

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 333

FINAL READING

Introduced by Johnson, 37

Read first time January 11, 2007

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the Private Onsite Wastewater Treatment
2 System Contractors Certification and System Registration
3 Act; to amend sections 81-15,236, 81-15,237, 81-15,247,
4 81-15,248, and 81-15,250, Revised Statutes Cumulative
5 Supplement, 2006; to change provisions relating to
6 private onsite wastewater treatment systems; to change
7 powers and duties of the Environmental Quality Council;
8 to provide for fees; to provide for waivers of
9 requirements as prescribed; to rename a fund and create
10 a fund; to harmonize provisions; to repeal the original
11 sections; and to declare an emergency.

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

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

3 81-15,236 Sections 81-15,236 to 81-15,253 and sections 5
4 and 7 of this act shall be known and may be cited as the Private
5 Onsite Wastewater Treatment System Contractors Certification and
6 System Registration Act.

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

9 81-15,237 The purposes of the Private Onsite Wastewater
10 Treatment System Contractors Certification and System Registration
11 Act are to:

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

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

24 (3) Provide for the registration of all private onsite
25 wastewater treatment systems constructed, reconstructed, altered,

1 or modified after August 31, 2003;

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

6 ~~(4)~~ (5) Protect the health and general welfare of the
7 citizens of Nebraska; and

8 ~~(5)~~ (6) Protect the air, water, and land of the state
9 from potential pollution by providing for proper siting, layout,
10 construction, closure, reconstruction, alteration, modification,
11 repair, and pumping of private onsite wastewater treatment systems.

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

14 81-15,247 The council shall adopt and promulgate rules
15 and regulations to carry out the Private Onsite Wastewater
16 Treatment System Contractors Certification and System Registration
17 Act. Such rules and regulations shall provide for, but not be
18 limited to:

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

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

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

25 (4) Examination requirements for certification;

- 1 (5) Continuing education requirements for certification;
- 2 (6) A fee schedule which ~~shall cover~~ covers direct and
3 indirect costs to administer the act. Such costs include (a) ,
4 ~~including, but not limited to,~~ system registration, late fees for
5 system registration, application for certification, examination,
6 and renewal, late fees for renewal, ~~temporary, provisional, and~~
7 hardship certifications, and fees for continuing education classes
8 offered or approved by the department, and administration and
9 enforcement and (b) development and enforcement of standards;
- 10 (7) Requirements for the registration of private onsite
11 wastewater treatment systems to be constructed, reconstructed,
12 altered, modified, or inspected by professionals certified under
13 the act; and
- 14 (8) Requiring that all private onsite wastewater
15 treatment system siting, layout, construction, closure,
16 reconstruction, alteration, modification, repair, inspection,
17 or pumping be performed by certified professionals in accordance
18 with the act, rules and regulations adopted under the act, and
19 other rules and regulations adopted and promulgated by the council.
- 20 Sec. 4. Section 81-15,248, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:
- 22 81-15,248 (1) ~~Beginning January 1, 2004,~~ a A private
23 onsite wastewater treatment system shall not be sited, laid out,
24 constructed, closed, reconstructed, altered, modified, repaired,
25 inspected, or pumped unless the siting, layout, construction,

1 closure, reconstruction, alteration, modification, repair,
2 inspection, or pumping is carried out or supervised by either a
3 certified professional as required by the Private Onsite Wastewater
4 Treatment System Contractors Certification and System Registration
5 Act, a professional engineer licensed in Nebraska, or a registered
6 environmental health specialist registered in Nebraska.

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

22 ~~(3) The department may issue a temporary provisional~~
23 ~~certificate which shall satisfy the requirements of subsection (1)~~
24 ~~of this section until December 31, 2005, to an individual who~~
25 ~~applies to the department and includes with the application (a) a~~

1 fee of three hundred dollars and ~~(b)~~ a properly executed and sworn
2 affidavit stating that the applicant was engaged in activity
3 relating to the siting, layout, construction, reconstruction,
4 alteration, modification, repair, inspection, or pumping of a
5 private onsite wastewater treatment system for at least twelve
6 months preceding August 31, 2003. The affidavit shall specify the
7 activity or activities listed in this subsection in which the
8 applicant was engaged during such time.

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

15 ~~(5)~~ All temporary provisional certificates issued under
16 subsection ~~(3)~~ of this section shall expire on December 31,
17 2005. Any individual holding a temporary provisional certificate
18 wishing to become a certified professional under the Private Onsite
19 Wastewater Treatment System Contractors Certification and System
20 Registration Act shall before such date meet the requirements for
21 such certification contained in the rules and regulations of the
22 council adopted and promulgated pursuant to section 81-15,247.

23 ~~(6)~~ (3) The director by contract may delegate onsite
24 wastewater treatment system inspection and registration to a
25 governmental subdivision which has adopted a program at least

1 as stringent as the requirements provided by the Private Onsite
2 Wastewater Treatment System Contractors Certification and System
3 Registration Act and which has demonstrated authority to administer
4 and enforce its onsite wastewater treatment system inspection and
5 registration program.

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

15 Sec. 5. The council shall adopt and promulgate rules
16 and regulations to develop a fee schedule which covers direct
17 and indirect costs to administer requirements related to private
18 onsite wastewater treatment systems authorized by the Environmental
19 Protection Act. Such costs include costs related to review of
20 submitted plans and specifications, issuance of permits and
21 approvals, proper operation and maintenance, development and
22 enforcement of standards, closure, and necessary administration and
23 enforcement.

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

1 81-15,250 The Private Onsite Wastewater Treatment System
 2 Permit and Approval Cash Fund is created. Fees collected pursuant
 3 to the Private Onsite Wastewater Treatment System Contractors
 4 Certification and System Registration Act section 5 of this act
 5 shall be remitted to the State Treasurer for credit to the fund.
 6 The fund shall be administered by the department. Any money in
 7 the fund available for investment shall be invested by the state
 8 investment officer pursuant to the Nebraska Capital Expansion Act
 9 and the Nebraska State Funds Investment Act.

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

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

23 Sec. 8. Original sections 81-15,236, 81-15,237,
 24 81-15,247, 81-15,248, and 81-15,250, Revised Statutes Cumulative
 25 Supplement, 2006, are repealed.

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