

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 616
HOUSE BILL 283

AN ACT TO AMEND CHAPTER 90A, ARTICLE 2, CONCERNING CERTIFICATION OF
WATER TREATMENT FACILITY OPERATORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90A-21(a) is amended on line 4 by deleting the word "seven" and substituting therefor the word "eight" and by deleting the words "Secretary of Human Resources" and substituting therefor the word "Governor".

Sec. 2. G.S. 90A-21(a) is further amended on line 19 by deleting the word "and", on lines 21 and 22 by deleting the phrase beginning with the word "who" on line 21 and ending with the word "Certification" on line 22 and substituting therefor a semicolon, and by inserting a new subdivision between lines 22 and 23 to read as follows:

"(8) One member not certified or regulated under this Article, who shall represent the interest of the public at large."

Sec. 3. G.S. 90A-21 is further amended by rewriting subsection (b) to read as follows:

"(b) Terms of Office. All members serving on the board on June 30, 1981, shall complete their respective terms. No member appointed to the board on or after July 1, 1981, shall serve more than two complete consecutive three-year terms, except that the member employed by the Department of Human Resources may serve more than two consecutive terms, and except that each member shall serve until his successor is appointed and qualifies. The Governor may remove any member for good cause shown and shall appoint members to fill unexpired terms. The Governor shall appoint the public member not later than July 1, 1981."

Sec. 4. G.S. 90A-21(d) is rewritten to read as follows:

"(d) Compensation. Members of the Board of Certification who are officers or employees of State agencies or institutions shall receive subsistence and travel allowances at the rates authorized by G.S. 138-5."

Sec. 5. G.S. 90A-21 is further amended by adding two new subsections at the end thereof to read as follows:

"(e) Officers. The board shall elect a chairman and all other necessary officers to serve one-year terms. A majority of the members of the board shall constitute a quorum for the transaction of business.

"(f) Annual Report. The board shall report annually to the Governor a full statement of its disciplinary and enforcement programs and activities during the year, together with such recommendations as it may deem expedient."

Sec. 6. G.S. 90A-22 is amended on line 1 by rewriting the line to read as follows:

§ 90A-22. Classification of water treatment facilities; notification of users. — (a) On or before July 1, 1982, the Board of".

G.S. 90A-22 is further amended by adding a new subsection at the end thereof to read as follows:

"(b) The board shall notify users of such facilities when any classification of a facility by the board would result in a certified operator's not being required to supervise the operation of that facility. Any user so notified may demand a hearing before the board on its decision, and

that hearing and any appeal therefrom shall be conducted in accordance with Articles 3 and 4 of Chapter 150A of the General Statutes."

Sec. 7. G.S. 90A-25(d) is amended by rewriting lines 7 through 10 to read as follows:

"provided the facility was classified before July 1, 1981, and provided the application for such certification is made within one year of the date of notification. A certificate so issued will be valid for use by the holder only in the water treatment facility in which he was employed at the time of his certification. No certificate shall be issued under this subsection to any operator of any water treatment facility classified by the board on or after July 1, 1981."

Sec. 8. G.S. 90A-25(e) is amended by rewriting line 5 to read as follows: "be valid for only one year. Temporary certificates may be".

G.S. 90A-25(e) is further amended by adding a new sentence to the end thereof to read as follows:

"No temporary certificate may be renewed more than one time either by any operator at the same grade level or by any operator for employment at the same water treatment facility."

Sec. 9. G.S. 90A-26 is amended on line 2 by deleting the brackets surrounding the letter "A" as it appears after the number "150" and before the word "of" and on line 3 by deleting the words "revoke the certificate of" and substituting therefor the words "singly or in combination, issue a reprimand to, or revoke or suspend the certificate of.

Sec. 10. G.S. 90A-29 is amended by designating the first sentence thereof as subsection (a) and by designating the second sentence thereof as subsection (b).

Sec. 11. Article 2, Chapter 90A of the General Statutes, is amended by adding a new section to the end thereof to read as follows:

"§ 90A-30. Penalties; remedies; contested cases. — (a) Upon the recommendation of the Board of Certification, the Secretary of Human Resources or a delegated representative may impose an administrative, civil penalty on any person, firm or corporation who violates G.S. 90A-29(a). Each day of a continued violation shall constitute a separate violation. The penalty shall not exceed one hundred dollars (\$100.00) for each day such violation continues. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation.

(b) Any person wishing to contest a penalty issued under this section shall be entitled to an administrative hearing and judicial review conducted according to the procedures outlined in G.S. 150A-23 through G.S. 150A-52.

(c) The secretary may bring a civil action in the superior court of the county in which the violation is alleged to have occurred to recover the amount of the administrative penalty whenever an owner or person in control of a water treatment facility

- (1) who has not requested an administrative hearing fails to pay the penalty within 60 days after being notified of such penalty, or
- (2) who has requested an administrative hearing fails to pay the penalty within 60 days after service of a written copy of the decision as provided in G.S. 150-36.

(d) Notwithstanding any other provision of law, this section imposes the only penalty or sanction, civil or criminal, for violations of G.S. 90A-29(a) or for the failure to meet any other legal requirement for a water system to have a certified operator in responsible charge."

Sec. 12. G.S. 143-34.12 is amended by deleting line 44 which reads as follows:
"Chapter 90A, Article 2, entitled 'Water Treatment Facility Operators'."

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 19th day of June, 1981.