

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: House Bill 685 (First Edition)

SHORT TITLE: Amend On-Site Wastewater Contractor Laws.

SPONSOR(S): Representative E. Warren

FISCAL IMPACT					
	Yes (x)	No ()	No Estimate Available ()		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
REVENUES	**See Assumptions and Methodology**				
EXPENDITURES	**See Assumptions and Methodology**				
POSITIONS (cumulative):	none				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources					
EFFECTIVE DATE: When the bill becomes law					

BILL SUMMARY:

H.B. 685 amends GS 90A-1 to (1) define inspection as an examination of an on-site wastewater system permitted under the provisions of Article 11 of GS Chapter 130A, when requested by a lending institution, realtor, prospective homebuyer, or other impacted party as a condition of sale, refinancing, or transfer of title and which meets the minimum requirements established by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board (Board) and (2) remove from the definition of inspector that the inspection is of an on-site wastewater system at any time after the local health department has issued an operation permit pursuant to GS 130A-337. The bill also amends GS 90A-72 to create an exemption from Article 5 of this chapter for a person licensed under Article 1 of GS Chapter 87 who provides corrective services and labor for the on-site wastewater system ancillary to the constructed building.

H.B. 685 also modifies the membership of the Board to (1) require that a member be appointed by the Governor who is engaged in the construction, installation, repair, or inspection of on-site wastewater systems; (2) require that the member who is a certified water treatment facility operator pursuant to Article 2 of GS Chapter 90A be appointed upon recommendation by the Speaker of the House of Representatives (was, appointed by the Governor); and (3) remove the

requirement that a member appointed by the Speaker be employed by the NC Cooperative Extension Service and be knowledgeable in the area of on-site wastewater systems.

The bill amends GS 90A-76 to provide that the On-Site Wastewater Certification Fund (Fund) be established and controlled by the Board. The Fund is currently held by the Department of Environment and Natural Resources (DENR). The bill further requires that all fees held by DENR be transferred to the Board.

ASSUMPTIONS AND METHODOLOGY:

This bill makes a number of technical changes to the on-site wastewater contractors and inspectors statutes. Most of these changes are clarifying and should not have a fiscal impact. Additionally, changes to the Board membership should not have a fiscal impact.

The changes to the On-Site Wastewater Certification Fund will have a fiscal impact. Currently this fund is held by DENR and administrative expenses for the Board are paid out of the Fund. Receipts into the fund are generated by fees paid by contractors and inspectors. Fees are established in rules adopted by the Board, and maximum annual fees are laid out in GS 90A-75. Receipts into the fund in FY 2008-09 totaled \$303,605 while expenditures were \$287,262, including a transfer performed under the Governor's emergency powers of \$164,895 to cover the 2008-09 budget shortfall. The fund has a cash balance of \$622,038 as of July 31, 2009.

The bill would transfer the cash balance to the Board and would also direct all future revenues to the Board. It is not clear if the Board would be considered a State entity and if so, where the Fund would be held if not held within DENR. If the Board is considered an entity outside of the State, then the State would incur a one-time loss of \$622,038 and losses of annual revenues of approximately \$300,000. If the Board is considered a State entity, then the State would not experience those losses as funds would still be held within the State's control. Under this scenario, a new budget code would need to be established in a different Department and/or the Board would need to be assigned its own budget code.

It should be noted that other Boards established under GS 90A are similar to the On-Site Wastewater Contractors and Inspectors Certification Board; all of these Boards' funds are held by DENR and administered by DENR.

SOURCES OF DATA: Department of Environment and Natural Resources Certified Budget documents

TECHNICAL CONSIDERATIONS: none

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