

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1541

Introduced by

Representatives Koppelman, K. Anderson, Grueneich, Hagert, Nelson, Monson, Satrom,
Weisz

Senators Magrum, Myrdal, Klein, Thomas

1 ~~A BILL for an Act to create and enact a new chapter to title 23.1 of the North Dakota Century~~
2 ~~Code, relating to sewer, septic, and private water systems and the environmental quality~~
3 ~~advisory committee; to repeal sections 23-35-02.2 and 23-35-02.3 of the North Dakota Century~~
4 ~~Code, relating to the onsite wastewater recycling technical committee; and to provide a~~
5 ~~transfer for an Act to create and enact chapter 23.1-17 of the North Dakota Century Code,~~
6 ~~relating to septic systems and the environmental quality advisory committee; to amend and~~
7 ~~reenact sections 23-35-02, 23-35-08, 23.1-01-03, and 23.1-17-01 of the North Dakota Century~~
8 ~~Code, relating to the powers and duties of the the department of environmental quality, boards~~
9 ~~of health, and public health units; to repeal sections 23-35-02.2 and 23-35-02.3 of the North~~
10 ~~Dakota Century Code, relating to the onsite wastewater recycling technical committee; to~~
11 ~~provide an appropriation; to provide for a transfer; and to provide an effective date.~~

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

13 ~~— **SECTION 1.** A new chapter to title 23.1 of the North Dakota Century Code is created and~~
14 ~~enacted as follows:~~

15 ~~— **Sewer, septic, and private water systems – Authority.**~~

16 ~~— Notwithstanding any other provision of law, the department of environmental quality has the~~
17 ~~exclusive authority to adopt rules regarding licensing, permitting, and inspections of sewer,~~
18 ~~septic, and private water systems and shall provide assistance and guidance to the department~~
19 ~~of health and human services, water districts, municipalities, and local health boards in all~~
20 ~~matters related to sewer, septic, and private water systems.~~

1 ~~— **Environmental quality advisory committee - Members - Appointment - Duties.**~~

2 ~~— 1. The environmental quality advisory committee consists of:~~

3 ~~— a. The director of the department of environmental quality or the director's designee;~~

4 ~~— b. Three representatives from local public health units, appointed by the governor;~~

5 ~~and~~

6 ~~— c. Three individuals who must be licensed septic installers, appointed by the~~

7 ~~governor from a list of names forwarded by a professional onsite wastewater~~

8 ~~recycling association.~~

9 ~~— 2. An appointed member must have been a resident of the state for at least five years~~

10 ~~immediately preceding appointment to the committee.~~

11 ~~— 3. The director or the director's designee shall serve as chairman of the board and is an~~

12 ~~ex-officio member of the board.~~

13 ~~— 4. The committee shall:~~

14 ~~— a. Recommend standards and procedures relating to licensing, permitting, and~~

15 ~~inspections of sewer, septic, and private water systems, including a requirement~~

16 ~~for proposed inspections to be completed within one business day.~~

17 ~~— b. Create and recommend a statewide technical guide for sewer, septic, and private~~

18 ~~water systems.~~

19 ~~— **Environmental quality advisory committee - Members - Terms of office - Vacancies.**~~

20 ~~— Each appointed member of the committee shall qualify by taking the oath of office required~~

21 ~~of civil officers and shall hold office for a term of four years and until a successor is appointed~~

22 ~~and qualified. The terms of office of the appointed members must be arranged so no more than~~

23 ~~two terms expire on June thirtieth of each year. To accomplish the staggering, the initial term of~~

24 ~~appointees may be for less than four years. The governor shall fill a vacancy on the board by~~

25 ~~appointment from the class of members to which the member belonged.~~

26 ~~— **Certain septic, sewer, and private water systems exempt.**~~

27 ~~— This chapter does not apply to any septic, sewer, or private water system constructed,~~

28 ~~produced, or installed before August 1, 2025, or the extension of such a system.~~

29 ~~— **SECTION 2. REPEAL.** Sections 23-35-02.2 and 23-35-02.3 of the North Dakota Century~~

30 ~~Code are repealed.~~

1 ~~SECTION 3. TRANSFER -- FUNDS UNDER THE CONTROL OF THE STATE BOARD OF~~
2 ~~PLUMBING TO DEPARTMENT OF ENVIRONMENTAL QUALITY -- SEPTIC SYSTEMS.~~ The
3 ~~state board of plumbing shall transfer any remaining funds at the end of the biennium, from the~~
4 ~~state plumbing board fund relating to the regulation of septic tanks and septic systems, to the~~
5 ~~department of environmental quality operating fund for the purpose of the regulation of septic~~
6 ~~tanks and septic systems.~~

7 **SECTION 1. AMENDMENT.** Section 23-35-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **23-35-02. Public health units - Core functions.**

- 10 1. All land in the state must be in a public health unit.
- 11 2. At a minimum, a public health unit shall provide the following core functions:
- 12 a. Communicable disease control, which must include:
- 13 (1) Conducting of disease surveillance for the purpose of preventing and
14 controlling communicable disease, with assistance from the department.
- 15 (2) Assurance of the availability of community-based programs to provide
16 communicable disease prevention and control services.
- 17 (3) Recognition, identification, and response to a communicable disease event,
18 in collaboration with the department.
- 19 b. Chronic disease and injury prevention, which must include conducting programs
20 to reduce the burden of chronic disease and injury through policy, system, and
21 environmental change approach; prevention screening; and education.
- 22 c. Environmental public health, which must include:
- 23 (1) Prevention of environmental hazards by the provision of information and
24 education to facility operators and managers and to community members.
- 25 (2) Assurance of the availability of environmental health services to prevent and
26 respond to community and residential environmental hazards.
- 27 (3) Permitting and inspections of septic water systems. A public health unit may
28 enter a cooperative agreement with a county or city for the permitting and
29 inspection of septic systems within the boundaries of the county or city. The
30 agreement may be terminated as provided in the agreement, by joint action.

of all parties, or by an individual party no less than one year after providing written notice to the other party.

d. Maternal, child, and family health, which must include:

- (1) Assessment and monitoring of maternal and child health status to identify and address problems.
- (2) Implementation of programs to promote the health of women, children, and youth, and their families, through policy, system, and environmental change approaches; prevention screenings; and education.

e. Access to clinical care, which must include:

- (1) Collaboration with health care system partners to foster access to clinical care.
- (2) Facilitation of linkages and referrals for appropriate clinical care, services, and resources.

SECTION 2. AMENDMENT. Section 23-35-08 of the North Dakota Century Code is amended and reenacted as follows:

23-35-08. Boards of health - Powers and duties.

Except when in conflict with a local ordinance or a civil service rule within a board of health's jurisdiction, or a tribal code, ordinance, or policy, each board of health:

1. Shall keep records and make reports required by the department.
2. Shall prepare and submit a public health unit budget.
3. Shall audit, allow, and certify for payment expenses incurred by a board of health in carrying into effect this chapter.
4. May accept and expend any gift, grant, donation, or other contribution offered to aid in the work of the board of health or public health unit.
5. May make rules regarding any nuisance, source of filth, and any cause of sickness which are necessary for public health and safety, except for rules regarding the licensing of septic system installers.
6. May establish by rule a schedule of reasonable fees that may be charged for services rendered. Services may not be withheld due to an inability to pay any fees established under this subsection. If a tribal board of health establishes fees for services rendered,

- 1 the fees may not exceed the highest corresponding fee of any of the public health
- 2 units that border the tribal public health unit.
- 3 7. May make rules in a health district or county public health department, as the case
- 4 may be, and in the case of a city public health department may recommend to the
- 5 city's governing body ordinances for the protection of public health and safety.
- 6 8. May adopt confinement, decontamination, and sanitary measures in compliance with
- 7 chapter 23-07.6 which are necessary when an infectious or contagious disease exists.
- 8 9. May make and enforce an order in a local matter if an emergency exists.
- 9 10. May inquire into any nuisance, source of filth, or cause of sickness.
- 10 11. Except in the case of an emergency, may conduct a search or seize material located
- 11 on private property to ascertain the condition of the property as the condition relates to
- 12 public health and safety as authorized by an administrative search warrant issued
- 13 under chapter 29-29.1.
- 14 12. May abate or remove any nuisance, source of filth, or cause of sickness when
- 15 necessary to protect the public health and safety.
- 16 13. May supervise any matter relating to preservation of life and health of individuals,
- 17 including the supervision of any water supply and sewage system.
- 18 14. May isolate, kill, or remove any animal affected with a contagious or infectious disease
- 19 if the animal poses a material risk to human health and safety.
- 20 15. Shall appoint a local health officer.
- 21 16. May employ any person necessary to effectuate board rules and this chapter.
- 22 17. If a public health unit is served by a part-time local health officer, the board of health
- 23 may appoint an executive director. An executive director is subject to removal for
- 24 cause by the board of health. The board of health may assign to the executive director
- 25 the duties of the local health officer, and the executive director shall perform these
- 26 duties under the direction of the local health officer.
- 27 18. May contract with any person to provide the services necessary to carry out the
- 28 purposes of the board of health.
- 29 19. Shall designate the location of a local health officer's office and shall furnish the office
- 30 with necessary equipment.
- 31 20. May provide for personnel the board of health considers necessary.

1 21. Shall set the salary of the local health officer, the executive director, and any assistant
2 local health officer and shall set the compensation of any other public health unit
3 personnel.

4 22. Shall pay for necessary travel of the local health officer, the local health officer's
5 assistants, and other personnel in the manner and to the extent determined by the
6 board.

7 **SECTION 3. AMENDMENT.** Section 23.1-01-03 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **23.1-01-03. Director - Powers and duties.**

10 The director of the department of environmental quality shall:

- 11 1. Enforce all rules adopted by the department;
- 12 2. Hire employees as necessary to carry out the duties of the department and director;
- 13 3. Organize the department in the most efficient and effective manner;
- 14 4. Maintain, in conjunction with the department of health and human services, a
15 laboratory to carry out the necessary tests and examinations for purposes of this title,
16 and establish a fee schedule for the tests and examinations;
- 17 5. Issue bulletins, news releases, or reports as necessary to inform the public of
18 environmental hazards;
- 19 6. Establish rules necessary for maintaining sanitation, including rules for approving
20 plans for water works and sewage systems;
- 21 7. Maintain a central environmental laboratory and, if necessary, branch laboratories for
22 the standard function of diagnostic, sanitary, and chemical examinations; ~~and~~
- 23 8. Any Provide optional training and educational opportunities to municipalities, local
24 health boards, and septic contractors; and
- 25 9. Undertake any other action, including the collection and distribution of environmental
26 quality data, necessary and appropriate for the administration of this title and chapters
27 61-28, 61-28.1, and 61-28.2.

28 **SECTION 4.** Chapter 23.1-17 of the North Dakota Century Code is created and enacted as
29 follows:

23.1-17-01. Septic systems - Authority.

1. Notwithstanding any other provisions of law, the department of environmental quality has the exclusive authority to adopt rules regarding licensing, permitting, and inspections of septic systems.
2. The department of environmental quality shall provide assistance and guidance to municipalities and local health boards in all matters related to septic systems.
3. An ordinance enacted or adopted by a county or city pursuant to a home rule charter, or enacted or adopted by any other political subdivision, which is in conflict with a rule adopted under this section is void.

23.1-17-02. Environmental quality advisory committee - Members - Appointment - Duties.

1. The environmental quality advisory committee consists of:
 - a. The director of the department of environmental quality or the director's designee;
 - b. Three representatives from local public health units, appointed by the governor;
and
 - c. Three individuals who must be licensed septic installers, appointed by the governor from a list of names forwarded by a professional onsite wastewater recycling association.
2. An appointed member must have been a resident of the state for at least five years immediately preceding appointment to the committee.
3. The director or the director's designee shall serve as chairman of the committee and is an ex officio, nonvoting member of the committee.
4. The committee shall:
 - a. Recommend standards and procedures relating to licensing, permitting, and inspections of septic systems.
 - b. Create and recommend a statewide technical guide for septic systems.

23.1-17-03. Environmental quality advisory committee - Terms of office - Vacancies.

Each appointed member of the committee shall qualify by taking the oath of office required of civil officers and shall hold office for a term of four years and until a successor is appointed and qualified. The terms of office of the appointed members must be arranged so no more than two terms expire on June thirtieth of each year. To accomplish the staggering, the initial term of

1 appointees may be for less than four years. The governor shall fill a vacancy on the committee
2 by appointment from the class of members to which the member belonged.

3 **23.1-17-04. Inspections, repairs, and replacements.**

4 1. A local public health unit shall conduct a required inspection of a septic system within
5 one business day of receiving a request to inspect.

6 2. A local public health unit may not require the replacement of a repairable septic
7 system within ten years of receipt of notice of noncompliance or before the completion
8 of the sale of the property, whichever is sooner.

9 3. A local public health unit may not require the replacement of a functional septic
10 system.

11 **SECTION 5. AMENDMENT.** Section 23.1-17-01 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **23.1-17-01. Septic systems - Authority.**

14 1. Notwithstanding any other provisions of law, the department of environmental quality,
15 with majority approval of the environmental quality advisory committee, has the
16 exclusive authority to adopt rules regarding licensing, permitting, and inspections of
17 septic systems.

18 2. The department of environmental quality shall provide assistance and guidance to
19 municipalities and local health boards in all matters related to septic systems.

20 3. An ordinance enacted or adopted by a county or city pursuant to a home rule charter,
21 or enacted or adopted by any other political subdivision, which is in conflict with a rule
22 adopted under this section is void.

23 **SECTION 6. REPEAL.** Sections 23-35-02.2 and 23-35-02.3 of the North Dakota Century
24 Code are repealed.

25 **SECTION 7. APPROPRIATION - DEPARTMENT OF ENVIRONMENTAL QUALITY -**

26 **SEPTIC SYSTEMS - ONE-TIME FUNDING.** There is appropriated out of any moneys in the
27 general fund in the state treasury, not otherwise appropriated, the sum of \$99,500, or so much
28 of the sum as may be necessary, to the department of environmental quality for the purpose of
29 the regulation of septic tanks and septic systems, for the biennium beginning July 1, 2025, and
30 ending June 30, 2027. The funding provided in this section is considered a one-time funding
31 item.

1 **SECTION 8. TRANSFER - FUNDS UNDER THE CONTROL OF THE STATE BOARD OF**
2 **PLUMBING TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY - SEPTIC SYSTEMS.**

3 The state board of plumbing shall transfer any remaining funds at the end of the biennium,
4 from the state plumbing board fund relating to sewer and water contractor fees, to the
5 department of environmental quality operating fund for the purpose of the regulation of septic
6 tanks and septic systems.

7 **SECTION 9. EFFECTIVE DATE.** Section 5 of this Act becomes effective on January 1,
8 2026.