

LEGISLATIVE BILL 333

Approved by the Governor March 7, 2007

Introduced by Johnson, 37

FOR AN ACT relating to the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act; to amend sections 81-15,236, 81-15,237, 81-15,247, 81-15,248, and 81-15,250, Revised Statutes Cumulative Supplement, 2006; to change provisions relating to private onsite wastewater treatment systems; to change powers and duties of the Environmental Quality Council; to provide for fees; to provide for waivers of requirements as prescribed; to rename a fund and create a fund; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-15,236, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-15,236 Sections 81-15,236 to 81-15,253 and sections 5 and 7 of this act shall be known and may be cited as the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act.

Sec. 2. Section 81-15,237, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-15,237 The purposes of the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act are to:

(1) Protect the air, water, and land of the state through the certification and regulation of private onsite wastewater treatment system professionals in Nebraska;

(2) Require certified professionals for siting, layout, construction, closure, reconstruction, alteration, modification, repair, inspection, and pumping of private onsite wastewater treatment systems and require that all siting, layout, construction, closure, reconstruction, alteration, modification, repair, inspection, or pumping of any private onsite wastewater treatment system ~~after August 31, 2003,~~ be done by certified professionals in accordance with the act and rules and regulations adopted under the act;

(3) Provide for the registration of all private onsite wastewater treatment systems constructed, reconstructed, altered, or modified after August 31, 2003;

(4) Provide for review of plans and specifications, issuance of permits and approvals, construction standards, and requirements necessary for proper operation and maintenance of all private onsite wastewater treatment systems;

~~(4)~~ (5) Protect the health and general welfare of the citizens of Nebraska; and

~~(5)~~ (6) Protect the air, water, and land of the state from potential pollution by providing for proper siting, layout, construction, closure, reconstruction, alteration, modification, repair, and pumping of private onsite wastewater treatment systems.

Sec. 3. Section 81-15,247, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-15,247 The council shall adopt and promulgate rules and regulations to carry out the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act. Such rules and regulations shall provide for, but not be limited to:

(1) Certification of private onsite wastewater treatment system professionals;

(2) Establishing categories for such professionals to be certified under the act;

(3) ~~Temporary, provisional, and hardship~~ Hardship certifications;

(4) Examination requirements for certification;

(5) Continuing education requirements for certification;

(6) A fee schedule which ~~shall cover~~ covers direct and indirect costs to administer the act. Such costs include (a) ~~including,~~ but not limited to, system registration, late fees for system registration, application for certification, examination, and renewal, late fees for renewal, ~~temporary, provisional, and hardship~~ certifications, and fees for continuing education classes offered or approved by the department, and administration and enforcement and (b) development and enforcement of standards;

(7) Requirements for the registration of private onsite wastewater

treatment systems to be constructed, reconstructed, altered, modified, or inspected by professionals certified under the act; and

(8) Requiring that all private onsite wastewater treatment system siting, layout, construction, closure, reconstruction, alteration, modification, repair, inspection, or pumping be performed by certified professionals in accordance with the act, rules and regulations adopted under the act, and other rules and regulations adopted and promulgated by the council.

Sec. 4. Section 81-15,248, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-15,248 (1) ~~Beginning January 1, 2004, a~~ A private onsite wastewater treatment system shall not be sited, laid out, constructed, closed, reconstructed, altered, modified, repaired, inspected, or pumped unless the siting, layout, construction, closure, reconstruction, alteration, modification, repair, inspection, or pumping is carried out or supervised by either a certified professional as required by the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act, a professional engineer licensed in Nebraska, or a registered environmental health specialist registered in Nebraska.

(2) ~~Beginning January 1, 2004, any~~ Any private onsite wastewater treatment system constructed, reconstructed, altered, or modified by a certified professional, professional engineer licensed in Nebraska, or registered environmental health specialist registered in Nebraska shall be registered with the department by the certified professional, professional engineer, or registered environmental health specialist within forty-five days of completion of the construction, reconstruction, alteration, or modification. The certified professional, professional engineer, or registered environmental health specialist shall submit the registration on forms provided by the department and shall include the registration fee. The registration fee shall be fifty dollars until rules and regulations adopted and promulgated under the act provide a schedule of system registration fees adequate to cover direct and indirect program costs.

~~(3) The department may issue a temporary provisional certificate which shall satisfy the requirements of subsection (1) of this section until December 31, 2005, to an individual who applies to the department and includes with the application (a) a fee of three hundred dollars and (b) a properly executed and sworn affidavit stating that the applicant was engaged in activity relating to the siting, layout, construction, reconstruction, alteration, modification, repair, inspection, or pumping of a private onsite wastewater treatment system for at least twelve months preceding August 31, 2003. The affidavit shall specify the activity or activities listed in this subsection in which the applicant was engaged during such time.~~

~~(4) All temporary provisional certificates issued pursuant to subsection (3) of this section shall be subject to all administrative and enforcement authority of the department under the act and any rules and regulations relating to private onsite wastewater treatment systems adopted and promulgated by the council under the Environmental Protection Act.~~

~~(5) All temporary provisional certificates issued under subsection (3) of this section shall expire on December 31, 2005. Any individual holding a temporary provisional certificate wishing to become a certified professional under the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act shall before such date meet the requirements for such certification contained in the rules and regulations of the council adopted and promulgated pursuant to section 81-15,247.~~

~~(6) (3) The director by contract may delegate onsite wastewater treatment system inspection and registration to a governmental subdivision which has adopted a program at least as stringent as the requirements provided by the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act and which has demonstrated authority to administer and enforce its onsite wastewater treatment system inspection and registration program.~~

(4) The director may waive certification and examination fees for inspectors employed by a governmental agency or subdivision which has adopted and has the authority to enforce an inspection and compliance program at least as stringent as the standards for siting, layout, construction, closure, reconstruction, alteration, modification, repair, inspection, and pumping provided by the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act and rules and regulations under the act adopted and promulgated by the council.

Sec. 5. The council shall adopt and promulgate rules and regulations to develop a fee schedule which covers direct and indirect costs to administer requirements related to private onsite wastewater treatment systems authorized

by the Environmental Protection Act. Such costs include costs related to review of submitted plans and specifications, issuance of permits and approvals, proper operation and maintenance, development and enforcement of standards, closure, and necessary administration and enforcement.

Sec. 6. Section 81-15,250, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-15,250 The Private Onsite Wastewater Treatment System Permit and Approval Cash Fund is created. Fees collected pursuant to ~~the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act~~ section 5 of this act shall be remitted to the State Treasurer for credit to the fund. The fund shall be administered by the department. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Any money remaining in the Private Onsite Wastewater Treatment System Cash Fund on the effective date of this act shall be transferred to the Private Onsite Wastewater Treatment System Certification and Registration Cash Fund created under section 7 of this act on such date.

Sec. 7. The Private Onsite Wastewater Treatment System Certification and Registration Cash Fund is created. Fees collected pursuant to sections 81-15,247 and 81-15,248 shall be remitted to the State Treasurer for credit to the fund. The fund shall be administered by the department. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 8. Original sections 81-15,236, 81-15,237, 81-15,247, 81-15,248, and 81-15,250, Revised Statutes Cumulative Supplement, 2006, are repealed.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.