

**2021 HOUSE POLITICAL SUBDIVISIONS**

**HB 1183**

# 2021 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee  
Room JW327B, State Capitol

HB 1183  
2/4/2021

**Relating to requiring public health units to adopt the technical guide for onsite wastewater recycling treatment and the licensing of installers of onsite sewage treatment systems; to provide for applications; and to provide a penalty**

**Chairman Dockter: (4:16).** Opened the hearing.

<b>Representatives</b>	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

**Discussion Topics:**

- Wastewater recycling technical board.
- Fees for licenses
- License requirement

**Rep. Louser:** Introduced the bill. No written testimony.

**Tom Schimelfenig, President ND Onsite Wastewater Recycling Assoc.** In favor, testimony #5544.

**Aaron Birst, Association of Counties:** In favor, testimony #5441.

**David Glatt, Director ND Dept. of Environmental Quality:** In favor, testimony #5502.

**Jason Hovdenes, Excavating Contractor:** In favor, testimony #5533.

**Mary Korsmo, Director North Dakota State Association of City and County Health Officials:** In opposition, testimony #5487,5488.

**Additional written testimony:**

Daphne Johnson Clark #5068. Lana Schmidt #5471. Phil Murphy #5192. Aaron Johnson #5496. Troy Hafner #5532. Steve Seidler #5546.

**Chairman Dockter: (5:05).** Adjourned the hearing.

**Chairman Dockter: (5:13).** Opens for committee work.

<b>Representatives</b>	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	A
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

Will have Rep. Ertelt will work on an amendment.

**Chairman Dockter: (5:53).** Closed

*Carmen Hickle, Committee Clerk*

**Testimony in Support of HB 1183**  
**Tom Schimelfenig**  
**(701) 650-8792 (mobile)**

Good afternoon Chairman Representative Dockter and members of the House Standing Committee on Political Subdivisions, contractors and guests. I am Tom Schimelfenig, a contractor from Bowdon, N.D. and the president of the newly established North Dakota Onsite Wastewater Recycling Association. I am the spokesman for a core group of experienced installers and regulators in our North Dakota onsite wastewater treatment industry.

In North Dakota there is a long overdue need to address onsite wastewater recycling. A full 30 percent of North Dakota's population use onsite wastewater recycling systems, or septic systems, in their homes and therefore are impacted by our industry. We have districts and counties that are at various stages of regulating but as a state we are not consistently and agreeably aligned unanimously with our practices. This sets up confusion, unfair practices and undue frustration for contractors and homeowners alike attempting to construct facilities and yet satisfy sometimes shifting or indefinite rules.

During the 2019 legislative session, the N.D. Legislature passed SB 2241, which directed the study of onsite wastewater system regulations. We are here before you today with HB 1183, the culmination of those efforts over the past two years.

HB 1183 establishes a technical governing board and a uniform licensing system for installers in the onsite wastewater industry. This bill effectively levels the playing field for all involved, including regulators, installers and homeowners. The primary purpose of the technical board is to create a uniform statewide code for installers and regulatory departments. Whether the demand be for residential, commercial or industrial, our first duties must be to protect the environment and build dependable, durable and fail-safe infrastructure.

This bill is patterned after the regulatory framework already in place for many other industries, including plumbers, engineers, water well contractors and others. Therefore, the board must be staffed by experienced, competent individuals. There are qualified people in our industry available and willing to serve in this capacity.

Although the way ahead is not completely worked out, we individuals are already working vigorously and in time we expect to make large contributions toward wise practices. But what's much needed now is the support of the State Legislature. We recommend a "do pass" on HB 1183 to begin the process toward the presentation of a practical government for onsite wastewater treatment.

Testimony to the **House Political Subdivisions** February 4, 2021

Thank you Chairman Dockter and Committee Members, for the opportunity to provide feedback on HB 1183. My name is Aaron Birst and I represent the North Dakota Association of Counties which is generally supportive of any efforts to improve the current system of onsite waste-water regulations.

Over the last few years, I have been made aware of some frustration from both regulators, installers and general citizen with North Dakota's patchwork of septic system regulation. Currently, septic systems are regulated by local public health entities. However, each public health entity has its own licensing system and some differing views on what type of septic systems are appropriate. That has caused some confusion. However, there IS large agreement amongst the parties the system can be improved. Everyone agrees to these facts:

- 1) **Improper** disposal of human waste poses significant health concerns for everyone
- 2) There is a lack of uniformity throughout the State on how public health district regulate these systems
- 3) There is scientific information available to ensure these systems can be built safely

HB 1183 is an attempt to bring some uniformity to the regulations by creating a State-wide entity that not only could adopt some uniform standards for the local public health to follow but also provide a venue where disputes could be resolved as to avoid costly litigation. This board would then be made up of a cross section of regulators and installers. The board would simply create the rules and the local public health entities would still act as the boots on the ground to enforce such rules.

I am aware there are still some concerns with the bill in terms of the make-up of the board and of course the fiscal note. However, I believe these are things that all the stakeholders can ultimately find some compromise on. HB 1183 might not be the perfect solution, but it is a step in the right direction to ensure North Dakota is protected for years to come.

Thank you!



Environmental Quality

Testimony in Support of

**House Bill 1183**

House Political Subdivisions Committee

February 4, 2021

## TESTIMONY OF

**David Glatt, Director of the North Dakota Department of Environmental Quality**

Good afternoon Chairman Dockter and members of the House Political Subdivisions Committee. My name is David Glatt, and I am the Director of the Department of Environmental Quality (DEQ). The DEQ is responsible for the implementation of many of the environmental protection programs in the state. I am here today to provide support for the concept of establishing a statewide on-site wastewater treatment uniform code and program as promoted by HB 1183.

Currently, reference to septic tank and drainfield regulation is contained in the North Dakota State Plumbing Code. However, enforcement of the state code has been largely accomplished through multi county public health units with long standing programs that oversee the construction and installation of treatment systems in their jurisdictions. Although onsite wastewater installations are regulated by Public Health Units over a majority of the state, some parts of the state have little to no local regulation for residential installations. To address some of the differences between local public health jurisdictions and to provide some continuity for licensed installers, Public Health Units have worked to establish a comprehensive technical guidance. This effort has resulted in some success but lacks state authority to require its adoption in every county. It is our interpretation that HB 1183 is an effort to establish a state program that will address some of the implementation issues, address regulation continuity and provide for dispute resolution input.

To provide the DEQ clarity as to our involvement in the program, we have the following statements and questions.

- HB 1183 will establish a Board with the powers and duties to include developing standards and guidance, testing and licensing installers, establish and collect fees, conduct hearings, and establish and enforce rules. Based upon the assumption that the DEQ will be tasked to implement and enforce many of the duties of the Board, we have provided a fiscal note. The fiscal note identifies an impact of \$485,000 per biennium, including two FTE's and associated operational and travel costs. This is our best estimate relating to the impact on the DEQ.
- It is assumed that every county or Public Health Unit will be required to adopt the rules or guidance. How will oversight in counties that currently do not have an established relationship with a Public Health Unit be accomplished?
- How will the state code interface or support Public Health Units or counties with existing onsite wastewater programs?

- An amendment may be needed to delete reference to the septic tank authority in the State Plumbing Code.
- The bill states "An individual is exempt from the requirements of this chapter if the individual is installing an onsite sewage treatment system on the individual's premises for the individual's use." We suggest that an individual be exempt from the licensing requirements but not from the code which identifies proper design and construction requirements. Perhaps the word "licensing" can be inserted into the sentence before "requirements" to clarify the intent on page 3, line 1.
- To provide more diverse experience and opinions, the committee may want to consider including an even number of installers and public health unit representatives on the Board.

We support the desire to establish a statewide uniform code. We realize that there may be some implementation challenges, however, we believe that these can be addressed with cooperation of all interested parties.

This concludes my testimony. I stand for questions from the committee.

**Testimony for support of HB 1183****By Jason Hovdenes**

**Good afternoon Chairman, Dockter and members of the Committee of Political Subdivisions. My name is Jason Hovdenes and I am an excavating contractor from Carrington, ND. I am also a member of a newly formed association. The North Dakota Onsite Wastewater Recycling Association.**

**I have started my career in the excavating industry full time in 2005 working for an excavating contractor and now have my own business. I have been involved with excavating in some form ever since I can remember. I have seen many changes in the industry over the years and have experienced many challenges with onsite wastewater regulation. I am here today to support HB 1183 to help bring uniformity to our industry. In my career I have worked in four different health districts. Working with four different sets of regulations. I am here in support of this bill as I believe it will help bring forth new technologies, standardize regulation, and allow the industry to lead the way forward. I want to see North Dakota lead the way for our needs and not just use what another state has published. I recommend a "DO Pass" for this bill.**

**Respectfully Submitted,**

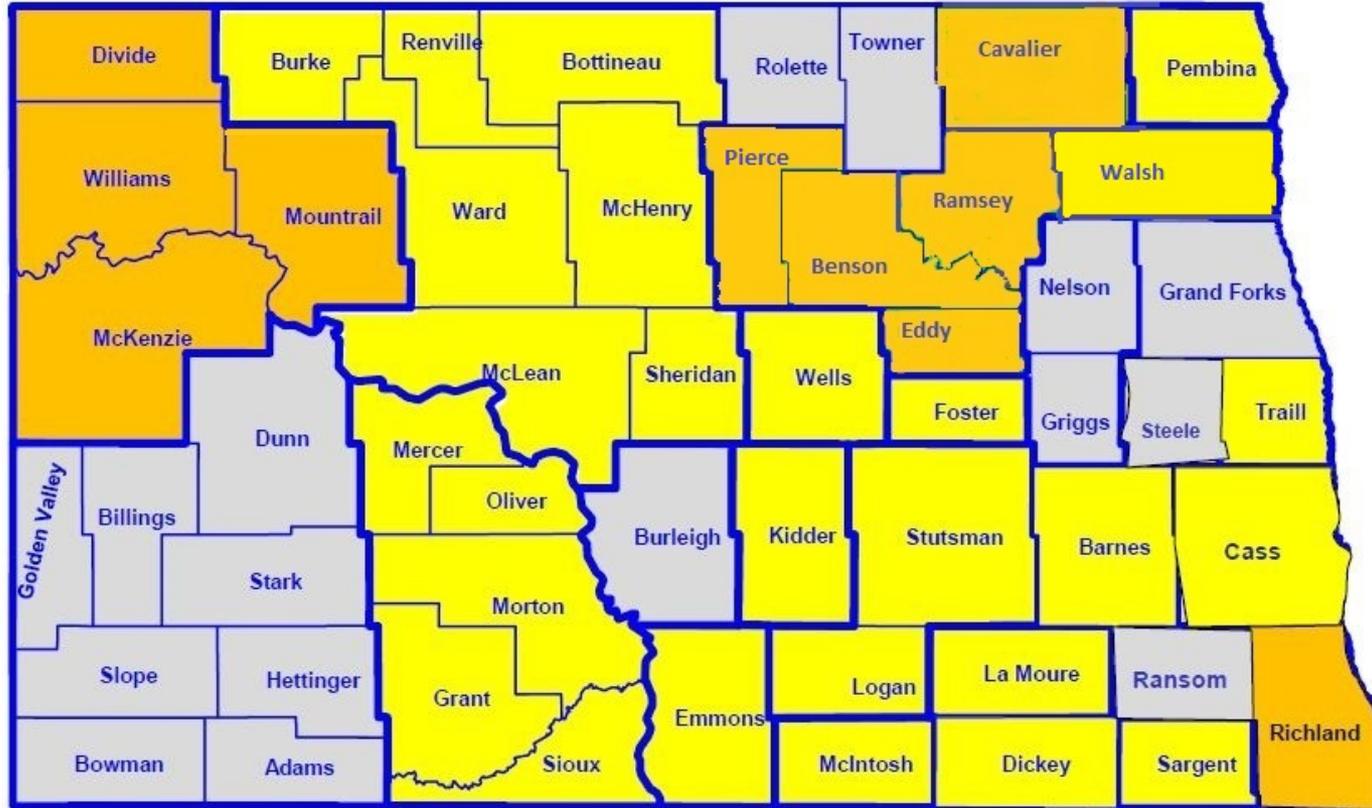
**Jason Hovdenes**

**Carrington, ND**

**701-653-5838**

# Local Public Health Units

#5487



-  Have Adopted in Entirety
-  Have Adopted with Local Changes
-  Have not Adopted New Code



**Testimony to the House Political Subdivisions Committee on HB 1183****February 4, 2021****Mary Korsmo, ND State Association of City & County Health Officials**

Good afternoon, Chairman Dockter and members of the House Political Subdivisions Committee. My name is Mary Korsmo and I am the Executive Director of the North Dakota State Association of City and County Health Officials (NDSACCHO) representing North Dakota's 28 local public health units (LPHUs). I am here today in opposition of HB 1183 as currently written.

The local public health units, in consultation and coordination with installers, have been working for several years to make adjustments to the Century Code relating to onsite sewage systems. There is widespread agreement that revisions are needed, in fact much overdue, regarding the current onsite septic system program.

Assuming that "public health units" listed in HB 1183 are referring to local public health units, the LPHUs support statewide adoption of a unified code. In September 2019, NDSACCHO members passed the following position statement: **The NDSACCHO supports statewide adoption of a unified onsite sewage treatment system consisting of basic standards while allowing for local modifications. This Association supports enabling legislation in ND Century Code with the technical code in administrative rules moved to the newly created Department of Environmental Quality. This Association further supports uniform interpretation, education of installers and inspectors, coordination with NDSU extension services for technical assistance and vendor product review at the State level.**

On December 1, 2020, NDSACCHO membership further moved to adopt the ND Association of Counties (NDACo) Onsite Wastewater Resolution: **2020-11. Onsite Wastewater Systems. Improper installation of onsite wastewater systems is a health threat to all of North Dakota's citizens and natural water resources. Over the years a patchwork of regulation has resulted in various standards leading to frustration of regulators, installers, and landowners. This Association supports legislation moving**

**responsibility for uniform statewide minimum standards and installer licensing to a single state agency provided with adequate resources to fulfill the responsibilities. Further this Association supports the development and adoption of updated statewide onsite waste-water treatment standards and for uniform statewide educational requirements for licensed installers. However, this Association believes that responsibility for local licensure and inspections remain with the local public health unit and the fees supporting that activity be retained locally.**

These resolutions, along with several years of discussions and effort, continue to demonstrate local public health's commitment of working with all groups involved to improve the current system. Local public health units have been working to adopt a unified statewide code over several years with most having already adopted in whole or in part with local modifications. A map displaying the unified code adoption status is attached.

NDSACCHO cannot support Section 2 of HB 1183 defining the technical board membership when the representation is clearly disproportionate. Local public health units must have equal representation on the board if the system is to be improved.

There are additional concerns that need to be addressed, such as in Powers, under duties of board section. Currently, LPH issues installer licenses and retains the fees. Does this bill remove that from LPH and subsequent licensing fee revenue? Furthermore, the exemption allowing homeowners to do their own installation without any education or oversight is extremely concerning. The environmental safety of our land and citizens is the very reason for regulations and inspections like those that apply to onsite sewage treatment systems.

While eager to move this issue forward, NDSACCHO cannot support HB 1183 in its current form and we request that the bill be amended to meet concerns of the local public health units. We look forward to working with all entities involved to revise and improve North Dakota's onsite septic system requirements for the health and safety of all citizens.

Chairman Dockter and committee members,

February 2, 2021

I would like to give testimony against bill HB 1183 as written as a citizen. I support the development of a statewide septic code. Having worked for 18 years as an Environmental Health Practitioner in the North West corner of the state I understand the importance of having uniformity and enforceability in codes. That being said my experience leading my environmental health team through the oil boom has also led me to know that it is also important to not leave the foxes in charge of the hen house. The board make up with its' weight to having more installers than regulators or even a balance between the two is just that. It will end up weakening the intent of a statewide code and will leave homeowners unprotected.

Respectfully,

Daphne JohnsonClark

Williston, ND

**Testimony to the House Political Subdivisions HB1183  
February 4, 2021**

**Chairman Dockter and Committee Members, I am providing testimony in support of HB 1183 with changes. I am Lana Schmidt, an Environmental Health Practitioner for Custer Health and oversee on-site waste water regulations for 7 counties in North Dakota.**

**I work with property owners and installers on a regular basis and one thing is clear, there is confusion and frustration that evolve from nonuniform regulations in North Dakota.**

**HB 1183 is a step in the right direction to help bring uniformity across our State in regards to waste water regulations. My request is to amend this bill to include equal representation of both regulators and installers on the board.**

Testimony for 1183 Phil Murphy for the ND Soybean Growers Association

Good afternoon, Chairman Dockter and committee. This is an important bill for all rural citizens. Having been present during the interim meetings, I believe that this bill represents the best chance to get some uniformity into the code and thus to allow people to know what to expect. You may recall the many complaints and anger which stems not only from installers with different practices, but local health authorities with differing interpretations of what could be done and when. It seemed to me that pretty much everyone wanted a fix somewhat like this but could not get it together. The quote that resonates with me came from the Association of Counties attorney who testified during interim that "This problem is similar to having all the parts of a car scattered around the room but no one knows how to put them together." (or something to that effect) This bill puts it together. Please consider a Do Pass for 1183.

**Testimony to the House Political Subdivisions Committee on HB 1183****February 4, 2021****Aaron Johnson, Environmental Health Practitioner, MPH, Fargo Cass Public Health**

Good afternoon, Chariman Dockter and members of the House Political Subdivisions Committee. My name is Aaron Johnson, and I am an Environmental Health Practitioner (EHP) employed by Fargo Cass Public Health, a local health unit overseeing septic programs in 4 counties in eastern North Dakota. I sit on the governing board of the North Dakota Environmental Health Association (NDEHA) and am the chairperson of the current North Dakota Onsite Wastewater Technical Review Board, which consists of regulators and industry professionals that make decisions regarding onsite septic technology application in participating counties in North Dakota. I am writing today in opposition of HB 1183 as currently written.

Local public health units that enforce onsite septic ordinances in North Dakota are currently doing so with no support from a State department, as the original administrative code regarding onsite septic contained in the State Plumbing Code is not enforced by the State Plumbing Board. As such, each local public health unit must pass their own ordinance and provide for their own enforcement. This creates large variation in requirements across North Dakota, which in turn increases confusion within the industry.

In order to eliminate this confusion and increase uniform enforcement across North Dakota, local public health units, along with NDSACCHO, have been advocating for the creation of a unified code housed in a State department. Local public health and NDEHA support the NDSACCHO position statement as follows: **The NDSACCHO supports statewide adoption of a unified onsite sewage treatment system consisting of basic standards while allowing for local modifications. This Association supports enabling legislation in ND Century Code with the technical code in administrative rules moved to the newly created Department of Environmental Quality. This Association further supports uniform interpretation,**

**education of installers and inspectors, coordination with NDSU extension services for technical assistance and vendor product review at the State level.**

Local public health and NDEHA also support the NDACo Onsite Wastewater Resolution: 2020-11. Onsite Wastewater Systems. Improper installation of onsite wastewater systems is a health threat to all of North Dakota's citizens and natural water resources. Over the years a patchwork of regulation has resulted in various standards leading to frustration of regulators, installers, and landowners. This Association supports legislation moving responsibility for uniform statewide minimum standards and installer licensing to a single state agency provided with adequate resources to fulfill the responsibilities. Further this Association supports the development and adoption of updated statewide onsite waste-water treatment standards and for uniform statewide educational requirements for licensed installers. However, this Association believes that responsibility for local licensure and inspections remain with the local public health unit and the fees supporting that activity be retained locally.

Local public health and NDEHA cannot support Section 2 of HB 1183 defining the technical board membership when the representation is disproportionate. Local public health must have equal representation on the board if the system is to be improved, as the local health units are the licensing authority for onsite septic system installers.

Under the Powers section, there are several powers of licensure given to the board. Local public health departments directly control the licensing of their installers because the ordinance they work under is local and unique to that health department, and centralization of licensure for decentralized codes will cause confusion and make regulation more difficult. Local public health must retain the power to license installers, as well as the right to retain the license fees, until such a time as a State department houses a statewide mandatory code.

Local public health and NDEHA cannot support HB 1183 in its current form and request that the bill be amended to meet local public health's concerns. We look forward to working with the legislature to improve and protect the public health of North Dakota and all its citizens.

# House Bill 1183

This is finally a bill that makes perfect sense and needs to be in place & effective ASAP. I went through this with Tom J. when my hobby collapsed due to high ground water pressure. We were harassed by the so called people with power but these people had no idea of what the problem was or how to fix it. They just had power to delay a simple fix which was caused by mother nature. This Bill is a must to have people on the board who understand these problems.

Troy Dufner      vote    yes      1-20-21

House bill 1183

Committee members

Please support this bill. I serve on the Snow Township board located in McLean County. Our township is located next to Lake Audubon. We have numerous lake lots and more being developed. This bill would help give guidance to the people developing lots. We have had problems in the past. Thank you.

Steve Seidler

Garrison ND

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

HB 1183  
2/5/2021

Relating to requiring public health units to adopt the technical guide for onsite wastewater recycling treatment and the licensing of installers of onsite sewage treatment systems; to provide for applications; and to provide a penalty

**Chairman Dockter: (10:50).** Opens for committee work.

Representatives	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	A
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

### Discussion Topics:

- Wastewater recycling technical board.
- Fees for licenses
- License requirement

**Aaron Birst: Association of Counties:** Provided information.

**Rep. Louser:** Answered questions.

Rep. Ertelt will work with Rep. Louser and Aaron Birst. There will be no fiscal note.

**Chairman Dockter: (11:06).** Closed committee work.

*Carmen Hickle, Committee Clerk*

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

HB 1183  
2/12/2021

Relating to requiring public health units to adopt the technical guide for onsite wastewater recycling treatment and the licensing of installers of onsite sewage treatment systems; to provide for applications; and to provide a penalty

**Chairman Dockter: (11:32).** Opens for committee work.

<b>Representatives</b>	
Representative Jason Dockter	P
Representative Brandy Pyle	P
Representative Mary Adams	P
Representative Claire Cory	P
Representative Sebastian Ertelt	P
Representative Clayton Fegley	P
Representative Patrick Hatlestad	P
Representative Mary Johnson	P
Representative Lawrence R. Klemin	P
Representative Donald Longmuir	P
Representative Dave Nehring	P
Representative Marvin E. Nelson	P
Representative Luke Simons	P
Representative Nathan Toman	P

### Discussion Topics:

- Amendment

**Rep. Toman:** Explained the proposed amendment. Testimony #6391,6392.

**Rep. Toman:** Made a motion on the amendment. 21.0039.02002.

**Vice Chairman Pyle:** Second the motion.

Voice vote carried.

**Rep. Adams:** Made a do pass as amended motion.

**Vice Chairman Pyle:** Second the motion.

<b>Representatives</b>	<b>Vote</b>
Representative Jason Dockter	Y

Representative Brandy Pyle	Y
Representative Mary Adams	Y
Representative Claire Cory	Y
Representative Sebastian Ertelt	Y
Representative Clayton Fegley	Y
Representative Patrick Hatlestad	Y
Representative Mary Johnson	Y
Representative Lawrence R. Klemin	Y
Representative Donald Longmuir	Y
Representative Dave Nehring	Y
Representative Marvin E. Nelson	Y
Representative Luke Simons	N
Representative Nathan Toman	Y

13-1-0 Motion carried.

**Rep. Toman:** Will carry the bill.

**Chairman Dockter: (11:54).** Closed committee work.

*Carmen Hickle, Committee Clerk*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1183

- Page 1, line 1, replace the first "a" with "two"
- Page 1, line 1, replace "section" with "sections"
- Page 1, line 1, remove "and a new chapter to"
- Page 1, line 2, remove "title 43"
- Page 1, line 3, after "and" insert "establishing"
- Page 1, line 3, remove "licensing of installers of"
- Page 1, line 4, replace "sewage treatment systems" with "wastewater recycling technical committee"
- Page 1, line 4, after the first semicolon insert "and"
- Page 1, line 4, remove "; and to provide a penalty"
- Page 1, line 11, replace "board" with "committee"
- Page 1, remove lines 12 through 24
- Page 2, remove lines 1 through 30
- Page 3, replace lines 1 through 7 with:

"SECTION 2. A new section to chapter 23-35 of the North Dakota Century Code is created and enacted as follows:

**Onsite wastewater recycling technical committee - Appointment - Duties.**

1. The onsite wastewater recycling technical committee consists of:
  - a. Three representatives of a local public health unit appointed by the governor from a list of names forwarded by local public health units; and
  - b. Four individuals who must be installers appointed by the governor. The governor shall appoint the individuals from a list of names forwarded by a professional onsite wastewater recycling association. For purposes of this section, an installer means an individual licensed by a local public health unit to install onsite wastewater sewage treatment systems.
2. The director of the department of environmental quality or the director's designee shall provide input at the request of the committee.
3. The terms of the committee members are for four years, and members may be reappointed.
4. The committee shall:

DF 2/12/21  
2022

- a. Meet at the call of a majority of the members.
- b. Create a statewide technical guide for onsite wastewater recycling treatment technologies and sewage distribution technologies.
- c. Recommend standards and procedures for issuing an installer license.
- d. Recommend continuing education requirements for installer license renewal.
- e. Recommend reasonable fees for issuing or renewing an installer license."

Page 3, line 8, replace "board" with "committee"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1183: Political Subdivisions Committee (Rep. Dockter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1183 was placed on the Sixth order on the calendar.

Page 1, line 1, replace the first "a" with "two"

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, remove "and a new chapter to"

Page 1, line 2, remove "title 43"

Page 1, line 3, after "and" insert "establishing"

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Page 1, line 4, remove "; and to provide a penalty"

Page 1, line 11, replace "board" with "committee"

Page 1, remove lines 12 through 24

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Page 3, replace lines 1 through 7 with:

**"SECTION 2.** A new section to chapter 23-35 of the North Dakota Century Code is created and enacted as follows:

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4. The committee shall:
  - a. Meet at the call of a majority of the members.

- b. Create a statewide technical guide for onsite wastewater recycling treatment technologies and sewage distribution technologies.
- c. Recommend standards and procedures for issuing an installer license.
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- e. Recommend reasonable fees for issuing or renewing an installer license."

Page 3, line 8, replace "board" with "committee"

Renumber accordingly

21.0039.02002  
Title.

Prepared by the Legislative Council staff for  
Representative Toman  
February 8, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1183

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  - b. Four individuals who must be installers appointed by the governor. The governor shall appoint the individuals from a list of names forwarded by a professional onsite wastewater recycling association. For purposes of this section, an installer means an individual licensed by a local public health unit to install onsite wastewater sewage treatment systems.
2. The director of the department of environmental quality or the director's designee shall provide input at the request of the committee.
3. The terms of the committee members are for four years and members may be reappointed.
4. The committee shall:

- a. Meet at the call of a majority of the members.
- b. Create a statewide technical guide for onsite wastewater recycling treatment technologies and sewage distribution technologies.
- c. Recommend standards and procedures for issuing an installer license.
- d. Recommend continuing education requirements for installer license renewal.
- e. Recommend reasonable fees for issuing or renewing an installer license."

Page 3, line 8, replace "board" with "committee"

Renumber accordingly

Sixty-seventh  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1183

Introduced by

Representatives Louser, Headland, Magrum, Mock, Roers Jones, Weisz

Senators Burckhard, Klein, Luick, Myrdal, Vedaa

1 A BILL for an Act to create and enact ~~atwo~~ new ~~section~~sections to chapter 23-35 ~~and a new~~  
2 ~~chapter to title 43~~ of the North Dakota Century Code, relating to requiring public health units to  
3 adopt the technical guide for onsite wastewater recycling treatment and establishing the  
4 ~~licensing of installers of onsite sewage treatment systems~~wastewater recycling technical  
5 committee; and to provide for application; ~~and to provide a penalty.~~

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

7 **SECTION 1.** A new section to chapter 23-35 of the North Dakota Century Code is created  
8 and enacted as follows:

9 **Public health units to adopt onsite wastewater recycling treatment guide.**

10 Each public health unit shall adopt the statewide technical guide for onsite wastewater  
11 recycling treatment technologies and sewage distribution technologies established by the onsite  
12 wastewater recycling technical ~~board~~committee.

13 ~~— SECTION 2. A new chapter to title 43 of the North Dakota Century Code is created and~~  
14 ~~enacted as follows:~~

15 ~~— **Definitions.**~~

16 ~~— As used in this chapter, unless the context otherwise requires:~~

17 ~~— 1. "Board" means the onsite wastewater recycling technical board.~~

18 ~~— 2. "Director" means the director of the department of environmental quality.~~

19 ~~— 3. "Installer" means an individual licensed by the board to install onsite wastewater~~  
20 ~~sewage treatment systems.~~

21 ~~— **Onsite wastewater recycling technical board - Appointment - Term of office.**~~

22 ~~— 1. The onsite wastewater recycling technical board consists of:~~

23 ~~— a. The director or the director's designee;~~

1 ~~\_\_\_\_\_ b. Two representatives of a local public health unit appointed by the governor from a~~  
2 ~~list of names forwarded by local public health units; and~~

3 ~~\_\_\_\_\_ c. Four individuals who must be installers, except the initial appointment for~~  
4 ~~installers who must be eligible for licensure, appointed by the governor. The~~  
5 ~~governor shall appoint the individuals from a list of names forwarded by a~~  
6 ~~professional onsite wastewater recycling association.~~

7 ~~\_\_\_\_\_ 2. The director or the director's designee shall serve as chairman of the board and is an~~  
8 ~~ex officio member of the board. The terms of the other board members are for four~~  
9 ~~years and members may be reappointed.~~

10 ~~\_\_\_\_\_ 3. The board shall meet at the call of the chairman or a majority of the members.~~

11 ~~\_\_\_\_\_ **Powers and duties of board.**~~

12 ~~\_\_\_\_\_ The board:~~

13 ~~\_\_\_\_\_ 1. Shall create a statewide technical guide for onsite wastewater recycling treatment~~  
14 ~~technologies and sewage distribution technologies.~~

15 ~~\_\_\_\_\_ 2. Shall establish standards and procedures for issuing a license.~~

16 ~~\_\_\_\_\_ 3. Shall issue a license to an applicant who satisfies the requirements for licensure.~~

17 ~~\_\_\_\_\_ 4. May establish continuing education requirements for license renewal.~~

18 ~~\_\_\_\_\_ 5. Shall renew a license to a qualified applicant.~~

19 ~~\_\_\_\_\_ 6. May deny, suspend, or revoke a license for cause after notice and opportunity for~~  
20 ~~hearing.~~

21 ~~\_\_\_\_\_ 7. Shall establish reasonable fees for issuing or renewing a license.~~

22 ~~\_\_\_\_\_ 8. Shall develop a product review and registration process and maintain a list of~~  
23 ~~registered products for onsite wastewater recycling systems.~~

24 ~~\_\_\_\_\_ 9. May issue an opinion regarding the interpretation of the statewide technical guide for~~  
25 ~~onsite wastewater recycling technologies and sewage distribution technologies if a~~  
26 ~~dispute arises between an installer and a public health unit.~~

27 ~~\_\_\_\_\_ 10. Shall adopt rules as necessary to administer and enforce this chapter.~~

28 ~~\_\_\_\_\_ **License required - Exemption.**~~

29 ~~\_\_\_\_\_ 1. Effective January 1, 2022, an individual may not engage in the business of installing~~  
30 ~~an onsite sewage treatment system unless licensed by the board. To remain licensed~~

~~in good standing, an installer shall comply with this chapter and any rules adopted by the board.~~

~~2. An individual is exempt from the requirements of this chapter if the individual is installing an onsite sewage treatment system on the individual's premises for the individual's use.~~

~~**Violation of chapter - Penalty.**~~

~~An individual who installs an onsite sewage treatment system for another person without being licensed under this chapter or an individual who violates this chapter or a rule adopted under this chapter is guilty of an infraction.~~

**SECTION 2.** A new section to chapter 23-35 of the North Dakota Century Code is created and enacted as follows:

**Onsite wastewater recycling technical committee - Appointment - Duties.**

1. The onsite wastewater recycling technical committee consists of:

a. Three representatives of a local public health unit appointed by the governor from a list of names forwarded by local public health units; and

b. Four individuals who must be installers appointed by the governor. The governor shall appoint the individuals from a list of names forwarded by a professional onsite wastewater recycling association. For purposes of this section, an installer means an individual licensed by a local public health unit to install onsite wastewater sewage treatment systems.

2. The director of the department of environmental quality or the director's designee shall provide input at the request of the committee.

3. The terms of the committee members are for four years and members may be reappointed.

4. The committee shall:

a. Meet at the call of a majority of the members.

b. Create a statewide technical guide for onsite wastewater recycling treatment technologies and sewage distribution technologies.

c. Recommend standards and procedures for issuing an installer license.

d. Recommend continuing education requirements for installer license renewal.

e. Recommend reasonable fees for issuing or renewing an installer license.

1        **SECTION 3. APPLICATION.** The governor shall appoint individuals to fill the  
2        ~~board~~committee positions in accordance with this Act, and the terms of those appointees must  
3        be staggered so not more than two positions expire in any year. To accomplish the staggering,  
4        the initial term of those appointees may be for less than four years.

**2021 SENATE POLITICAL SUBDIVISIONS**

**HB 1183**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Sakakawea, State Capitol

HB 1183  
3/18/2021

A BILL for an Act to create and enact two new sections to chapter 23-35 of the North Dakota Century Code, relating to requiring public health units to adopt the technical guide for onsite wastewater recycling treatment and establishing the onsite wastewater recycling technical committee; and to provide for application.

**Chairman Burckhard** opened the hearing on HB 1183 at 9:15 a.m. Members present: Burckhard, Anderson, Lee, Larson, Kannianen, Oban, Heitkamp.

### Discussion Topics:

- Public Health Unit licensing
- Listing of licensed contractors
- Regulatory board
- Uniform codes
- Committee members balance
- Sunset provision
- Public Health Unit board member

**[9:16] Representative Scott Louser, District 5.** Introduced HB 1183.

**[9:20] Representative Jeffery Magrum, District 28.** Provided oral testimony in favor.

**[9:25] Chairman Burckhard** recessed for committee photo.

**[9:35] Chairman Burckhard** re-opens the hearing on HB 1183

**[9:36] Representative Magrum** continues oral testimony in favor.

**[9:41] Lisa Clute, Executive Officer, First District Health Unit.** Provided testimony #9891 in favor.

**[9:57] Tom Schimelfenig, President, ND Onsite Wastewater Recycling Association.** Provided testimony #9992 in favor.

**[10:08] Darren Jespersion, Contractor, Minot.** Provided oral testimony in favor.

**[10:14] Allen McKay, Administrator, Lake Region District Health Unit.** Provided testimony #10025 in favor.

**[10:25] Aaron Birst, Association of Counties.** Provided oral testimony in favor as well as proposed amendment (testimony #10029).

**[10:31] Dave Glatt, Director, Department of Environmental Quality.** Provided neutral oral testimony.

**[10:37] Marty Beard, Contractor.** Provided oral testimony in favor.

**[10:44] Jason Hovdenes, Owner, J&R Dirty Works LLC.** Provided neutral testimony #9947.

**[10:51] Jeff Ficek, Chief Proprietor, Ron's rural Backhoe Service.** Provided testimony #9021 in opposition.

**Additional written testimony: (2)**

**Phil Murphy, ND Soybean Growers Association.** Written testimony #9245 in favor.

**Marcie Bata, President, ND Environmental Health Association.** Written testimony #9930 in favor.

**Chairman Burckhard** closed the hearing on HB 1183 at 10:58 a.m.

*Patricia Lahr, Committee Clerk*

*To the*  
Testimony  
**Senate Political Sub Committee**  
*On*  
**HB 1183**

Good morning Chairman Burckhard and members of the committee. I am Lisa Clute, Executive Officer of First District Health Unit. First District provides local public health services to Bottineau, Burke, McHenry, McLean, Renville, Sheridan, and Ward counties. The geographic area that we serve primarily have on site sewers.

1183 represents years of work toward a statewide on-site code that would establish minimum standards for all Health Units to follow and assures that qualified, knowledgeable, and licensed installers are doing the work. Although this bill is not perfect it is a baby step in the right direction.

I applaud the installers commitment to develop licensing standards that raise the level of their profession. Our experience at First District has been primarily with excellent installers that do their job well and understand the science and technical advances regarding sewer installation. We often work with installers to “problem solve” unique situations that occur and it has been a good partnership. As in all professions there are “bad apples” that threaten the integrity of their profession. DEQ has chosen to not be a partner in addressing the issue. I believe that is irresponsible to ignore a prominent environmental health issue in North Dakota. The development of a statewide licensing data base that all local public health units could reference would be a very appropriate role for DEQ, as well as providing educational opportunities for on-site sewer installers. Currently local public health units have tried to “piece” together solutions to address the installers concerns. It needs to be a statewide application of licensing installers.

The State of North Dakota does not have minimum standards established for on site sewers. In the absence of a statewide code, local public health units, in cooperation with installers, have developed a code that most local public health units have chosen to adopt. However not all counties in North Dakota are served by a health unit that has adopted and enforces the code. The bill identifies a Board, that ultimately would be appointed by the Governor to review code. That Board should be represented by both installers and public health representatives. However, the makeup of the Board should not be primarily made up of installers. The consequence of that would be that installers could be writing code that regulates themselves. The installers that we have worked with would be excellent representatives on the Board, however there is opportunity for appearance of a self-serving Board.

In summary, I support the Bill and will continue to advocate and work towards a statewide code that is interpreted consistently across the state, as well as assures quality installers are doing the work. This Bill begins the work of reaching that goal. Amendments offered include a sunset clause to assure the review of the accomplishments towards the shared goal, and address problems that may be identified within the structure defined by the legislature.

Thank you for your consideration of this important bill and I would be happy to answer any questions you may have.

**Testimony in Support of HB 1183**  
**Tom Schimelfenig**  
**(701) 650-8792 (mobile)**

Good afternoon Chairman Senator Burckhard and members of the Senate Standing Committee on Political Subdivisions, contractors and guests. I am Tom Schimelfenig, a contractor from Bowdon, N.D. and the president of the newly established North Dakota Onsite Wastewater Recycling Association. I am the spokesman for a core group of experienced installers and regulators in our North Dakota onsite wastewater treatment industry.

In North Dakota there is a long overdue need to address onsite wastewater recycling. A full 30 percent of North Dakota's population use onsite wastewater recycling systems, or septic systems, in their homes and therefore are impacted by our industry. We have districts and counties that are at various stages of regulating but as a state we are not consistently and agreeably aligned unanimously with our practices. This sets up confusion, unfair practices and undue frustration for contractors and homeowners alike attempting to construct facilities and yet satisfy sometimes shifting or indefinite rules.

During the 2019 legislative session, the N.D. Legislature passed SB 2241, which directed the study of onsite wastewater system regulations. We are here before you today with HB 1183, the culmination of those efforts over the past two years.

HB 1183 establishes a technical governing board and a uniform licensing system for installers in the onsite wastewater industry. This bill effectively levels the playing field for all involved, including regulators, installers and homeowners. The primary purpose of the technical board is to implement a uniform statewide code for installers and regulatory departments. Whether the demand be for residential, commercial or industrial, our first duties must be to protect the environment and build dependable, durable and fail-safe infrastructure.

This bill is patterned after the regulatory framework already in place for many other industries, including plumbers, engineers, water well contractors and others. Therefore, the board must be staffed by experienced, competent individuals. There are qualified people in our industry available and willing to serve in this capacity.

What's much needed now is the support of the State Legislature. We recommend a "do pass" on HB 1183 to begin the process toward the presentation of a practical government for onsite wastewater treatment.

**Testimony on 1183**  
**Senate Political Subdivisions Committee**  
**Thursday, March 18, 2021**  
**Lake Region District Health Unit**

Good morning, Chairperson Burckhard and members of the Political Subdivisions Committee. My name is Allen McKay, and I am the administrator for the Lake Region District Health Unit which is comprised of Ramsey, Benson, Pierce and Eddy Counties. Lake Region District Health also provides Environmental Health Services to Rolette, Towner and Cavalier Counties. I am here to provide testimony in favor of HB 1183.

I have 33 years of experience in designing and inspecting onsite sewers in the Lake Region District Health Unit and surrounding counties. I have provided onsite sewer education to hundreds of contractors in North Dakota and I am a member of the newly developed statewide contractors association NDOWRA.

I support 1183 because it provides small steps toward providing statewide uniformity while maintaining local control. Working with the contractors to provide the best onsite sewer systems that control contamination of our wells and surface water and protect the environment.

I also support the goal of the contractors to have all onsite sewer contractors licensed, and provide initial and continuing education, and uniformity of regulations across the state.

1183 provides a small step in that direction by the adoption of the technical guide for onsite wastewater recycling treatment and to work together with the contractors to review new onsite sewer technologies and decide if they will work in North Dakota.

That concludes my prepared comments. I am happy to answer any questions you may have.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1183

Page 1, line 16, replace "Three" with "Four"

Page 2, line 14 insert:

**"SECTION 4. EXPIRATION DATE.** This Act is effective until December 31, 2022 and is thereafter ineffective."

Renumber accordingly

Testimony for HB 1183

03/18/2021

Good Morning,

Chairman Burckhard and members of the committee. My name is Jason Hovdenes, and I am here today speaking in a neutral position regarding HB 1183.

I am a licensed water and sewer contractor from Carrington. I am here today to with concerns of the current status of the onsite wastewater system.

- Licensing
  - Installers license in a single health district
    - Do not get listed in other districts as an installer.
      - Contractors are not being considered for jobs.
- Regulations
  - Differ from district to district.
  - Some counties do not adopt a code.
- Proposed bill 1183
  - Concerns
    - Too many health district members
      - 8 environmental health districts represented by 3 members of the 7-member committee.
      - 4 installers on committee with approximately 500 installers in North Dakota
      - Suggest adding a member of the public and removal of a health district member.
    - No mediation listed.
      - Mediation for disputes with installations of septic systems
        - Between installers, property owners, and/or regulators
        - Would suggest the committee would be able to make an opinion for onsite wastewater issues and /or for disputes.
  - Pros for the bill
    - Creates a central guide for the state.
    - Installers will help lead their industry.

- Will bring a central standard forward for education.
- Bring together a central list for licensed contractors.
- Other items I want to bring forward.
  - Health Districts
    - In my opinion are the enforcement piece of the system
    - Why are environmental health individuals creating a plumbing regulation?
    - Who is holding environmental health accountable for their own regulations?
      - I have witnessed that they have designed systems at a much larger sizing factor than what their regulation requires.
        - Then stating we do not design anything below a certain size, even if the code allows smaller sizing.
      - New applicants are being allowed to take a 2-to-4-hour class online from different outside sources to become installers.
  - Contractors
    - Is in their best interest to provide quality work.
    - Work with all aspects of septic systems
      - Plumbing
      - Soils
      - Excavation and dirt work
      - Regulations

I am working hard to bring together all parts of the system. I bring forth these items for the citizens of North Dakota. I am a citizen not just a contractor trying to improve my situation. There are issues that need to be addressed for North Dakota.

Thank You

Jason Hovdenes

Owner/Manager

J&R Dirt Works LLC.

Carrington, ND

701-653-5838

House Bill 1183 was brought to my attention just as it was preparing to come out of Committee. It deals with establishing a regulatory agency from the State of ND for Onsite sewage treatment installation. (home septic systems). It then passed in the House.

I oppose this bill as it passed in the house and urge the Senate to reject it.

I am a licensed onsite sewage treatment operator. I've been in business for over 25 years in Dickinson and the surrounding area.

Since at least the 1970's, the State of ND has already had such an agency—with complete regulatory and enforcement powers, vested in each of the District Health units across the State. These units follow (depending upon the State Plumbing Boards recommendation) either the Uniform Plumbing Code or the International Plumbing Code guidelines. Individual rules for onsite sewage treatment are varied by district, because installation of septic systems is highly geographically sensitive for proper function. The soil at the bottom of Lake Agassiz is quite different from the soil of the 2-million old Badlands, and the Glacial Alluvial Till in the middle at 10,000 years old is again different. So, each District Health unit, familiar with their region, tailor's enforcement and regulation accordingly.

For a number of years, there has been a push by government and large Construction companies who span the state "To make this uniform' so they do not have to deal with vagaries in regulation. But this one-size fits all works well for regulators and large companies who want to do everything the same, and not so well for the actual installation process in the locality it is installed in, as highlighted above. Some District health Units have even gone over to this viewpoint, but not all.

Further, this bill, as I read it, does not remove the District health process, but layers in ANOTHER regulatory body—creating a duplicate process for more paperwork and confusion, and expense, both to the state and the contractors.

Again, I urge a no vote on this in the Senate, and a greater awareness of the issue going forward.

Thank you,

Jeff Ficek

ND Licensed Sewer and Water Contractor

Ron's Rural Backhoe Service

Dickinson, ND

Testimony for 1183 Phil Murphy for the ND Soybean Growers Association

Good afternoon, Chairman Burckhard and committee full of former colleagues and friends. This is an important bill for all rural citizens. Having been present during the interim meetings, I believe that this bill represents the best chance to get some uniformity into the code and thus to allow people to know what to expect. You may recall the many complaints and anger which stems not only from installers with different practices, but local health authorities with differing interpretations of what could be done and when. It seemed to me that pretty much everyone wanted a fix somewhat like this but could not get it together. The quote that resonates with me came from the Association of Counties attorney who testified during interim that "This problem is similar to having all the parts of a car scattered around the room but no one knows how to put them together." (or something to that effect) This bill puts it together. Please consider a Do Pass for 1183.



#9930

# NORTH DAKOTA ENVIRONMENTAL HEALTH ASSOCIATION

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March 17, 2021

To: Senator Randy A. Burckhard, Chairman  
Senate Political Subdivision

Re: HB # 1183

Dear Senator, Burckhard,

On behalf of the North Dakota Environmental Association (NDEHA), and its membership I would like to express our support for the proposed amendments to HB #1183:

1. Creating a board with equal representation of local public health and septic installers.
2. Adding an expiration date of December 31, 2022.

Additionally, we would like to express support for adding back in oversight from the Department of Environmental Quality.

If you have any questions or would like additional information, please feel free to contact me.

Respectively submitted,

Marcie Bata, President  
North Dakota Environmental Health Association

# 2021 SENATE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Sakakawea, State Capitol

HB 1183  
3/19/2021

A BILL for an Act to create and enact two new sections to chapter 23-35 of the North Dakota Century Code, relating to requiring public health units to adopt the technical guide for onsite wastewater recycling treatment and establishing the onsite wastewater recycling technical committee; and to provide for application.

**Chairman Burckhard** opened the discussion on HB 1183 at 9:15 a.m.  
Members present: Burckhard, Anderson, Lee, Larson, Kannianen, Oban, Heitkamp.

### Discussion Topics:

- Regulatory board members
- Proposed amendment

**Senator Heitkamp** moves **DO PASS**.  
**Senator Kannianen** seconded.

The motion passed 7-0-0

**Senator Heitkamp** will carry HB 1183.

**Additional written testimony:** N/A

Senators	Vote
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	Y
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	Y
Senator Diane Larson	Y
Senator Judy Lee	Y
Senator Erin Oban	Y

**Chairman Burckhard** closed the discussion on HB 1183 at 9:24 AM.

*Patricia Lahr, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1183, as engrossed: Political Subdivisions Committee (Sen. Burckhard, Chairman)**  
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1183 was placed on the Fourteenth order on the calendar.

**2021 CONFERENCE COMMITTEE**

**HB 1183**

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Political Subdivisions Committee**  
Room JW327B, State Capitol

HB 1183  
4/8/2021  
Conference Committee

**Relating to requiring public health units to adopt the technical guide for onsite wastewater recycling treatment and the licensing of installers of onsite sewage treatment systems; to provide for applications; and to provide a penalty**

**Chairman Rep. Ertelt: (4:00).** Opened the conference committee.

**Rep. Ertelt:** Present  
**Rep. Toman:** Present  
**Rep. Nelson:** Present  
**Sen Burckhard:** Present  
**Sen. Heitkamp:** Present  
**Sen. Oban:** Present

**Discussion Topics:**  
Statewide technical guide  
Environmental Health Practitioner

**Mary Kormos, Association of Counties:** Answered questions.

**Rep. Ertelt: (4:35).** Closed the conference committee.

*Carmen Hickle, Committee Clerk*

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

HB 1183  
4/13/2021  
Conference committee

**Relating to requiring public health units to adopt the technical guide for onsite wastewater recycling treatment and the licensing of installers of onsite sewage treatment systems; to provide for applications; and to provide a penalty**

**Rep. Ertelt: (2:30).** Opened the conference committee.

**Rep. Ertelt:** Present.

**Rep. Toman:** Present.

**Rep. Nelson:** Present.

**Sen. Burckhard:** Present.

**Sen. Heitkamp:** Present.

**Sen. Oban:** Present.

### **Discussion Topics:**

- Amendment

**Rep. Ertelt:** Handed out testimony #11507, 11508, 11509.

**Sen. Oban:** She discussed reverting back to a previous version.

**Erin Ourada, Administrator of Custer Health District.** Environmental Health Practitioner. Answered questions.

**Rep. Magrum:** Answered questions regarding licensing of installers of sewage systems.

**Mary Korsmo, Association of Counties.** Addressed the board members and requirements.

**Rep. Ertelt: (3:00).** Closed the conference committee.

*Carmen Hickle, Committee Clerk*

21.0039.03009  
Title.

Prepared by the Legislative Council staff for  
Representative Ertelt  
April 12, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1183

That the Senate recede from its amendments as printed on page 1265 of the House Journal and page 942 of the Senate Journal and that Engrossed House Bill No. 1183 be amended as follows:

Page 1, line 4, after the semicolon insert "to provide for a legislative management report;"

Page 1, line 17, remove "and"

Page 1, line 22, after "systems" insert " and

- c. One individual who must be a licensed environmental health practitioner appointed by the governor from a list of names forwarded by a professional onsite wastewater recycling association"

Page 2, after line 9, insert:

**"SECTION 3. ONSITE WASTEWATER RECYCLING TECHNICAL COMMITTEE - REPORT TO LEGISLATIVE MANAGEMENT.** Before July 1, 2022, the onsite wastewater recycling technical committee shall submit a report to the legislative management on the status of the statewide technical guide and the committee's recommendations."

Re-number accordingly

21.0039.03009

**FIRST ENGROSSMENT**

Sixty-seventh  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1183**

Introduced by

Representatives Louser, Headland, Magrum, Mock, Roers Jones, Weisz

Senators Burckhard, Klein, Luick, Myrdal, Vedaa

1 A BILL for an Act to create and enact two new sections to chapter 23-35 of the North Dakota  
2 Century Code, relating to requiring public health units to adopt the technical guide for onsite  
3 wastewater recycling treatment and establishing the onsite wastewater recycling technical  
4 committee; to provide for a legislative management report; and to provide for application.

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

6 **SECTION 1.** A new section to chapter 23-35 of the North Dakota Century Code is created  
7 and enacted as follows:

**8 Public health units to adopt onsite wastewater recycling treatment guide.**

9 Each public health unit shall adopt the statewide technical guide for onsite wastewater  
10 recycling treatment technologies and sewage distribution technologies established by the onsite  
11 wastewater recycling technical committee.

12 **SECTION 2.** A new section to chapter 23-35 of the North Dakota Century Code is created  
13 and enacted as follows:

**14 Onsite wastewater recycling technical committee - Appointment - Duties.**

15 1. The onsite wastewater recycling technical committee consists of:

16 a. Three representatives of a local public health unit appointed by the governor from  
17 a list of names forwarded by local public health units; ~~and~~

18 b. Four individuals who must be installers appointed by the governor. The governor  
19 shall appoint the individuals from a list of names forwarded by a professional  
20 onsite wastewater recycling association. For purposes of this section, an installer  
21 means an individual licensed by a local public health unit to install onsite  
22 wastewater sewage treatment systems; and

- 1 c. One individual who must be a licensed environmental health practitioner  
2 appointed by the governor from a list of names forwarded by a professional  
3 onsite wastewater recycling association.
- 4 2. The director of the department of environmental quality or the director's designee shall  
5 provide input at the request of the committee.
- 6 3. The terms of the committee members are for four years, and members may be  
7 reappointed.
- 8 4. The committee shall:
- 9 a. Meet at the call of a majority of the members.
- 10 b. Create a statewide technical guide for onsite wastewater recycling treatment  
11 technologies and sewage distribution technologies.
- 12 c. Recommend standards and procedures for issuing an installer license.
- 13 d. Recommend continuing education requirements for installer license renewal.
- 14 e. Recommend reasonable fees for issuing or renewing an installer license.

15 **SECTION 3. ONSITE WASTEWATER RECYCLING TECHNICAL COMMITTEE - REPORT**  
16 **TO LEGISLATIVE MANAGEMENT.** Before July 1, 2022, the onsite wastewater recycling  
17 technical committee shall submit a report to the legislative management on the status of the  
18 statewide technical guide and the committee's recommendations.

19 **SECTION 4. APPLICATION.** The governor shall appoint individuals to fill the committee  
20 positions in accordance with this Act, and the terms of those appointees must be staggered so  
21 not more than two positions expire in any year. To accomplish the staggering, the initial term of  
22 those appointees may be for less than four years.

Responses to questions posed by Political Subdivisions Conference Committee on HB 1183  
Representative Ertelt, Chair  
Prepared by Mary Korsmo, ND State Association of City and County Officials (SACCHO)  
April 8, 2021

1. Education requirements for Environmental Health Practitioner (EHP)

A bachelors degree in a science field. The degree is approved by the National Environmental Health Science and Protection Accreditation Council (EHAC). Custer Health District Administrator Erin Ourada is an EHP.

An additional certification as a Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS) credential must be pursued within five years. The National Environmental Health Association administers the comprehensive 250 question exam and continual credentialing is required. Southwestern District Health Unit Executive Officer Sherry Adams holds this certification.

Licenses are renewed every two years with CEUs required by both State and nationally. Sherry Adams is the state CEU officer. Sherry can be reached at [sladams@nd.gov](mailto:sladams@nd.gov) if you have more questions.

2. Code

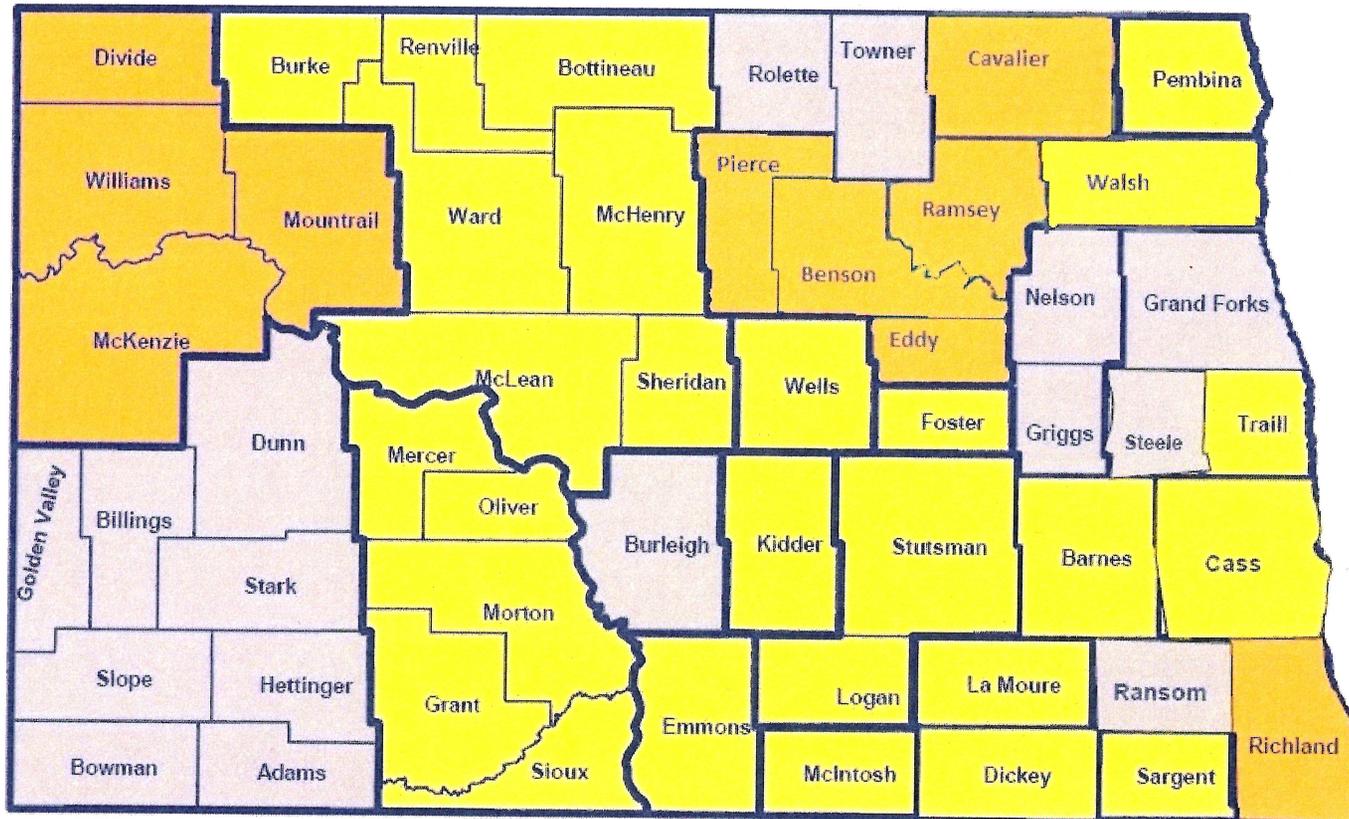
- Century Code: [North Dakota Century Code t43c43 \(nd.gov\)](#)
- Administrative Rules for initial licensure:  
[North Dakota Administrative Code - Title 33 Article 30 Chapter 2 \(nd.gov\)](#)
- Administrative Rules for the Board and general provisions:  
[North Dakota Administrative Code - Title 33 Article 30 Chapter 1 \(nd.gov\)](#)  
33-30-03 through 33-30-06 all also deal with EHPs in regards to continuing education, code of ethics, etc.

3. Local Public Health Unit septic code adoption map

The most current map I have depicting the current code requirements is attached.

I believe I covered the items in questions, however, please let me know if I missed anything or if I can provide additional information. Thank you for your questions and the opportunity to get back to you with the responses.

# Local Public Health Units



-  Have Adopted in Entirety
-  Have Adopted with Local Changes
-  Have not Adopted New Code



# 2021 HOUSE STANDING COMMITTEE MINUTES

## Political Subdivisions Committee Room JW327B, State Capitol

HB 1183  
4/15/2021  
Conference committee

<b>Relating to requiring public health units to adopt the technical guide for onsite wastewater recycling treatment and the licensing of installers of onsite sewage treatment systems; to provide for applications; and to provide a penalty</b>
---

**Rep. Ertelt: (2:31).** Opened the conference committee.

**Rep. Ertelt:** Present.

**Rep. Toman:** Present.

**Rep. Nelson:** Present.

**Sen. Burckhard:** Present.

**Sen. Heitkamp:** Present.

**Sen. Oban:** Present.

### Discussion Topics:

- Amendment

**Rep. Ertelt:** Handed out testimony # 11536.

**Sen. Erin:** Made a motion the Senate recede and further amend. 21.0039.03010.

**Sen. Burckhard:** Second the motion.

**Rep. Ertelt:** Yes

**Rep. Toman:** Yes

**Rep. Nelson:** Yes

**Sen. Burckhard:** Yes

**Sen. Heitkamp:** Yes

**Sen. Oban:** Yes

6-0-0 carried.

**Sen. Heitkamp:** Will carry the bill for the Senate.

**Rep. Toman:** Will carry the bill for the House.

**Rep. Ertelt: (2:35).** Adjourned the conference committee.

*Carmen Hickle, Committee Clerk*

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1183

That the Senate recede from its amendments as printed on page 1265 of the House Journal and page 942 of the Senate Journal and that Engrossed House Bill No. 1183 be amended as follows:

Page 1, line 4, after the semicolon insert "to provide for a legislative management report;"

Page 1, line 16, replace "of a" with "from"

Page 1, line 16, replace "unit" with "units"

Page 1, line 17, remove "and"

Page 1, line 22, after "systems" insert "; and

- c. One individual who must be a licensed environmental health practitioner appointed by the governor from a list of names forwarded by a professional onsite wastewater recycling association"

Page 2, line 4, replace "a majority" with "at least three"

Page 2, after line 9, insert:

**"SECTION 3. REPORT TO LEGISLATIVE MANAGEMENT - ONSITE WASTEWATER RECYCLING TECHNICAL COMMITTEE.** Before November 1, 2022, the onsite wastewater recycling technical committee shall submit a report to the legislative management on the status of the statewide technical guide and the committee's recommendations."

Re-number accordingly

**2021 HOUSE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1183 as (re) engrossed

House "Enter committee name" Committee

- Action Taken**
- HOUSE accede to Senate Amendments
  - HOUSE accede to Senate Amendments and further amend
  - SENATE recede from Senate amendments
  - SENATE recede from Senate amendments and amend as follows
  - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Sen. Oban Seconded by: Sen. Burckhard

Representatives	4-8	4-13	4-15	Yes	No	Senators	4-8	4-13-	4-15	Yes	No
Rep. Ertelt, Chairman	P	P	P	X		Sen. Burckhard, Chairman	P	P	P	X	
Rep. Toman	P	P	P	X		Sen. Heitkamp	P	P	P	X	
Rep. Nelson	P	P	P	X		Sen. Oban	P	P	P	X	
Total Rep. Vote						Total Senate Vote					

Vote Count      Yes: 6                      No: 0                      Absent: 0

House Carrier Rep. Toman                      Senate Carrier Sen. Heitkamp

LC Number 21.0039 . 03010 of amendment

LC Number 21.0039 . 06000 of engrossment

Insert LC: 21.0039.03010  
House Carrier: Toman  
Senate Carrier: Heitkamp

**REPORT OF CONFERENCE COMMITTEE**

**HB 1183, as engrossed:** Your conference committee (Sens. Burckhard, Heitkamp, Oban and Reps. Ertelt, Toman, M. Nelson) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1265, adopt amendments as follows, and place HB 1183 on the Seventh order:

That the Senate recede from its amendments as printed on page 1265 of the House Journal and page 942 of the Senate Journal and that Engrossed House Bill No. 1183 be amended as follows:

Page 1, line 4, after the semicolon insert "to provide for a legislative management report;"

Page 1, line 16, replace "of a" with "from"

Page 1, line 16, replace "unit" with "units"

Page 1, line 17, remove "and"

Page 1, line 22, after "systems" insert "; and

- c. One individual who must be a licensed environmental health practitioner appointed by the governor from a list of names forwarded by a professional onsite wastewater recycling association"

Page 2, line 4, replace "a majority" with "at least three"

Page 2, after line 9, insert:

**"SECTION 3. REPORT TO LEGISLATIVE MANAGEMENT - ONSITE WASTEWATER RECYCLING TECHNICAL COMMITTEE.** Before November 1, 2022, the onsite wastewater recycling technical committee shall submit a report to the legislative management on the status of the statewide technical guide and the committee's recommendations."

Re-number accordingly

Engrossed HB 1183 was placed on the Seventh order of business on the calendar.

21.0039.03010

**FIRST ENGROSSMENT**

Sixty-seventh  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1183**

Introduced by

Representatives Louser, Headland, Magrum, Mock, Roers Jones, Weisz

Senators Burckhard, Klein, Luick, Myrdal, Vedaa

1 A BILL for an Act to create and enact two new sections to chapter 23-35 of the North Dakota  
2 Century Code, relating to requiring public health units to adopt the technical guide for onsite  
3 wastewater recycling treatment and establishing the onsite wastewater recycling technical  
4 committee; to provide for a legislative management report; and to provide for application.

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

6 **SECTION 1.** A new section to chapter 23-35 of the North Dakota Century Code is created  
7 and enacted as follows:

8 **Public health units to adopt onsite wastewater recycling treatment guide.**

9 Each public health unit shall adopt the statewide technical guide for onsite wastewater  
10 recycling treatment technologies and sewage distribution technologies established by the onsite  
11 wastewater recycling technical committee.

12 **SECTION 2.** A new section to chapter 23-35 of the North Dakota Century Code is created  
13 and enacted as follows:

14 **Onsite wastewater recycling technical committee - Appointment - Duties.**

15 1. The onsite wastewater recycling technical committee consists of:

16 a. Three representatives ~~of a~~from local public health ~~unit~~units appointed by the  
17 governor from a list of names forwarded by local public health units; ~~and~~

18 b. Four individuals who must be installers appointed by the governor. The governor  
19 shall appoint the individuals from a list of names forwarded by a professional  
20 onsite wastewater recycling association. For purposes of this section, an installer  
21 means an individual licensed by a local public health unit to install onsite  
22 wastewater sewage treatment systems; ~~and~~

- 1 c. One individual who must be a licensed environmental health practitioner  
2 appointed by the governor from a list of names forwarded by a professional  
3 onsite wastewater recycling association.
- 4 2. The director of the department of environmental quality or the director's designee shall  
5 provide input at the request of the committee.
- 6 3. The terms of the committee members are for four years, and members may be  
7 reappointed.
- 8 4. The committee shall:
- 9 a. Meet at the call of a majority at least three of the members.
- 10 b. Create a statewide technical guide for onsite wastewater recycling treatment  
11 technologies and sewage distribution technologies.
- 12 c. Recommend standards and procedures for issuing an installer license.
- 13 d. Recommend continuing education requirements for installer license renewal.
- 14 e. Recommend reasonable fees for issuing or renewing an installer license.

15 **SECTION 3. ONSITE WASTEWATER RECYCLING TECHNICAL COMMITTEE - REPORT**  
16 **TO LEGISLATIVE MANAGEMENT.** Before November 1, 2022, the onsite wastewater recycling  
17 technical committee shall submit a report to the legislative management on the status of the  
18 statewide technical guide and the committee's recommendations.

19 **SECTION 4. APPLICATION.** The governor shall appoint individuals to fill the committee  
20 positions in accordance with this Act, and the terms of those appointees must be staggered so  
21 not more than two positions expire in any year. To accomplish the staggering, the initial term of  
22 those appointees may be for less than four years.