

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 1094\***  
**Senate Agriculture/Environment/Natural Resources Committee Substitute**  
**Adopted 6/20/06**

Short Title: Wastewater System Approvals/Small Counties.

(Public)

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Sponsors:

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Referred to:

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April 4, 2005

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 August 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 pending before the local  
24 health department on the effective date of this act.  
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.

1           **SECTION 2.(b)** Notwithstanding G.S. 130A-336, the Department of  
2 Environment and Natural Resources shall authorize licensed soil scientists and the local  
3 health department to evaluate any proposed site for a residence, place of business, or  
4 place of public assembly in an area not served by an approved wastewater system. The  
5 local health department shall issue an improvement permit after one of the following  
6 has occurred:

7           (1) A soil and site evaluation has been completed by an authorized agent  
8 of the Department or local health department that finds that the site is  
9 suitable for a wastewater system.

10          (2) The local health department receives a completed soil and site  
11 evaluation for a wastewater system designed to treat 3,000 gallons per  
12 day or less of sewage that has been signed and sealed by a licensed soil  
13 scientist that finds that the site is suitable for a wastewater system.

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

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

25          (1) For permits that are valid for five years, a site plan drawn to scale with  
26 setbacks labeled. No permits shall be issued that are valid without  
27 expiration.

28          (2) A description of the facility the proposed site is to serve and any  
29 factors that would affect the wastewater load.

30          (3) The type and layout of the proposed wastewater system and its  
31 location.

32          (4) The design wastewater flow and characteristics.

33          (5) Any proposed landscape, site, drainage, or soil modifications.

34          (6) A detailed soil profile description of at least two locations within the  
35 proposed disposal area. The detailed soil profile descriptions shall  
36 include soil taxonomic classifications, horizons, depth, texture,  
37 structure, soil wetness conditions, restrictive horizons, matrix color,  
38 and redoximorphic colors.

39          (7) Any other information required by the rules of the Commission.

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

1 of business, or place of public assembly in an area not served by an approved  
2 wastewater system unless an improvement permit and an authorization for wastewater  
3 system construction are obtained from the local health department. This requirement  
4 shall not apply to a manufactured residence exhibited for sale or stored for later sale and  
5 intended to be located at another site after sale.

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

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

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

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

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

1           **SECTION 2.(k)** In addition to any fees authorized under G.S. 130A-39(g), a  
2 local board of health may impose an additional fee not to exceed two hundred dollars  
3 (\$200.00) for the costs of review and consideration of applications for an improvement  
4 permit or an authorization to construct that has been prepared by a licensed soil scientist  
5 pursuant to this section.

6           **SECTION 2.(l)** Except as provided in this section, the provisions of Article  
7 11 of Chapter 130A of the General Statutes and rules adopted pursuant to that Article  
8 apply to this section. This section applies only to the counties eligible to participate in  
9 the pilot program.

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

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