two  
12      thousand five hundred gallons [9463.53 liters] per day. The fee for licensure and  
13      license renewal as a level three master level installer is two hundred twenty-five  
14      dollars per year.

15       **Licensure of out-of-state installers.**

16       The board shall issue a license to an applicant who is licensed as an installer by an out-of-  
17 state jurisdiction if the applicant is in good standing in the out-of-state jurisdiction.

18       **Regulatory authority.**

19       A licensed installer shall comply with the statewide technical guide for onsite wastewater  
20 recycling treatment technologies adopted by the regulatory authority when installing an onsite  
21 wastewater treatment system.

22       **Disciplinary actions.**

23       Installation of an onsite wastewater treatment system by a licensee in violation of this  
24 chapter or rules adopted by the board is cause for revocation of, suspension of, or refusal to  
25 renew a license. Disciplinary actions must be conducted in accordance with chapter 28-32.

26       **Statewide technical guide.**

- 27      1. The board shall develop and publish a statewide guide for onsite wastewater recycling  
28      treatment technologies for adoption by regulatory authorities under section 23-35-02.2.
- 29      2. At a minimum, the statewide technical guide for onsite wastewater recycling treatment  
30      technologies must address:
  - 31      a. A standardized onsite wastewater treatment system permit form.

- 1           b. The length of time a permit is valid following issuance.
- 2           c. Circumstances under which a registered professional engineer shall prepare
- 3           plans and specifications.
- 4           d. The minimum size lot in which a new onsite wastewater treatment system may
- 5           be installed.
- 6           e. The terms under which a septic tank may be abandoned.
- 7           f. The minimum requirements for an onsite wastewater treatment system soil
- 8           treatment area.
- 9           g. Circumstances under which special systems of treatment and disposal may be
- 10          provided.
- 11          h. Circumstances under which the regulatory authority may issue a variance.
- 12          i. The process for appeal of an order or determination of the regulatory authority.
- 13          j. Circumstances under which a regulatory authority may suspend or revoke a
- 14          permit.
- 15          k. Circumstances under which a regulatory authority may issue an order to cease
- 16          and desist.

17           **SECTION 5. REPEAL.** Section 23-35-02.3 of the North Dakota Century Code is repealed.

18           **SECTION 6. EFFECTIVE DATE.** ~~Section~~Sections 1, 2, and 3 of this Act ~~becomes~~become  
19 effective January 1, 2025, and section ~~35~~ of this Act becomes effective August 1, 2024.