

## CHAPTER 206

## ( HB 40 )

AN ACT relating to water and wastewater systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Board of Certification of Water and Wastewater System Operators is hereby established. The board shall recommend qualified applicants to the cabinet for certification and perform other acts as may be necessary to carry out the purposes of this section. Members of the board shall be appointed by the Governor. The board shall consist of eight (8) members who shall have professional backgrounds as follows:*
- (a) *One (1) employee of a municipality who holds the position of either city manager, city engineer, director of public works, or the equivalent thereof;*
  - (b) *One (1) member who is a faculty member of a college, university, or professional school whose major field is related to water treatment, water distribution, or wastewater treatment;*
  - (c) *One (1) ex officio member representing the cabinet;*
  - (d) *One (1) member who is an operator of an industrial wastewater system;*
  - (e) *Two (2) members currently employed as operators holding valid water treatment or water distribution certificates; and*
  - (f) *Two (2) members currently employed as operators holding valid wastewater certificates.*
- (2) *After the expiration of the initial appointments, board members shall serve four (4) year terms. The ex officio member representing the cabinet shall serve as executive secretary and treasurer and shall be responsible for maintaining records. The members of the board shall serve without compensation, but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties. At least five (5) members of the board shall constitute a quorum.*
- (3) *On or before December 31, 2024, the board, working in conjunction with the Drinking Water Advisory Workgroup and the Clean Water Advisory Workgroup, shall submit to the cabinet recommendations for the establishment of the following voluntary certification programs for supervisors or certified operators of water treatment plants, water distribution systems, public or private sewage systems, or any portions thereof:*
- (a) *A voluntary certification program for supervisors of certified operators, which shall be available to any current supervisor or any certified operator interested in taking on a supervisory role at his or her system or plant. Supervisor certifications recommended under this subsection shall be classified by the size, type, and physical characteristics of the systems they supervise, in the same manner as operator certifications;*
  - (b) *A voluntary shared services certification program for supervisors or certified operators working in, or interested in working in, regionalized systems or plants that serve multiple communities. The voluntary shared services certifications recommended under this subsection shall be classified by the size, type, and physical characteristics of the systems they supervise, in the same manner as operator certifications; and*
  - (c) *A program or strategy for recruiting applicants to work in the operation of systems or plants who are not currently participating in any apprenticeships or certification programs administered by the cabinet.*

➔Section 2. KRS 223.160 is amended to read as follows:

- (1) It is the intent of KRS 223.160 to 223.220, ~~and~~ 223.991, *and Section 1 of this Act* that every operator in responsible charge of a water treatment plant or water distribution system be required to hold a valid and effective certificate of competency issued by the Energy and Environment Cabinet in a class equal to or higher

than the class of the particular treatment plant or distribution system where he is currently employed in order to protect the public health. Operators other than those in responsible charge of such facilities shall also be eligible to apply for certification.

- (2) An operator of a water treatment facility for a school and for a semipublic water supply shall be entitled to a limited certificate of competency for his particular facility provided he has demonstrated that he has the knowledge and experience required to operate properly the particular water treatment facility for which he is responsible. A limited certificate of competency so issued is not transferable to any other water treatment facility, nor is the period of operation under such a limited certificate eligible for consideration toward the experience requirements for a certificate of competency as provided in subsection (1) of this section.

→Section 3. KRS 223.170 is amended to read as follows:

The Energy and Environment Cabinet shall certify persons as to their qualifications to supervise successfully the operation of water treatment plants or water distribution systems after considering the recommendations of *the Kentucky Board of Certification of Water and Wastewater System Operators established in Section 1 of this Act* ~~a board of certification which shall be appointed by the secretary of the Energy and Environment Cabinet or his designee. The board shall consist of the following: two (2) members who are currently employed as waterworks operators holding valid certificates; one (1) member employed by a municipality who holds the position of either city manager, city engineer, director of public works, or the equivalent thereof; one (1) member who is a faculty member of a college, university, or professional school whose major field is related to water supply; and one (1) ex officio member representing the Energy and Environment Cabinet. Board members shall serve for a four (4) year term or until their successors are appointed and qualify. The Energy and Environment Cabinet representative shall serve as executive secretary and treasurer of the board and be responsible for maintaining records. The members of the board shall serve without compensation, but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties.~~

→Section 4. KRS 223.200 is amended to read as follows:

The secretary of the Energy and Environment Cabinet, with the advice of the board of certification *established under Section 1 of this Act*, shall adopt rules and regulations as are reasonably necessary to carry out the intent of KRS 223.160 to 223.220, ~~and 223.991,~~ *and Section 1 of this Act*. The rules and regulations may include, but are not limited to, provisions establishing standards for classification of water treatment plants and water distribution systems, provisions establishing qualifications of applicants and procedures for examination of candidates, membership, and duties of the board of certification, provisions relating to the renewal, cancellation or revocation of certificates, including the specifications of the grounds therefor, and such other provisions as are necessary for the administration of KRS 223.160 to 223.220, ~~and 223.991,~~ *and Section 1 of this Act*.

→Section 5. KRS 223.210 is amended to read as follows:

It shall be unlawful for any person, firm, or corporation (municipal or private) to operate a water treatment plant or water distribution system unless the competency of the operator who is in direct responsible charge is duly certified to by the Energy and Environment Cabinet under the provisions of KRS 223.160 to 223.220, ~~and 223.991,~~ *and Section 1 of this Act*. It shall be unlawful for any person to perform the duties of an operator, in direct responsible charge, without being duly certified under the provisions of KRS 223.160 to 223.220, ~~and 223.991,~~ *and Section 1 of this Act*. The Energy and Environment Cabinet may, however, issue provisional certificates for emergency situations.

→Section 6. KRS 224.73-110 is amended to read as follows:

- (1) *The Kentucky Board of Certification of Water and Wastewater System Operators established in Section 1 of this Act*~~The Kentucky Board of Certification of Wastewater System Operators is established. The board~~ shall recommend qualified applicants to the cabinet for certification and perform other acts as may be necessary to carry out the purposes of this section. ~~Members of the board shall be appointed by the Governor. The board shall consist of eight (8) members who may have professional backgrounds as follows: one (1) employee of a municipality who holds the position of either city manager, city engineer, director of public works, or the equivalent thereof; one (1) member who is a faculty member of a college, university, or professional school whose major field is related to wastewater treatment; one (1) nonvoting ex officio member representing the cabinet; and five (5) members currently employed as operators holding valid certificates where one (1) of these five (5) shall be an operator of an industrial wastewater system. Board members shall serve for a four (4) year term, except for the first board to which two (2) of the operators will be appointed for four (4) years and three (3) for two (2) years. The first college faculty member will be appointed for two (2) years and the remaining board members will be appointed for four (4) years. The cabinet's representative shall serve as executive~~

~~secretary and treasurer and be responsible for maintaining records. The members of the board shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties. At least four (4) existing members of the board shall constitute a quorum.]~~

- (2) No person shall have primary responsibility for the operation of any sewage system or portion thereof whether publicly or privately owned unless:
  - (a) The person has passed an examination prescribed by the Energy and Environment Cabinet and board which shall determine the person's skill and competency for the operation and has been issued a certificate to that effect by the cabinet; or
  - (b) The person is operating a sewage system located at the residence where the person lives and the sewage system serves only one (1) residence.
- (3) No person shall authorize or allow any person who does not hold a certificate issued pursuant to subsection (2) of this section to have primary responsibility for the operation of any sewage system or portion thereof.
- (4) The cabinet, with the advice of the board of certification, may classify all sewage systems and portions thereof in the manner provided by the rules and regulations of the cabinet with regard to size, type, physical conditions affecting such systems or portions thereof, and the skill, knowledge and experience required for the operation of the system or portion thereof and restrict the application of any certificate issued pursuant to subsection (2) of this section to the operation of a sewage system or portion thereof of a specific class.
- (5) Any person who has primary responsibility for the operation of a sewage system for a school shall be entitled to a limited certificate of competency for his particular system, provided he has demonstrated that he has the knowledge and experience required to operate properly the particular sewage system for which he is responsible. A limited certificate of competency so issued is not transferable to any other sewage system, nor is the period of operation under such a limited certificate eligible for consideration toward the experience requirements for a certificate of competency as provided in subsection (2) of this section.
- (6) All applicants for the examination and certification for the operation of any sewage system or portion thereof, whether publicly or privately owned, shall pay a reasonable schedule of fees and charges fixed by regulation. The fees required under this section shall be payable to the cabinet.
- (7) Operators shall have accumulated a minimum number of hours of appropriate board approved training set by regulation for certificate renewal. Such training shall include, but may not be limited to, correspondence courses, short courses, trade association meetings, and on-the-job training. Training hours accumulated in any given year in excess of the minimum requirement necessary for renewal may be carried forward for a period not to exceed two (2) years.
- (8) The board may waive any or all of the requirements of subsection (7) of this section for all or portions of an established class of operators.

➔Section 7. All initial appointments to the Kentucky Board of Certification of Water and Wastewater System Operators shall be made on or before August 1, 2024. Notwithstanding subsection (2) of Section 1 of this Act, the initial terms of the board shall be staggered as follows:

- (1) One of the wastewater operators and one of the water system operators shall be appointed for two years;
- (2) One of the wastewater operators and one of the water system operators shall be appointed for three years;
- (3) The college faculty member shall be appointed for two years; and
- (4) The remaining board members shall be appointed for four years.

Following the initial appointments, all appointments shall be for four-year terms

➔Section 8. On or before August 1, 2024, copies of any records, files, or documents associated with the functions of the Kentucky Board of Certification of Wastewater System Operators and the Kentucky Board of Certification of Water Treatment and Distribution System Operators shall be transferred to the Kentucky Board of Certification of Water and Wastewater System Operators. Any evaluations, recommendations, or other actions previously undertaken by the Kentucky Board of Certification of Wastewater System Operators and the Kentucky Board of Certification of Water Treatment and Distribution System Operators shall remain in effect until rescinded, modified, or superseded by action of the Kentucky Board of Certification of Water and Wastewater System Operators.

**Signed by Governor April 18, 2024.**