

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2006-238
HOUSE BILL 1099**

AN ACT TO CLARIFY THAT A LOCAL GOVERNMENT, COMMISSION, AUTHORITY, OR BOARD MAY CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES TO SATISFY THE REQUIREMENTS FOR CERTIFICATION OF LOCAL PROGRAMS FOR APPROVAL OF THE CONSTRUCTION OR ALTERATION OF THE DISTRIBUTION SYSTEM OF A PROPOSED OR EXISTING PUBLIC WATER SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-317 reads as rewritten:

"§ 130A-317. Department to provide advice; submission and approval of public water system plans.

(a) The Department shall advise all persons and units of local government locating, constructing, altering or operating or intending to locate, construct, alter or operate a public water system of the most appropriate source of water supply and the best practical method of purifying water from that source having regard to the present and prospective needs and interests of other persons and units of local government which may be affected. The Department shall also advise concerning accepted engineering practices in the location, construction, alteration and operation of public water systems.

(b) All persons and units of local government constructing or altering a public water system shall give prior notice and submit plans, specifications and other information to the Department. The Commission shall adopt rules providing for the amount of prior notice required to be given and the nature and detail of the plans, specifications and other information required to be submitted. The Commission shall take into consideration the complexity of the construction or alteration which may be involved and the resources of the Department to review the plans, specifications and other information. The Department shall review the plans, specifications and other information, and notify the person, Utilities Commission and unit of local government of compliance or lack of compliance with applicable statutes and rules of the Commission.

(c) No person or unit of local government shall begin construction or alteration of a public water system or award a contract for construction or alteration ~~unless;unless~~ all of the following conditions are met:

- (1) The plans for construction or alteration have been prepared by an engineer licensed by this ~~State;~~State.
- (2) The Department has determined that the system, as constructed or altered, will be capable of compliance with the drinking water ~~rules;~~rules.
- (3) The Department has determined that the system is capable of interconnection at an appropriate time with an expanding municipal, county or regional ~~system;~~system.
- (4) The Department has determined that adequate arrangements have been made for the continued operation, service and maintenance of the public water ~~system;~~ and system.
- (5) The Department has approved the plans and specifications.

(d) Municipalities, counties, local boards or commissions, water and sewer authorities, or groups of municipalities and counties may establish and administer within their utility service areas their own approval program in lieu of State approval of water system plans required in subsection (c) of this section for construction or alteration of the distribution system of a proposed or existing public water system, subject to the prior certification of the Department. For purposes of this subsection, the service area of a municipality shall include only that area within the corporate limits of the municipality and that area outside a municipality in its extraterritorial jurisdiction where water service is already being provided to the permit applicant by the municipality or connection to the municipal water system is immediately available to the applicant; the service areas of counties and the other entities or groups shall include only those areas where water service is already being provided to the applicant by the permitting authority or connection to the permitting authority's system is immediately available. No later than the 180th day after the receipt of an approval program and statement submitted by any local government, commission, authority, or board, the Department shall certify any local program ~~that~~that meets all of the following conditions:

- (1) Provides by ordinance or local law for requirements compatible with those imposed by this Article, and the standards and rules adopted pursuant to this ~~Article;~~Article.
- (2) Provides that the Department receives notice and a copy of each application for approval and that the Department receives copies of approved ~~plans;~~plans.
- (3) Provides that plans and specifications for all construction and alterations be prepared by or under the direct supervision of an engineer licensed to practice in this ~~State;~~State.
- (4) Provides for the adequate enforcement of the program requirements by appropriate administrative and judicial ~~process;~~process.
- (5) Provides for the adequate administrative organization, engineering staff, financial and other resources necessary to effectively carry out its plan review ~~program;~~program. A local government, commission, authority, or board may either employ an engineer licensed under Chapter 89C of the General Statutes to practice as a professional engineer in the State or contract with an engineer licensed under Chapter 89C of the General Statutes to practice as a professional engineer in the State in order to provide for adequate engineering staff under this subdivision.
- (6) Provides that the system is capable of interconnection at an appropriate time with an expanding municipal, county, or regional ~~system;~~system.
- (7) Provides for the adequate arrangement for the continued operation, service, and maintenance of the public water ~~system;~~system.
- (8) Provides that an approved system, as constructed or altered, will be capable of compliance with the drinking water ~~rules;~~and rules.
- (9) Is approved by the Department as adequate to meet the requirements of this Article and any applicable rules adopted pursuant to this Article.

(e) The Department may deny, suspend, or revoke the certification of a local program upon a finding that a violation of the provisions in subsection (d) of this section has occurred. A local government administering an approval program shall be given notice that there has been a tentative decision to deny, suspend, or revoke certification and that an administrative hearing will be held in accordance with Chapter 150B of the General Statutes where the decision may be challenged. If a violation of the provisions in subsection (d) of this section presents an imminent hazard, certification may be suspended or revoked immediately. The Department shall give notice of the immediate suspension or revocation and notice that an administrative hearing will be

held in accordance with Chapter 150B of the General Statutes where the decision may be challenged.

(f) Notwithstanding any other provisions of ~~this subsection,~~ subsection (d) of this section, if the Department determines that a public water system is violating plan approval requirements of a local program and that the local government has not acted to enforce those approval requirements, the Department may, after written notice to the local government, take enforcement action in accordance with the provisions of this Article."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of July, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:12 p.m. this 13th day of August, 2006