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PROPOSED SENATE COMMITTEE SUBSTITUTE H376-PCS10666-BR-34

Short Title: Water/Wastewater Affordability & Capacity Act. (Public)

Sponsors:

Referred to:

March 13, 2025

1 A BILL TO BE ENTITLED
2 AN ACT TO ADDRESS WATER AND WASTEWATER AFFORDABILITY AND
3 CAPACITY AND TO MAKE VARIOUS CHANGES TO THE STATUTES GOVERNING
4 ON-SITE WASTEWATER SYSTEMS AND PRIVATE WELLS.

5 The General Assembly of North Carolina enacts:

6
7 **AMEND PROCEDURES REGARDING THE SALE OF A PUBLIC WATER SYSTEM**

8 **SECTION 1.** G.S. 62-133.1B(e) reads as rewritten:

9 "(e) The Commission shall, after notice and an opportunity for interested parties to be
10 heard, issue an order ruling on the water or sewer utility's request to adjust base rates under
11 G.S. 62-133, denying or approving, with or without modifications, a water or sewer utility's
12 proposed Water and Sewer Investment Plan. The Commission may suspend the effect of the
13 proposed base rates and the Water and Sewer Investment Plan implementation pending
14 investigation in the same manner as provided in G.S. 62-134(b), provided that the Commission
15 may suspend the implementation of the proposed base rates for no longer than 300 days. An
16 approved plan shall be effective no later than the end of the maximum suspension period pursuant
17 to G.S. 62-134(b).period."

18 **SECTION 2.** Article 1 of Chapter 162A of the General Statutes is amended by
19 adding a new section to read:

20 "**§ 162A-19.1. Sale of a public water or sewer system.**

21 (a) For purposes of this section, "local government service provider" means any of the
22 following:

23 (1) A county.

24 (2) A city.

25 (3) A water and sewer authority created under Article 1 of Chapter 162A of the
26 General Statutes.

27 (4) A metropolitan sewerage district created under Article 5 of Chapter 162A of
28 the General Statutes.

29 (5) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the
30 General Statutes.

31 (6) A county water and sewer district created under Article 6 of Chapter 162A of
32 the General Statutes.



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1 (7) A metropolitan water district created under Article 4 of Chapter 162A of the
2 General Statutes.

3 (8) A metropolitan water and sewerage district created under Article 5A of
4 Chapter 162A of the General Statutes.

5 (b) No local government service provider may sell to a private company a water or sewer
6 system that provides service to the public until the governing body of the local government
7 service provider has held a public hearing on the sale and made a determination that the sale is
8 in the public interest. In determining if the sale is in the public interest, the local government
9 service provider shall consider, at a minimum, all of the following:

10 (1) The physical condition of the water or sewer system being sold.

11 (2) The capital replacements, additions, expansions, and repairs needed to provide
12 reliable service and meet all applicable federal standards.

13 (3) The availability of federal and State grants and loans for system upgrades and
14 repairs.

15 (4) The willingness and the ability of the purchaser to make system upgrades and
16 repairs and provide high-quality and cost-effective service.

17 (5) The reasonableness of the contract sale price and terms.

18 (6) The most recent income and expense statement and asset and liabilities
19 balance sheet of the purchaser.

20 (7) The purchaser's existing rate base and projected rates over the next three years.

21 (8) The affordability of the projected rates for the next three years for customers
22 serviced by the system, based on the income levels of the customer base.

23 (9) The alternatives to the sale and the potential impact on utility customers if the
24 sale is not made.

25 (c) The local government service provider shall prepare a statement showing that the sale
26 is in the public interest, including a summary of the purchaser's experience in water or sewer
27 utility operation and a showing of financial ability to provide the service.

28 (d) All moneys paid by a private company to a local government service provider for the
29 purchase of a water system or sewer system shall be used for the purpose of debt reduction for
30 the system, if applicable, and repayment of federal grant awards associated with the system as
31 may be required by federal law or regulation. Any unspent funds remaining after debts and
32 federal grant awards have been repaid shall be deposited in the general fund of the local
33 government service provider."

34 SECTION 3. Article 1 of Chapter 162A of the General Statutes is amended by
35 adding a new section to read:

36 "**§ 162A-19.2. Limitation on water and sewer rates charged to customers outside the**
37 **jurisdictional boundaries of the provider.**

38 (a) For purposes of this section, "local government service provider" means any of the
39 following:

40 (1) A county.

41 (2) A city.

42 (3) A water and sewer authority created under Article 1 of Chapter 162A of the
43 General Statutes.

44 (4) A metropolitan sewerage district created under Article 5 of Chapter 162A of the
45 General Statutes.

46 (5) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the
47 General Statutes.

48 (6) A county water and sewer district created under Article 6 of Chapter 162A of the
49 General Statutes.

50 (7) A metropolitan water district created under Article 4 of Chapter 162A of the
51 General Statutes.

1 (8) A metropolitan water and sewerage district created under Article 5A of
2 Chapter 162A of the General Statutes.

3 (b) Any local government service provider establishing an increase in the rates, fees, or
4 charges for water or sewer system customers outside of the local government service provider's
5 jurisdictional boundaries may impose rates, fees, and charges that exceed the charges to
6 customers inside its boundaries. Notwithstanding G.S. 130A-64.1, 153A-277(a1)(1),
7 160A-314(a1)(1), and 162A-9(a), if the total of all rates, fees, and charges, excluding tap fees
8 and impact fees, does not exceed the rates, fees, and charges to customers inside its boundaries
9 by more than twenty-five percent (25%), the local government service provider shall not be
10 required to hold a public hearing except as may be provided for service to customers inside the
11 boundaries of the local government service provider. If the total of all rates, fees, and charges,
12 excluding tap fees and impact fees, exceeds the rates, fees, and charges to customers inside its
13 boundaries by more than twenty-five percent (25%), the local government service provider shall
14 hold a public hearing and explain how the rates, fees, and charges for customers outside its
15 boundaries were determined. This section shall not be construed to prohibit a local government
16 service provider from charging a tap fee or impact fee separate from the provisions of this
17 subsection."

18 **SECTION 4.** Section 1 is effective when it becomes law and applies to rate schedules
19 filed on or after that date. Section 2 is effective when it becomes law and applies to contracts for
20 sales of water systems executed on or after that date. Section 3 is effective when it becomes law
21 and applies to rates established on or after that date.

22

23 **COMMERCIAL WASTEWATER DESIGN FLOW RATE STUDY**

24 **SECTION 5.(a)** The Environmental Management Commission shall study whether
25 the wastewater design flow rates established pursuant to 15A NCAC 02T .0114(c) and (d)
26 (Wastewater Design Flow Rates) as those rates apply to commercial and industrial water users
27 accurately measure the actual flow rates used by those water users. In conducting the study, the
28 Commission shall consider all of the following:

- 29 (1) Reduced water consumption associated with new plumbing fixtures, fittings,
30 and appliances, including any reductions attributable to standards adopted
31 under the North Carolina Building Code or federal efficiency standards since
32 the flow rates in the rule were last established.
- 33 (2) Actual metered water use and measured wastewater flows from commercial
34 and industrial water users in the State.
- 35 (3) Wastewater design flow rates used by other states for comparable commercial
36 and industrial water users.

37 **SECTION 5.(b)** The Environmental Management Commission shall report its
38 findings to the Environmental Review Commission no later than January 1, 2027.

39

40 **MODIFY THE AUTHORITY OF CERTAIN LOCAL GOVERNMENTS TO REQUIRE**

41 **STORMWATER CONTROL FOR REDEVELOPED PROPERTY**

42 **SECTION 5.5.(a)** G.S. 143-214.7 reads as rewritten:

43 **"§ 143-214.7. Stormwater runoff rules and programs.**

44 ...

45 (a1) Definitions. – The following definitions apply in this section:

46 (1) Built-upon area. – As defined in G.S. 143-214.7D.

47 (2) Development. – Any land-disturbing activity that increases the amount of
48 built-upon area or that otherwise decreases the infiltration of precipitation into
49 the subsoil. ~~When additional development occurs at a site that has existing~~
50 ~~development, the built-upon area of the existing development shall not be~~
51 ~~included in the density calculations for additional stormwater control~~

requirements, and stormwater control requirements cannot be applied retroactively to existing development, unless otherwise required by federal law.

(2)(3) Redevelopment. – Any land-disturbing activity that does not result in a net increase in built-upon area and that provides greater or equal stormwater control to that of the previous development.

...

(b3) Stormwater runoff rules and programs shall not require private property owners to install new or increased stormwater controls for (i) ~~preexisting development existing built-upon area~~ or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. ~~When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment, irrespective of whether the impervious surface that existed before the redevelopment is to be demolished or relocated during the development activity. When development or redevelopment occurs at a site that has existing built-upon area: (i) the existing built-upon area shall not be included in the density calculations for additional stormwater control requirements, irrespective of whether the existing built-upon area is to be demolished, relocated, replaced, or remains in place during development activity; (ii) the existing built-upon area at the site is not subject to additional stormwater control requirements under this section, regardless of whether the existing built-upon area is demolished, relocated, replaced, or remains in place during the development activity; (iii) for purposes of determining the size of the area for which stormwater control measures are required for a development or redevelopment, built-upon area that existed before the development or redevelopment shall be applied on a square-foot-for-square-foot basis to reduce the built-upon area for which stormwater control measures are required; and (iv) stormwater control requirements cannot be applied retroactively to existing built-upon area, unless otherwise required by federal law.~~ A property owner may elect to treat the stormwater resulting from the net increase in built-upon area above the ~~preexisting existing built-upon area~~ at the development or redevelopment for the purpose of exceeding allowable density under the applicable water supply watershed rules as provided in G.S. 143-214.5(d3). This subsection applies to all local governments regardless of the source of their regulatory authority. Local governments shall include the requirements of this subsection in their stormwater ordinances.

...

(b8) A local government may offer nonmandatory incentives that waive building, zoning, connection, or other regulations or fees, provide additional tax and financial benefits, or institute other incentives for development or redevelopment that implement additional stormwater control measures beyond those required by this section and rules adopted thereunder.

...."

SECTION 5.5.(b) Each local government that implements a stormwater management program shall amend its stormwater ordinance to conform to G.S. 143-214.7(b3), as amended by subsection (a) of this section, within 12 months of the effective date of this section. Any local stormwater ordinance that is inconsistent with G.S. 143-214.7(b3), as amended by subsection (a) of this section, is void and unenforceable on and after that date. A local government may adopt, amend, or repeal ordinance provisions implementing G.S. 143-214.7(b8) at any time after the effective date of this section.

SECTION 5.5.(c) This section is effective when it becomes law and applies to stormwater rules and stormwater program amendments adopted on or after that date.

ON-SITE WASTEWATER BOARD CHANGES

SECTION 6.(a) G.S. 90A-72(a) reads as rewritten:

1 "(a) Certification Required. – No person shall construct, install, or repair or offer to
2 construct, install, or repair an on-site wastewater system permitted under Article 11 of Chapter
3 130A of the General Statutes without being certified as a contractor at the required level of
4 certification for the specified system. No person shall conduct an inspection or offer to conduct
5 an inspection of an on-site wastewater system as permitted under Article 11 of Chapter 130A of
6 the General Statutes without being certified in accordance with the provisions of this Article. No
7 person shall conduct an evaluation or offer to conduct the services authorized in
8 G.S. 130A-336.2(a) without being certified as an Authorized On-Site Wastewater Evaluator. No
9 person shall conduct or offer to conduct a private compliance inspection of an on-site wastewater
10 system for compliance with the designs of a Construction Authorization issued pursuant to
11 G.S. 130A-335(a5) or a Notice of Intent to Construct issued pursuant to G.S. 130A-336.1 or
12 G.S. 130A-336.2 unless certified as a Private Compliance Inspector or pursuant to
13 G.S. 130A-337(a1). The Private Compliance Inspector shall obtain written consent from the
14 professional engineer pursuant to G.S. 130A-336.1 or the Authorized On-Site Wastewater
15 Evaluator pursuant to G.S. 130A-336.2 prior to conducting the compliance inspection. No person
16 conducting any project requiring certification pursuant to this Article shall do so without holding
17 sufficient general liability coverage for the project, as well as any additional liability coverage
18 that may be required for systems completed pursuant to G.S. 130A-336.1 or G.S. 130A-336.2."

19 **SECTION 6.(b)** G.S. 90A-77, as amended by S.L. 2024-49, reads as rewritten:

20 **"§ 90A-77. Certification requirements.**

21 (a) Certification. – The Board shall issue a certificate to an applicant who satisfies all of
22 the following conditions:

- 23 (1) Is at least 18 years of age.
- 24 (2) Submits a properly completed application with all required supporting
25 documents for the certification being applied for to the Board.
- 26 (3) For grade level II contractor certification, applicant shall satisfy the following
27 conditions:
 - 28 a. Complete the basic on-site wastewater education approved by the
29 Board for any level.
 - 30 b. Complete any additional class hours required for grade level II.
- 31 (3a) For grade level IV contractor certification, applicant shall satisfy the following
32 conditions:
 - 33 a. Hold current and satisfactory certification of grade level II for a
34 minimum of two years prior to application for grade level IV.
 - 35 b. Complete any additional class hours required for grade level IV.
- 36 (3b) For inspector certification, applicant shall satisfy the following conditions:
 - 37 a. Complete the point-of-sale inspector education approved by the
38 Board.
 - 39 b. Complete any additional class hours required for point-of-sale
40 inspector certification.
 - 41 c. Hold current and satisfactory certification of grade level IV contractor,
42 or Authorized On-Site Wastewater Evaluator or subsurface operator
43 certification for a minimum of two years.
 - 44 d. In lieu of the experience requirements in this subdivision, an applicant
45 may instead complete the approved education requirements for the
46 grade IV contractor certification as required by the Board. This
47 sub-subdivision shall not apply to a person certified as a grade II
48 contractor.

49 "

50 **SECTION 6.(c)** G.S. 90A-78 reads as rewritten:

51 **"§ 90A-78. Certification renewal.**

1 (a) Renewal. – All certifications shall expire on December 31 of each year unless they
2 are renewed. To renew a certification, a contractor, inspector, Authorized On-Site Wastewater
3 Evaluator, or Private Compliance Inspector must meet all of the following conditions:

4 (1) Submit an application for renewal on the form prescribed by the Board, which
5 includes all supporting documents requested on the renewal form.

6 (2) Meet the following continuing education requirements:

7 a. Grade level II contractor: 3 hours per year.

8 b. Grade level IV contractor: 6 hours per year.

9 c. Point-of-sale inspector: 6 hours per year.

10 d. Authorized on-site wastewater evaluator: 12 hours per year.

11 e. Private compliance inspector: 12 hours per year.

12 f. For persons holding more than one certification issued by the Board,
13 the higher annual hours continuing education requirement of all
14 certificates held.

15 (3) Pay the certification renewal fee.

16 (4) Submit the ~~renewal-completed renewal package~~ by November 15 annually.

17"

18 SECTION 6.(d) This section becomes effective January 1, 2027, and applies to
19 applications for certification or certificate renewal on or after that date.

20
21 ON-SITE WASTEWATER SYSTEM CHANGES

22 SECTION 7.(a) G.S. 130A-335 reads as rewritten:

23 "§ 130A-335. Wastewater collection, treatment and disposal; rules.

24 ...

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

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

29 (2) The local board of health has adopted by reference the wastewater system
30 rules adopted by the Commission, with any more stringent modifications or
31 additions deemed necessary by the local board of health to protect the public
32 health. ~~Local boards of health shall use historical experience to establish~~
33 ~~modifications or additions to rules established by the Commission; and~~health;
34 and

35 (3) The Department ~~has~~has, consistent with subsection (c3) of this section, found
36 that the rules, including modifications or additions to the Commission's rules,
37 of the local board of health concerning wastewater collection, treatment and
38 disposal systems are at least as stringent as rules adopted by the Commission
39 and are sufficient and necessary to safeguard the public health.

40 ...

41 (c3) The Department shall determine the validity of proposals from local boards of health
42 seeking modifications or additions to rules established by the Commission based on whether the
43 rules are at least as stringent as rules adopted by the Commission and necessary to protect the
44 public health. The Department shall hold public hearings and notice those hearings on the
45 Department's webpage upon application for modification or addition of Commission rules by the
46 local health department. The Department shall make its findings available to the public before
47 approving or denying a proposed modification or addition.

48"

49 SECTION 7.(b) G.S. 130A-336 reads as rewritten:

50 "§ 130A-336. Improvement permit and construction authorization required.

51 ...

1 (b) The local health department shall issue a ~~construction authorization~~ Construction
2 Authorization authorizing work to proceed and the installation or repair of a wastewater system
3 when it has determined after a field investigation that the system can be installed and operated in
4 compliance with this Article and rules adopted pursuant to this Article. This ~~construction~~
5 ~~authorization~~ Construction Authorization shall be valid for a period equal to the period of validity
6 of the ~~improvement permit and may be issued at the same time the improvement permit is issued.~~
7 Improvement Permit. No person shall commence or assist in the installation, construction, or
8 repair of a wastewater system unless an ~~improvement permit~~ Improvement Permit and a
9 ~~construction authorization~~ Construction Authorization have been obtained from the Department
10 or the local health department unless that person is acting in accordance with the conditions and
11 criteria of an engineered option permit pursuant to G.S. 130A-336.1 or the Authorized On-Site
12 Wastewater Evaluator permit option pursuant to G.S. 130A-336.2. No ~~improvement permit~~
13 Improvement Permit or ~~construction authorization~~ Construction Authorization shall be required
14 for maintenance of a wastewater system. The Department and the local health department may
15 impose conditions on the issuance of an ~~improvement permit~~ Improvement Permit and a
16 ~~construction authorization~~ Construction Authorization.

17"

18 SECTION 7.(c) G.S. 130A-337 reads as rewritten:

19 "**§ 130A-337. Inspection; operation permit required.**

20 (a) No system of wastewater collection, treatment and disposal shall be covered or placed
21 into use by any person until an inspection by the local health department has determined that the
22 system has been installed or repaired in accordance with any conditions of the Improvement
23 Permit, the Construction Authorization, the rules, and this Article.

24 (a1) Notwithstanding subsection (a) of this section, an applicant may contract with an
25 Authorized On-Site Wastewater Evaluator certified pursuant to Article 5 of Chapter 90A of the
26 General Statutes or an engineer licensed pursuant to Chapter 89C of the General Statutes
27 to conduct any required verifications or inspections. The evaluator or engineer shall provide the
28 applicant with written verification that all conditions of the Improvement Permit and
29 Construction Authorization have been met, including an as-built drawing meeting the standards
30 and scale of the local health department issuing the Construction Authorization as certified by
31 the ~~evaluator.~~ evaluator or engineer. The applicant may cover the system and place it into
32 operation upon receipt of the ~~evaluator's~~ written verification and shall submit the verification to
33 the local health department within two business days of receipt of the verification. The
34 Department, the Department's authorized agents, and the local health department shall be
35 discharged and released from any liabilities, duties, and responsibilities imposed by statute or
36 common law from any claim arising out of or attributed to the on-site wastewater system
37 installation.

38 ...

39 (b) Upon ~~determining that the system is properly installed or repaired and that the system~~
40 ~~is capable of being operated in~~ installation or repair of a wastewater system in accordance with
41 the conditions of the Improvement Permit, ~~the rules, this Article and any conditions to be imposed~~
42 ~~in the operation permit,~~ Permit and the Construction Authorization, including any site
43 modification conditions noted in the Improvement Permit or Construction Authorization, as
44 applicable, applicable, or upon receipt of written verification submitted pursuant to subsection
45 (a1) or (a2) of this section, the local health department shall issue an operation permit authorizing
46 the residence, place of business or place of public assembly to be occupied and for the system to
47 be placed into use or reuse. A local health department shall not withhold issuance of an Operation
48 Permit if all conditions specified in the Improvement Permit and Construction Authorization
49 have been met, and the installation complies with all applicable laws and rules. Conditions added
50 to the Operation Permit shall be consistent with the applicable rules and are enforceable as
51 requirements of the permit.

1 "

2 **SECTION 7.(d)** This section is effective when it becomes law and applies to permits
3 applied for on or after that date.

4
5 **PRIVATE DRINKING WATER WELL PROGRAM CHANGES**

6 **SECTION 8.(a)** G.S. 87-96 reads as rewritten:

7 **"§ 87-96. Conflict with other laws.**

8 (a) The provisions of any law, rule, or local ordinance which establish standards
9 ~~affording greater protection to~~ for testing of groundwater resources or public health, safety, or
10 ~~welfare~~ shall prevail, within the jurisdiction to which they apply, over the provisions of this
11 Article and rules adopted pursuant to this Article.

12 ~~(b) Rules relating to public health, wells, or groundwater adopted by the Commission for~~
13 ~~Public Health shall prevail over this Article, Article and rules adopted pursuant to this Article,~~
14 ~~and rules adopted by a local board of health pursuant to subsection (c) of this section. Article.~~
15 This Article shall not be construed to repeal any law or rule in effect as of July 1, 1989.

16 (c) A local board of health may adopt ~~by reference rules adopted by the Environmental~~
17 ~~Management Commission pursuant to this Article, and may adopt~~ more stringent rules for testing
18 of water resources when necessary to protect the public health."

19 **SECTION 8.(b)** G.S. 87-97 reads as rewritten:

20 **"§ 87-97. Permitting and testing of private drinking water wells.**

21 (a) ~~Mandatory Local Well Programs Authority.~~ – Each county, through the local health
22 department that serves the county, shall implement ~~a the~~ private drinking water well permitting,
23 ~~inspection, and testing program.~~ and inspection program established and adopted by the
24 Environmental Management Commission. The local health department shall be the exclusive
25 authority for the permitting of wells and well systems as described in G.S. 143-138(b17)(2).
26 Local health departments shall administer the program and enforce the minimum well
27 construction, permitting, inspection, repair, and testing requirements set out in this Article and
28 rules adopted pursuant to this Article. No person shall unduly delay or refuse to permit a well
29 that can be constructed or repaired and operated in compliance with the requirements set out in
30 this Article and rules adopted pursuant to this Article.

31 "

32 **SECTION 8.(c)** G.S. 130A-39 reads as rewritten:

33 **"§ 130A-39. Powers and duties of a local board of health.**

34 ...

35 (b) A local board of health may adopt a more stringent rule in an area regulated by the
36 Commission for Public Health or the Environmental Management Commission where, in the
37 opinion of the local board of health, a more stringent rule is required to protect the public health;
38 otherwise, the rules of the Commission for Public Health or the rules of the Environmental
39 Management Commission shall prevail over local board of health rules. However, a local board
40 of health may not adopt a rule concerning the grading, operating, and permitting of food and
41 lodging facilities as listed in Part 6 of Article 8 of this Chapter and as defined in
42 G.S. 130A-247(1), or a rule concerning the permitting of private drinking water wells, as defined
43 in G.S. 87-85, except for testing standards as set out in G.S. 87-96, and a local board of health
44 may adopt rules concerning wastewater collection, treatment and disposal systems which are not
45 designed to discharge effluent to the land surface or surface waters only in accordance with
46 G.S. 130A-335(c).

47 "

48 **SECTION 8.(d)** All local boards of health rules concerning the permitting of private
49 drinking water wells, as defined in G.S. 87-85, except for testing standards as set out in
50 G.S. 87-96 and fees adopted pursuant to G.S. 130A-39, in effect when this section becomes law
51 are repealed.

1
2 **APPROVE CERTAIN ADVANCED PRETREATMENT SYSTEMS AS INNOVATIVE**
3 **WASTEWATER SYSTEMS**

4 **SECTION 9.(a)** G.S. 130A-334 reads as rewritten:

5 **"§ 130A-334. Definitions.**

6 The following definitions shall apply throughout this Article:

7 (1) "Accepted wastewater system" has the same meaning as in G.S. 130A-343.

8 (1a) "Advanced pretreatment" means any biological, chemical, or physical process
9 or system used in addition to or in place of a septic tank. Advanced
10 pretreatment includes, but is not limited to, aeration, clarification, digestion,
11 disinfection, filtration, separation, and settling. Advanced pretreatment
12 effluent shall meet the treatment standards adopted by the Commission for
13 better than septic tank effluent quality. Advanced pretreatment shall be part of
14 a ground absorption system.

15 (1b) "Approved agency for special inspection" means an individual, corporation,
16 company, association, or partnership that is objective, competent, and
17 independent from the contractor who is responsible for the work that is
18 inspected. The agency shall disclose possible conflicts of interest in a manner
19 such that objectivity can be confirmed.

20 ~~(1b)~~(1c) "Approved special inspector" means a person who demonstrates
21 competence to the satisfaction of the professional engineer who designed the
22 wastewater system for the inspection of the construction or operation subject
23 to special inspection.

24 ~~(1e)~~(1d) "Construction" means any work at the site of placement done for the
25 purpose of preparing a residence, place of business or place of public assembly
26 for initial occupancy, or subsequent additions or modifications which increase
27 sewage flow.

28 ~~(1d)~~(1e) "Construction observation" means the visual observation of the
29 construction and installation of the wastewater system for general
30 conformance with the construction documents prepared by the professional
31 engineer who designed the wastewater system. Construction observation that
32 is conducted by the professional engineer who designed the wastewater
33 system does not include or waive the requirement to conduct special
34 inspections.

35 ~~(1e)~~(1f) "Conventional wastewater system" has the same meaning as in
36 G.S. 130A-343.

37 ~~(1f)~~(1g) "Department" means the Department of Health and Human Services.

38 ~~(1g)~~(1h) "Engineered option permit" means an on-site wastewater system that is
39 permitted pursuant to the rules adopted by the Commission in accordance with
40 this Article, meets the criteria established by G.S. 130A-336.1, and is
41 designed by a professional engineer who is licensed under Chapter 89C of the
42 General Statutes who has expertise in the design of on-site wastewater
43 systems.

44 ~~(1h)~~(1i) "Ground absorption system" means a system of tanks, treatment units,
45 nitrification fields, and appurtenances for wastewater collection, treatment,
46 and subsurface disposal.

47 ...

48 ~~(7b)~~ "Pretreatment" means any biological, chemical, or physical process or system
49 ~~for improving wastewater quality and reducing wastewater constituents prior~~
50 ~~to final treatment and disposal in a subsurface wastewater system and~~

1 includes, but is not limited to aeration, clarification, digestion, disinfection,
2 filtration, separation, and settling.

3"

4 **SECTION 9.(b)** G.S. 130A-335(f) reads as rewritten:

5 "(f) The rules of the Commission and the rules of the local board of health shall classify
6 systems of wastewater collection, treatment and disposal according to size, type of treatment and
7 any other appropriate factors. The rules shall provide construction requirements, including
8 advanced pretreatment and system control requirements, standards for operation, maintenance,
9 monitoring, reporting, and ownership requirements for each classification of systems of
10 wastewater collection, treatment and disposal in order to prevent, as far as reasonably possible,
11 any contamination of the land, groundwater and surface waters. The Department and local health
12 departments may impose conditions on the issuance of permits and may revoke the permits for
13 failure of the system to satisfy the conditions, the rules, or this Article. Permits other than
14 improvement permits shall be valid for a period prescribed by rule. Improvement permits shall
15 be valid upon a showing satisfactory to the Department or the local health department that the
16 site and soil conditions are unaltered, that the facility, design wastewater flow, and wastewater
17 characteristics are not increased, and that a wastewater system can be installed that meets the
18 permitting requirements in effect on the date the Improvement Permit was issued. Improvement
19 permits for which a plat is provided shall be valid without expiration. Improvement permits for
20 which a site plan is provided shall be valid for five years. The period of time for which the permit
21 is valid and a statement that the permit is subject to revocation if the site plan or plat, whichever
22 is applicable, or the intended use changes shall be displayed prominently on both the application
23 form for the permit and the permit."

24 **SECTION 9.(c)** G.S. 130A-336.1(e)(1) reads as rewritten:

25 "(1) The professional engineer designing the proposed wastewater system shall use
26 recognized principles and practices of engineering and applicable rules of the
27 Commission in the calculations and design of the wastewater system. The
28 investigations and findings of the professional engineer shall include, at a
29 minimum, the information required in rules adopted by the Commission
30 pursuant to G.S. 130A-335(e). The professional engineer may, at the
31 engineer's discretion, employ advanced pretreatment technologies not yet
32 approved in this State."

33 **SECTION 9.(d)** This section is effective when it becomes law and applies to
34 applications for innovative wastewater system approval filed with the Commission on or after
35 that date.

36 **SECTION 10.(a)** G.S. 130A-343(g) reads as rewritten:

37 "(g) Innovative Systems. – A manufacturer of a wastewater system for on-site subsurface
38 use may apply for and be considered for innovative system status by the Department in one of
39 the following ways:

40 (1) If the wastewater system has been approved as a provisional wastewater
41 system pursuant to subsection (f) of this section, the manufacturer may apply
42 to have the system approved as an innovative wastewater system based on
43 successful completion of the evaluation protocols established pursuant to
44 subsection (d) of this section.

45 (2) If the wastewater system has not been evaluated or approved as a provisional
46 wastewater system pursuant to subsection (f) of this section, the manufacturer
47 may apply to the Department to have the system approved as an innovative
48 wastewater system on the basis of comparable research and testing conducted
49 in other states. The manufacturer shall provide the Department with the data
50 and findings of all evaluations of the performance of the system that have been
51 conducted in any state by or on behalf of the manufacturer. The manufacturer

shall also provide the Department with a summary of the data and findings of all other evaluations of the performance of the system that are known to the manufacturer.

(3) If the ~~wastewater system~~ advanced pretreatment system has not been evaluated or approved as a provisional system pursuant to subsection (f) of this section, but has been ~~evaluated~~ approved under protocol established by a nationally recognized certification ~~body for at least two consecutive years,~~ body, has been found to perform acceptably based on the criteria of the protocol, and is designed and will be installed in a manner consistent with the system evaluated and approved by the nationally recognized certification body, the manufacturer may apply to have the system approved as an innovative wastewater ~~system~~ system, and the Department shall approve the application and issue an innovative wastewater system approval in accordance with rules adopted by the Commission upon verifying (i) the protocol testing dataset includes a minimum of 55 influent and effluent datasets that include the applicable constituents identified in rules adopted by the Commission and obtained from testing for a minimum of 26 weeks, with protocol sampling conducted during all weeks of the testing period, (ii) the protocol testing data complies with the applicable effluent standards identified in rules adopted by the Commission, (iii) the nationally recognized certification body's approval, and (iv) that the design and installation plans are consistent with that approval. When a separate disinfection process or system is proposed, fecal coliform datasets are not required if the disinfection technology is approved by a nationally recognized certified body. This subdivision shall not apply to a manufacturer requesting innovative approval as both an advanced pretreatment and dispersal system.

...."

SECTION 10.(b) The Commission for Public Health may adopt temporary and permanent rules to implement this section.

SECTION 10.(c) This section is effective when it becomes law and applies to applications for innovative wastewater system approval filed with the Commission on or after that date.

DEQ/DHHS PRIVATE WELL RULEMAKING TECHNICAL CORRECTION

SECTION 11. G.S. 130A-4(d) reads as rewritten:

"(d) When requested by the ~~Secretary of Environmental Quality, Secretary,~~ a local health department shall enforce the rules of the Commission and the rules adopted by the Environmental Management Commission pursuant to ~~G.S. 87-87~~ G.S. 87-87(6) and (7) under the supervision of the Department of Environmental ~~Quality~~ Quality and the Department of Health and Human Services. The local health department shall utilize local staff authorized by the Department of ~~Environmental Quality~~ Health and Human Services to enforce the specific rules."

SEVERABILITY & EFFECTIVE DATE

SECTION 12.(a) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application and, to this end, the provisions of this act are severable.

SECTION 12.(b) Except as otherwise provided, this act is effective when it becomes law.