

ACT 273

H.B. NO. 932

A Bill for an Act Relating to Certification of Water Treatment Plant Operators.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
HAWAII LAW FOR MANDATORY CERTIFICATION OF
OPERATING PERSONNEL IN WATER TREATMENT PLANTS**

§ -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

“Association of boards of certification for operating personnel in water and wastewater utilities” means that organization which serves as an information center for certification activities, recommends minimum standards and guidelines for the classification of potable water supply and wastewater systems and facilities and for certification of operators, facilitates reciprocity between state programs, and assists authorities in establishing new certification programs and upgrading existing programs.

“Board” means the board of certification established by section -4.

“Director” means the director of health.

“Operator” means any individual who operates a water treatment plant, or a major segment of a water treatment plant.

“Person” means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality, or any other private, county, state, or federal legal entity.

“Supervisor” means, where shift operation is not required, any individual who has direct responsibility for the operation of a water treatment plant or who supervises operators of such a plant. Where shift operation is required, “supervisor” means any individual who has direct responsibility for active daily on-site technical and administrative supervision, and active daily on-site charge of an operating shift, or a major segment of a water treatment plant.

“Water treatment plant” means the various facilities used in the treatment of water, including source, treatment, storage, and distribution, serving a public water system.

§ -2 **Classification.** The board shall classify all water treatment plants. The classification shall take due regard to size and type of the water treatment facility, character of water to be treated, and other physical conditions affecting such water treatment plants, and the skill, knowledge, and experience required of an operator.

§ -3 **Certification.** (a) Upon board approval the director shall issue certificates entitling qualified individuals to operate water treatment plants. Each certificate shall indicate the class of water treatment plant for which the individual is qualified.

(b) The director shall issue a certificate to each applicant who on June 30, 1991 has completed at least one year of satisfactory performance in the operation of a water treatment plant. This certificate shall be valid until January 1, 1994 or until a certification program has been established by the director.

§ -4 **Board of certification.** (a) A state board of certification of five members shall be appointed by the governor to carry out this chapter. The board shall be placed, for administrative purposes, in the department of health. The board shall consist of the following:

- (1) Four individuals who shall be duly qualified in the fields of sanitary engineering or drinking water treatment plant operation.

(2) One individual from the state agency responsible for the State's safe drinking water program.

(b) The foregoing members shall serve for four-year terms except that of the initial appointments, one shall be for one year, one shall be for two years, one shall be for three years, and two shall be for four years.

(c) The members of the board shall meet for an organizational meeting at the call of the director, within forty-five days of their appointment and thereafter at least twice a year at such time and place as may be provided by rules and regulations adopted by them. The members of the board shall annually elect one of the board members to serve as chairperson. Additional meetings may be called by the chairperson as deemed necessary. Notice of such meeting shall be given all members in writing at least ten days prior to the date of the meeting.

(d) The governor shall fill any vacancy in the board and may remove any member for cause.

(e) Board members shall be reimbursed for expenses incurred in the performance of their duties.

§ **-5 Association of certification authorities.** The board may, when taking action pursuant to sections -2, -3, and -7 of this chapter, consider generally applicable criteria and guidelines developed by the association of boards of certification for operating personnel in water and wastewater utilities.

§ **-6 Certification requirement.** All classified water treatment plants whether publicly or privately owned, used or intended for use by the public or private persons, shall at all times be under the direct supervision of an individual whose competency is certified to by the director in a classification corresponding to the classification of the water treatment plant to be supervised.

§ **-7 Regulations.** The board shall adopt such rules and regulations as may be necessary for the administration of this chapter, and which shall include at least the following provisions:

- (1) The basis for classification of water treatment plants as required by section -2;
- (2) Criteria for the qualification of applicants for operator certification corresponding to each of the classifications referred to in paragraph (1) of this section;
- (3) Procedures for examination of candidates and renewal of certificates and
- (4) Procedures for the revocation of certificates.

§ **-8 Prohibited acts.** It shall be unlawful:

- (1) For any water treatment plant to be operated unless the operator is duly certified under this chapter;
- (2) For any individual to perform the duties of an operator without being duly certified under this chapter.

§ **-9 Injunctions and civil penalty.** Any person who violates any provision of this chapter, or any rules, regulations, criterion, procedure, or certificate issued hereunder may, in a legal action commenced by the board;

- (1) Be enjoined from continuing such violation; and
- (2) Be subject to a civil penalty of not more than \$25,000 a day for each day of continuing violation.

§ -10 **Criminal penalties.** Any individual who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, shall be guilty of a misdemeanor.

§ -11 **Powers and duties of the board.** To carry out the provisions and purposes of this chapter, the board shall:

- (1) Perform any and all acts and adopt, amend, or repeal such rules and regulations as it finds necessary or appropriate;
- (2) Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as deemed appropriate with other state, federal, or interstate agencies, municipalities, educational institutions, or other organizations or individuals;
- (3) Receive financial and technical assistance from the federal government and other public or private agencies;
- (4) Participate in related programs of the federal government, other states, interstate agencies, or other public or private agencies or organizations;
- (5) Furnish upon request to federal, state or interstate agencies, municipalities, educational institutions and other organizations and individuals, reports, information and materials relating to the certification program authorized by this chapter;
- (6) Revoke, suspend, or refuse to renew any certificate of any individual following a hearing before the board of the individual or the individual's designated representative, when it is determined that the individual has practiced fraud or deception; that reasonable care, judgment, or the application of the individual's knowledge or ability was not used in the performance of the individual's duties; or that the individual is incompetent or unable to properly perform the individual's duties; provided that the board gives the person concerned notice and hearing in conformity with chapter 91;
- (7) Delegate those duties and responsibilities the board may deem appropriate for the purpose of administering requirements of this chapter;
- (8) Establish and collect such fees for application, conduct examinations, issue or renew certificates as are necessary for the support of this chapter, and deposit all fees collected into the State's general fund; and
- (9) Oversee the development and implementation of a continuous training program if that is necessary to carry out this chapter.

§ -12 **Reciprocity.** (a) On or after the effective date of this chapter, certification of operators by any state which, as determined by the board, accepts certifications made or certification requirements deemed satisfactory pursuant to this chapter, shall be accorded reciprocal treatment and shall be recognized as valid and sufficient within the purview of this chapter, if in the judgment of the board the certification requirements of such state are substantially equivalent to the requirements of this chapter or any rules or regulations adopted hereunder and providing further that reciprocal privileges are granted to certified operators of this State.

(b) In making determinations pursuant to subsection (a) of this section, the board may consider any generally applicable criteria and guidelines developed by

the association of boards of certification for operating personnel in water and wastewater utilities.”

SECTION 2. This Act shall take effect upon its approval.

(Approved June 17, 1991.)