

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 1099\***  
**Committee Substitute Favorable 5/26/05**  
**Senate Agriculture/Environment/Natural Resources Committee Substitute**  
**Adopted 7/7/06**

Short Title: P.E. Services for Public Water Systems. (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 CLARIFY THAT A LOCAL GOVERNMENT, COMMISSION,  
3 AUTHORITY, OR BOARD MAY CONTRACT FOR PROFESSIONAL  
4 ENGINEERING SERVICES TO SATISFY THE REQUIREMENTS FOR  
5 CERTIFICATION OF LOCAL PROGRAMS FOR APPROVAL OF THE  
6 CONSTRUCTION OR ALTERATION OF THE DISTRIBUTION SYSTEM OF A  
7 PROPOSED OR EXISTING PUBLIC WATER SYSTEM.

8 The General Assembly of North Carolina enacts:

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

10 **"§ 130A-317. Department to provide advice; submission and approval of public**  
11 **water system plans.**

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

20 (b) All persons and units of local government constructing or altering a public  
21 water system shall give prior notice and submit plans, specifications and other  
22 information to the Department. The Commission shall adopt rules providing for the  
23 amount of prior notice required to be given and the nature and detail of the plans,  
24 specifications and other information required to be submitted. The Commission shall  
25 take into consideration the complexity of the construction or alteration which may be  
26 involved and the resources of the Department to review the plans, specifications and  
27 other information. The Department shall review the plans, specifications and other

1 information, and notify the person, Utilities Commission and unit of local government  
2 of compliance or lack of compliance with applicable statutes and rules of the  
3 Commission.

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

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

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

- 36 (1) Provides by ordinance or local law for requirements compatible with  
37 those imposed by this Article, and the standards and rules adopted  
38 pursuant to this ~~Article~~Article.
- 39 (2) Provides that the Department receives notice and a copy of each  
40 application for approval and that the Department receives copies of  
41 approved ~~plans~~plans.
- 42 (3) Provides that plans and specifications for all construction and  
43 alterations be prepared by or under the direct supervision of an  
44 engineer licensed to practice in this ~~State~~State.

- 1 (4) Provides for the adequate enforcement of the program requirements by  
2 appropriate administrative and judicial ~~process;~~process.
- 3 (5) Provides for the adequate administrative organization, engineering  
4 staff, financial and other resources necessary to effectively carry out its  
5 plan review ~~program;~~program. A local government, commission,  
6 authority, or board may either employ an engineer licensed under  
7 Chapter 89C of the General Statutes to practice as a professional  
8 engineer in the State or contract with an engineer licensed under  
9 Chapter 89C of the General Statutes to practice as a professional  
10 engineer in the State in order to provide for adequate engineering staff  
11 under this subdivision.
- 12 (6) Provides that the system is capable of interconnection at an appropriate  
13 time with an expanding municipal, county, or regional ~~system;~~system.
- 14 (7) Provides for the adequate arrangement for the continued operation,  
15 service, and maintenance of the public water ~~system;~~system.
- 16 (8) Provides that an approved system, as constructed or altered, will be  
17 capable of compliance with the drinking water ~~rules;~~and rules.
- 18 (9) Is approved by the Department as adequate to meet the requirements of  
19 this Article and any applicable rules adopted pursuant to this Article.

20 (e) The Department may deny, suspend, or revoke the certification of a local  
21 program upon a finding that a violation of the provisions in subsection (d) of this  
22 section has occurred. A local government administering an approval program shall be  
23 given notice that there has been a tentative decision to deny, suspend, or revoke  
24 certification and that an administrative hearing will be held in accordance with Chapter  
25 150B of the General Statutes where the decision may be challenged. If a violation of the  
26 provisions in subsection (d) of this section presents an imminent hazard, certification  
27 may be suspended or revoked immediately. The Department shall give notice of the  
28 immediate suspension or revocation and notice that an administrative hearing will be  
29 held in accordance with Chapter 150B of the General Statutes where the decision may  
30 be challenged.

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

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