State of Tennessee

PUBLIC CHAPTER NO. 876

HOUSE BILL NO. 803

By Representatives Grills, White, Tim Hicks, Greg Martin, Williams, Warner, Davis

Substituted for: Senate Bill No. 564

By Senators Pody, Gardenhire, Johnson, Hensley, Bowling

AN ACT to amend Tennessee Code Annotated, Title 7; Title 8; Title 9; Title 62, Chapter 2; Title 65; Title 68, Chapter 221 and Title 69, relative to utilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 221, Part 1, is amended by adding the following as new sections:

68-221-109. Expiration of approved engineering plans – Extensions.

(a) This section applies to engineering reports, design documents, plans, and specifications approved for:

(1) Sewage works construction projects under title 68, chapter 221, part 2; and

(2) Wastewater facilities requiring plan approvals associated with permits under title 69, chapter 3, for decentralized systems using land application.

(b) Approval of engineering plans and specifications by the commissioner expires twelve (12) months from the date of issuance unless:

(1) Construction has commenced; or

(2) The owner obtained an extension under subsection (c).

(c) Upon receipt of a written request prior to expiration of an existing approval, the department may grant extensions in increments not exceeding twelve (12) months, up to a cumulative maximum of sixty (60) months from the original approval date. The department may condition extensions on confirmation that no material revisions, as determined by the department by rule, were made to the original submittal.

(d) If material changes in design, capacity, treatment process, or site conditions occur, the owner shall submit revised plans, engineering reports, and specifications to the department for review and approval.

(e) The department shall maintain an electronic tracking system for plan approvals and extensions.

(f) Construction of a decentralized wastewater system using land application shall be completed within sixty (60) months of the initial engineering plan approval. If construction is not completed within sixty (60) months, the owner shall submit new plans, engineering reports, and specifications for review and approval. No decentralized wastewater system using land application may commence operation until construction has been completed in accordance with approved plans.

68-221-110. Design and construction criteria for decentralized wastewater treatment systems using land application.

No later than July 31, 2027, the commissioner shall promulgate rules applicable to the design and construction of decentralized wastewater treatment systems using land application. These rules apply to permits issued pursuant to § 69-3-108(b)(2) and

(c) and plan approvals issued pursuant to § 68-221-102 for decentralized wastewater treatment systems using land application. At a minimum, the rules must define material revisions for purposes of § 68-221-109(c), address proper siting, soil characterization, soil mapping, hydraulic loading, redundancy and reserve area requirements, and long-term performance standards to ensure adequate protection of surface waters, groundwater, and public health.

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 221, is amended by adding the following as a new part:

68-221-1401.

As used in this part:

(1) "Department" means the department of environment and conservation;

(2) "Treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature to restore and maintain the chemical, physical, and biological integrity of the state's waters, or any devices and systems used in the treatment, collection, and land application of wastewater, including intercepting sewers, sewage collection systems, wastewater facilities, wastewater transmission lines, pumping, power, and other equipment, and their appurtenances, extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply, such as standby treatment units and clear well facilities; or other such works; and

(3) "Utility" means:

(A) The wastewater system of a county, metropolitan government, or municipality;

(B) A treatment authority created pursuant to:

(i) The Water and Wastewater Treatment Authority Act, compiled in part 6 of this chapter;

(ii) The Regional Water and Wastewater Treatment Authority Act, compiled in part 13 of this chapter; or

(iii) Another public or private act of the general assembly that operates a wastewater facility; or

(C) The wastewater service system of an energy or utility authority created pursuant to the Municipal Energy Authority Act, compiled in title 7, chapter 36, or a private act of the general assembly.

68-221-1402.

(a) If the developer of a subdivision or other neighborhood proposes to construct a treatment works for use by the subdivision or neighborhood, and the design and construction of the treatment works has been approved by the department, then the developer shall submit an application to the utility serving the area in which the system is located requesting that the utility:

(1) Agree to assume operational responsibility and ownership of the treatment works in writing within thirty (30) days of the receipt of the application by the utility and approve the engineered plans for the treatment works within ninety (90) days; or

(2)

(A) Refuse to own and operate the treatment works. If the utility refuses to own and operate the treatment works pursuant to this

subdivision (a)(2), then the utility shall provide written notice of the refusal to:

(i) The developer within thirty (30) days of receipt of the application. A utility's failure to respond to the application within thirty (30) days of receipt is a refusal to own or operate the treatment works; and

(ii) The Tennessee board of utility regulation, created by § 7-82-701, within seven (7) business days of the refusal. Upon providing notice pursuant to this subdivision (a)(2)(A)(ii), the utility is released from any future operational responsibility and ownership rights for the treatment works, unless the utility subsequently chooses to assume operational responsibilities and ownership rights pursuant to subsection (c).

(B) A utility that refuses to own and operate a treatment works pursuant to this subdivision (a)(2) shall not restrict the availability of services provided by the utility based on the utility's refusal to own or operate the treatment works.

(b) If a developer receives written notice of the utility's refusal to own and operate the treatment works under subdivision (a)(2)(A)(i), or if the utility fails to respond to the application within thirty (30) days of receipt, then the developer may contract with another utility for ownership and operation of the treatment works.

(c) Notwithstanding subsection (b), or any contract entered into between the developer and another utility, the utility to which the initial application for approval was submitted may negotiate with the current owner and operator of the treatment works to allow the utility to assume operational responsibilities and ownership rights to the treatment works for up to two (2) years after the date that the utility received the application under subsection (a).

68-221-1403.

Upon at least fifty percent (50%) of the units within a development being issued a certificate of use and occupancy:

(1) The local government for the jurisdiction where the treatment works is or will be installed shall require the developer to obtain and file a reasonable performance bond for the first two (2) years that the treatment works is in operation, in an amount to be determined by such local government when the developer submits an application under § 68-221-1402(a). The amount of the bond required under this subdivision (1) must be one hundred percent (100%) of the total replacement cost; and

(2) The local government for the jurisdiction where the treatment works is installed shall require the operator of the treatment works to obtain and file a reasonable performance bond for the third through tenth years that the treatment works is in operation. The amount of the bond required under this subdivision (2) must be fifty percent (50%) of the total replacement cost.

68-221-1404.

(a) All treatment works constructed under this part must:

(1) Comply with applicable federal and state laws, rules, and regulations; and

(2) Be systems approved by the department and installed in accordance with approved design and construction plans.

(b) Prior to the transfer of ownership or operation of a treatment works, a utility and developers must provide the department with documentation of regulatory compliance and operational readiness, as specified by the department.

(c) In addition to the requirements of subsections (a) and (b), prior to the transfer of ownership or operation of a treatment works, a utility must, as determined by the department:

(1) Comply with all state and federal regulatory licenses and certificates in order to perform the function of the utility;

(2) Be current on all required filings, fees, and bonds related to the treatment works; and

(3) Demonstrate compliance with environmental and operational standards related to the function of the utility.

(d) A developer shall demonstrate that the treatment works have the ability to meet or exceed the greater of the following at the time of permit approval:

(1) The department's published minimum treatment limit standards; or

(2) The actual treatment limits being delivered by a similarly situated system in the same operating utility.

68-221-1405.

This part does not apply in counties having a population of not less than three hundred sixty-six thousand two hundred (366,200) nor more than three hundred sixty-six thousand three hundred (366,300), according to the 2020 federal census or any subsequent federal census.

SECTION 3. Tennessee Code Annotated, Section 69-3-108, is amended by adding the following as a new, appropriately designated subsection:

(1) The commissioner shall not issue a new permit, or modify an existing permit, to expand capacity or scope of decentralized wastewater systems using land application, if the commissioner determines the applicant is not substantially in compliance with an order issued under § 69-3-109, § 69-3-115, or § 69-3-116.

(2) The commissioner may determine an applicant is not in compliance with an order, for purposes of subdivision ( )(1), if:

(A) An order has been issued, but is not yet final, including by reason of appeal;

(B) A deadline for corrective action in a final order passed without documented completion;

(C) Civil penalties or damages assessed in a final order have become due and have not been paid; or

(D) The applicant has not completed requirements of a final order other than those described in subdivisions ( )(2)(A) and (B).

SECTION 4. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 5. This act takes effect July 1, 2026, the public welfare requiring it, and applies to conduct or construction occurring on or after that date.

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PASSED: April 8, 2026

CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 27th day of April 2026

BILL LEE, GOVERNOR