



HOUSE BILL 768: Emerg. Comm. Code Exempts/Sanitary Board/401.

2025-2026 General Assembly

Committee:

Introduced by: Reps. Brody, Cotham, Zenger, Winslow

Analysis of: Fourth Edition

Date:

June 24, 2025

Prepared by:

Kyle Evans

Jennifer McGinnis

Staff Attorney

OVERVIEW: *House Bill 768 would exempt certain buildings and structures from emergency responder communication coverage requirements found within the North Carolina Fire Code, provide a procedure for certain sanitary board vacancies to be filled, and establish statutory requirements for the Department of Environmental Quality's handling of applications for 401 certifications for projects that are eligible for a Nationwide Permit or Regional General Permit issued by the United States Army Corps of Engineers.*

CURRENT LAW & BILL ANALYSIS:

CLARIFY FIRE CODE EXEMPTIONS FROM IN-BUILDING EMERGENCY RESPONDER COMMUNICATION COVERAGE REQUIREMENTS

Section 510 of the North Carolina Fire Code, as amended by the North Carolina Building Code Council, sets forth the requirements for emergency responder communication coverage, and related systems, in new buildings, and the exceptions to those requirements.

Section 1 would exempt the following types of buildings and structures, whether new or existing, from application of Section 510 requirements within the North Carolina Fire Code:

- R-2 Apartment Buildings of Type V construction that meet the egress requirements of the Code.
- Apartment buildings and transient public lodging establishments, including hotels and motels, not exceeding two stories above grade plane and that provide direct exterior egress from each dwelling unit or guest room.

This section would also specify that the removal of any exempt existing systems would not be required, but would provide the process by which systems or parts of systems could be disconnected.

Section 1(d) would require the Building Code Council to promulgate rules in accordance with this section, and directs the Councils and local governments enforcing the Code to follow the provisions of this section until the effective date of those permanent rules.

VACANCY APPOINTMENTS FOR CERTAIN SANITARY BOARDS

The Commission for Public Health is authorized to create sanitary boards, without regard for county, township, or municipal lines, for the purpose of promoting public health and welfare. G.S. 130A-50(h), which applies only to sanitary districts lying wholly within a county with more than 17 municipalities lying wholly within that county, provides for the composition, manner of election, and terms of office for sanitary district boards.

Kara McCraw
Director



Legislative Analysis
Division
919-733-2578

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Section 2 would provide that G.S. 130A-50(h) only applies to sanitary districts that provide water and sewer service lying wholly within a county with more than 17 municipalities lying wholly within that county, and would further provide that vacancies on the sanitary board would be filled by the remaining sanitary district board members until the next election for sanitary board members, with the requirement that the vacancy is filled by a resident from the same residency district as the vacating commissioner.

•ESTABLISH STATUTORY REQUIREMENTS FOR THE DEPARTMENT OF ENVIRONMENTAL QUALITY'S HANDLING OF APPLICATIONS FOR 401 CERTIFICATIONS FOR PROJECTS THAT ARE ELIGIBLE FOR A NATIONWIDE PERMIT OR REGIONAL GENERAL PERMIT ISSUED BY THE UNITED STATES ARMY CORPS OF ENGINEERS (USACE)

Under [Section 401 of the Clean Water Act \(Section 401\)](#), a federal agency may not issue a permit or license to conduct any activity that may result in any discharge into waters of the United States unless a state where a discharge from the activity would originate issues or waives a Section 401 water quality certification, which concerns whether the discharge will comply with applicable water quality standards, effluent limitations, toxic pollutants restrictions and other appropriate water quality requirements under state and federal law. Section 401 provides that if a state "fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year)" after receipt of a certification request, the certification is deemed waived by the state. A state may not only waive, deny, or grant certification, but also grant certification with conditions.

Examples of permits for activities that trigger 401 certification requirements include:

- Clean Water Act Section 404 permits issued by the USACE involving the discharge of dredged or fill material.
- Federal Energy Regulatory Commission (FERC) licenses for hydropower facilities and natural gas pipelines.

USACE Nationwide Permits:

Per the USACE website, the agency "issues nationwide permits (NWP) to authorize certain activities that require Department of the Army permits under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899. The NWPs authorize activities that have minimal individual and cumulative adverse effects on the aquatic environment. The NWPs authorize a variety of activities, such as aids to navigation, utility lines, bank stabilization activities, road crossings, stream and wetland restoration activities, residential developments, mining activities, commercial shellfish aquaculture activities, and agricultural activities." A list of NWPs is available [here](#).

Section 3 would establish statutory requirements for DEQ's handling of applications for 401 certifications for projects that are eligible for a Nationwide Permit or Regional General Permit issued by USACE. DEQ would be required to:

- Notify an applicant of the required fee within 5 days of receipt of an application. DEQ's review period would begin on the date the fee is paid.
- Within 30 days of the beginning of the review period, DEQ must (i) determine whether or not the application is complete and notify the applicant accordingly, and (ii) if the Department determines an application is incomplete, specify all such deficiencies in a notice to the applicant. Review of

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amended applications or supplemental information responses provided by the applicant must occur within 20 business days of receipt. If the Department fails to issue a notice that the application is incomplete within the requisite initial 30-day period, or the supplemental 20 day review period, the application shall be deemed complete.

- Either approve or deny an application within (i) 10 business days of the date the application is deemed complete if no public hearing is held, or (ii) 15 business days of the close of the record if a public hearing is held and no additional information is required. Failure of the Department to approve or deny the application within the requisite time period, as applicable, would result in a waiver of the certification requirement by the State, unless the applicant agrees, in writing, to an extension of time, which shall not exceed one year from the State's receipt of the application for certification.
- Issue a certification, with or without conditions or limitations, upon determining that the proposed discharges into navigable waters subject to the federal Clean Water Act will comply with State water quality requirements. The Department may include as conditions or limitations in a certification any effluent limitations or other limitations necessary to assure the proposed discharges into navigable waters subject to the federal Clean Water Act will comply with State water quality requirements. The Department may not impose any other conditions or limitations in a certification.

DEQ may deny a certification application only if it determines that no reasonable conditions or limitations would provide assurance that the proposed discharges into navigable waters subject to the federal Clean Water Act will comply with State water quality requirements.

Section 3 would establish, for all 401 certification applications, that if the Department does not notify an applicant of the fee within five days of receipt of the application, the fee is waived.

EFFECTIVE DATE: This act would become effective when it becomes law.

Howard Marsilio, Legislative Analysis Division, substantially contributed to this summary.