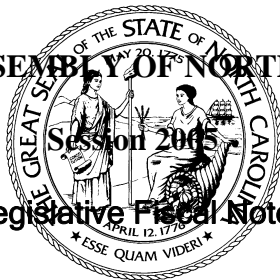


GENERAL ASSEMBLY OF NORTH CAROLINA



BILL NUMBER: House Bill 688 (Fourth Edition)

SHORT TITLE: Certify On-Site Wastewater Contractors.

SPONSOR(S): Representatives Culp and Gibson

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>
REVENUES:					
General Fund					
DENR	No Fiscal Impact				
Dept. of Correction	Exact amount cannot be determined; no substantial impact anticipated.				
Judicial Branch	Exact amount cannot be determined; no substantial impact anticipated.				
On-Site Wastewater Certification Fund	\$0	\$285,000	\$185,250	\$186,050	\$187,350
EXPENDITURES:					
On-Site Wastewater Certification Fund	See Assumptions and Methodology				
POSITIONS					
(cumulative):	See Assumptions and Methodology				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources (DENR); Department of Correction; Judicial Branch					
EFFECTIVE DATE: Effective when it becomes law except provisions requiring persons to be licensed, continuing education program approval and requirements, and remedies for violation take effect on January 1, 2008.					

BILL SUMMARY: Adds new Article 5 of G.S. Chapter 90A to require licensing of on-site wastewater contractors and inspectors. Creates a nine-member NC On-Site Wastewater Contractors and Inspectors Certification Board, appointed by the Governor and General Assembly. Specifies the duties of the Board including determining the qualifications for certification, issuing, suspending and revoking licenses, and establishing and enforcing rules of professional conduct. Sets out maximum fees that Board may charge. Specifies requirements for applicant for certification and for renewals. Creates the On-Site Wastewater Certification Fund, a

non-reverting account with the Department of Environment and Natural Resources (DENR). Sets out procedure for Board to investigate complaints of fraud, deceit, negligence, incompetence, or misconduct of any licensed contractor or inspector. Creates the following new Class 2 misdemeanor offenses: 1) engaging in or offering to engage in the construction, installation, repair, or inspection of an on-site wastewater system without the appropriate certificate for the specific grade of on-site wastewater system; 2) giving false or forged evidence of any kind in obtaining a certificate; and, 3) falsely impersonating a certified contractor or inspector. Effective when it becomes law except provisions requiring persons to be licensed, continuing education program approval and requirements, and remedies for violation take effect on January 1, 2008.

ASSUMPTIONS AND METHODOLOGY:

The On-Site Wastewater Contractors and Inspectors Certification Board created by this act will be entirely funded by fees and contributions as set forth in G.S. 90A-75. All fees and contributions will be deposited into the On-Site Wastewater Certification Fund to be established in DENR. The NC Septic Tank Association estimates the number of installers ranges from 1,500 to 2,000, of which 300 to 400 will also request certification as on-site wastewater system inspectors. In order to meet the January 1, 2008 certification deadline, this fiscal note assumes that installers seeking certification will apply in FY07-08. After this initial certification period, the Septic Tank Association believes that the number of new applications each year will be minimal. Consequently, this fiscal note assumes a 5% annual growth rate in new applications and a 95% renewal rate in subsequent years. Table 1 below summarizes the revenue generated if the Board adopts the maximum fees allowed. A revenue estimate cannot be given at this time on the number of applications for step grades or revoked/suspended certificates.

Table 1: Estimated Fee Revenue

	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	
<u>Number of Applications</u>						
New Applications						
-Basic	0	1,500	75	79	83	
-System Inspector	0	300	15	16	17	
Renewals (Basic & Inspector)	0	0	1,710	1,710	1,715	
<u>Fee Revenues:</u>						
New Applications						
-Basic	\$150	\$0	\$225,000	\$11,250	\$11,850	\$12,450
-System Inspector	\$200	\$0	\$60,000	\$3,000	\$3,200	\$3,400
Renewals	\$100	\$0	\$0	\$171,000	\$171,000	\$171,500
Total	\$0	\$285,000	\$185,250	\$186,050	\$187,350	

At this time a precise estimate of the cost to operate this program is not available. DENR staff, however, estimates the Board’s operating costs will average \$180,000 a year for a staff of three (includes salaries and fringe benefits, travel for Board and staff, rental, postage, supplies, contractual services, etc.). This estimate is based on the staff DENR employs for its Water Certification Board. Additional start-up costs in the first year are estimated to be \$16,000 for furniture, computers, printers, and software.

Department of Correction

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.*

Since this bill would create new offenses, the Sentencing Commission has no historical data from which to estimate the impact on local jail populations.

- In FY 2004-05, 16 percent of Class 2 misdemeanors resulted in active sentences with an average term imposed of 22.9 days.
- Offenders with active sentences of less than thirty days are housed in county jails at county expense.
- The remaining 84 percent of Class 2 misdemeanants received non-active sentences (intermediate or community punishment). For those sentenced to supervised probation, the Division of Community Corrections (DCC) would incur costs of \$1.93 per offender per day; those supervised by DCC are also required to pay a \$30 per month supervision fee. Offenders sentenced to community service would cost \$0.67 per offender per day, and must pay a one-time fee of \$200.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Because the bill creates new offenses, no data is available to estimate the number of additional charges that might result from this bill. Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class 2 misdemeanor via trial is \$2,380. This cost includes an estimated \$1,431 in costs of time in court and attorney costs and an additional \$949 in indigent defense. However, based on prior-year data, the majority of any new Class 2 misdemeanor charges that are not dismissed are likely to be settled by guilty plea at an estimated cost of \$211 per plea.

The AOC also notes that new G.S. 90A-81(c), which would authorize the Board to request the Attorney General to seek an injunction to restrain any violators of the new article, could increase superior court workload. However, no data is available from which to estimate the frequency with which the Attorney General would seek an injunction under the bill; thus the specific cost cannot be determined.

SOURCES OF DATA: Department of Environment and Natural Resources; Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Kristin Walker and Bryce Ball

APPROVED BY: Lynn Muchmore, Director
Fiscal Research Division

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