

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 2872*

Short Title: Wastewater Sys. Approvals/Small Counties. (Public)

Sponsors: Representative West.

Referred to: Rules, Calendar, and Operations of the House.

May 30, 2006

A BILL TO BE ENTITLED

1
2 AN ACT TO ESTABLISH A PILOT PROGRAM TO STREAMLINE THE PROCESS
3 FOR THE ISSUANCE OF AN IMPROVEMENT PERMIT OR AN
4 AUTHORIZATION TO CONSTRUCT FOR AN ON-SITE SUBSURFACE
5 WASTEWATER SYSTEM IN CERTAIN COUNTIES BY AUTHORIZING
6 LOCAL HEALTH DEPARTMENTS, AUTHORIZED AGENTS OF THE
7 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, AND
8 LICENSED SOIL SCIENTISTS TO COMPLETE SOIL AND SITE
9 EVALUATIONS IN THE PARTICIPATING COUNTIES.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** The definitions in G.S. 130A-334 apply throughout this act.
12 For the purposes of this act, "Commission" means the Commission for Health Services.
13 "Licensed soil scientist" has the same meaning as in G.S. 89F-3(3).

14 **SECTION 2.(a)** The Department of Environment and Natural Resources
15 shall develop and implement a pilot program to begin no later than 1 October 2006 and
16 to terminate 1 July 2011 regarding the process for the issuance of an improvement
17 permit for an on-site wastewater system pursuant to Article 11 of Chapter 130A of the
18 General Statutes. A county that meets all of the following criteria may participate in the
19 pilot program:

- 20 (1) The population of the county must not exceed 25,000 according to the
21 most recent federal decennial census.
22 (2) The county must have more than 900 applications for improvement
23 permits or authorizations to construct that are currently pending before
24 the local health department.
25 (3) The board of county commissioners and the local board of health for
26 the county must both approve a resolution requesting to participate in
27 the pilot program.

28 **SECTION 2.(b)** Notwithstanding G.S. 130A-336, the Department of
29 Environment and Natural Resources shall authorize licensed soil scientists and the local

1 health department to evaluate any proposed site for a residence, place of business, or
2 place of public assembly in an area not served by an approved wastewater system in
3 accordance with rules adopted pursuant to Article 11 of Chapter 130A of the General
4 Statutes. The local health department shall issue an improvement permit after one of the
5 following has occurred:

- 6 (1) A soil and site evaluation has been completed by an authorized agent
7 of the Department or local health department.
- 8 (2) The local health department receives a completed soil and site
9 evaluation for a wastewater system designed to treat 3,000 gallons per
10 day or less of sewage that has been signed and sealed by a licensed soil
11 scientist.

12 **SECTION 2.(c)** A licensed soil scientist who submits a completed soil and
13 site evaluation pursuant to this section shall have in force errors and omissions coverage
14 or other appropriate liability insurance that has policy limits of not less than one million
15 dollars (\$1,000,000) per claim and that shall remain in force for at least six years after
16 the date on which the improvement permit is approved or deemed permitted. The
17 licensed soil scientist shall provide the local health department with evidence
18 satisfactory to the local health department that the coverage required by this section is in
19 force. The local health department shall maintain a register of all licensed soil scientists
20 who work in the county that submit completed soil and site evaluations under this
21 section.

22 **SECTION 2.(d)** An improvement permit issued pursuant this section shall
23 include:

- 24 (1) For permits that are valid for five years, a site plan drawn to scale with
25 setbacks labeled. No permits shall be issued that are valid without
26 expiration.
- 27 (2) A description of the facility the proposed site is to serve and any
28 factors that would affect the wastewater load.
- 29 (3) The type and layout of the proposed wastewater system and its
30 location.
- 31 (4) The design wastewater flow and characteristics.
- 32 (5) Any proposed landscape, site, drainage, or soil modifications.
- 33 (6) A detailed soil profile description of at least two locations within the
34 proposed disposal area. The detailed soil profile descriptions shall
35 include soil taxonomic classifications, horizons, depth, texture,
36 structure, soil wetness conditions, restrictive horizons, matrix color,
37 and redoximorphic colors.
- 38 (7) Any other information required by the rules of the Commission.

39 **SECTION 2.(e)** An improvement permit issued pursuant to this section shall
40 not be affected by change in ownership of the site for the wastewater system provided
41 both the site for the wastewater system and the facility the system serves are unchanged
42 and remain under the ownership or control of the person owning the facility. No person
43 shall commence or assist in the construction, location, or relocation of a residence, place
44 of business, or place of public assembly in an area not served by an approved

1 wastewater system unless an improvement permit and an authorization for wastewater
2 system construction are obtained from the local health department. This requirement
3 shall not apply to a manufactured residence exhibited for sale or stored for later sale and
4 intended to be located at another site after sale.

5 **SECTION 2.(f)** The local health department shall issue an authorization for
6 wastewater system construction authorizing work to proceed and the installation or
7 repair of a wastewater system when it has determined after a field investigation that the
8 system can be installed and operated in compliance with Article 11 of Chapter 130A of
9 the General Statutes and rules adopted pursuant to the Article. This authorization for
10 wastewater system construction shall be valid for a period equal to the period of validity
11 of the improvement permit, not to exceed five years, and may be issued at the same time
12 the improvement permit is issued. No person shall commence or assist in the
13 installation, construction, or repair of a wastewater system unless an improvement
14 permit and an authorization for wastewater system construction have been obtained
15 from the local health department. No improvement permit or authorization for
16 wastewater system construction shall be required for maintenance of a wastewater
17 system. The Department and the local health department may impose conditions on the
18 issuance of an improvement permit and an authorization for wastewater system
19 construction.

20 **SECTION 2.(g)** When a local health department issues an improvement
21 permit or authorization to construct based upon work performed by a licensed soil
22 scientist pursuant to this section, the improvement permit or authorization to construct
23 shall bear a statement that reads: "The soil, site, and system evaluation and
24 documentation necessary to issue this _____ (improvement permit or authorization to
25 construct) was performed by _____ (name of licensed soil scientist), a licensed soil
26 scientist, license number _____ (license number).".

27 **SECTION 2.(h)** When a local health department denies an application for an
28 improvement permit or authorization to construct prepared by a licensed soil scientist
29 pursuant to this section, the denial shall include a written report that specifically
30 identifies the provisions of Article 11 of Chapter 130A of the General Statutes or rules
31 adopted pursuant to the Article on which the denial is based.

32 **SECTION 2.(i)** A local health department may employ or contract with a
33 licensed soil scientist for the review of an application for an improvement permit or
34 authorization to construct. A licensed soil scientist who reviews a completed application
35 for an improvement permit or authorization to construct under this subsection shall have
36 in force errors and omissions coverage or other appropriate liability insurance that has
37 policy limits of not less than one million dollars (\$1,000,000) per claim.

38 **SECTION 2.(j)** The Department shall: (i) specify uniform procedures for the
39 review of an application prepared by a licensed soil scientist; (ii) establish
40 documentation that must be included in the application; (iii) establish the necessary
41 documentation that must be included in the local health department's written permit
42 application review report; and (iv) specify the rights and obligations of each party.

43 **SECTION 2.(k)** In addition to any additional fees authorized under
44 G.S. 130A-39(g), a local board of health may impose an additional fee not to exceed

1 five hundred dollars (\$500.00) for the costs of review and consideration of applications
2 for an improvement permit or an authorization to construct that has been prepared by a
3 licensed soil scientist pursuant to this section.

4 **SECTION 2.(I)** Except as provided in this section, the provisions of Article
5 11 of Chapter 130A of the General Statutes apply to this section. This section applies
6 only to the counties eligible to participate in the pilot program.

7 **SECTION 3.** In order to determine the effectiveness of the pilot program,
8 the Department of Environment and Natural Resources shall evaluate whether: (i) the
9 program resulted in a reduction in the length of time improvement permits or
10 authorizations to construct are pending in the participating counties; (ii) the program
11 resulted in increased system failures or other adverse impacts; and (iii) the program
12 created new or increased environmental impacts. The Department shall annually report
13 its interim findings and recommendations, including any legislative proposals, to the
14 Environmental Review Commission beginning 1 October 2007. The Department shall
15 report its final findings and recommendations, including any legislative proposals, to the
16 Environmental Review Commission no later than 1 October 2011.

17 **SECTION 4.** There is appropriated from the General Fund to the
18 Department of Environment and Natural Resources the sum of five thousand dollars
19 (\$5,000) for the 2006-2007 fiscal year to implement the provisions of this act.

20 **SECTION 5.** Sections 1 and 2 of this act become effective when it becomes
21 law and expire 1 July 2011. Sections 3 and 5 of this act become effective when it
22 becomes law and expire 1 October 2011. Section 4 of this act becomes effective 1 July
23 2006.