GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2013

Н

HOUSE BILL 1081 PROPOSED COMMITTEE SUBSTITUTE H1081-PCS30769-TA-36

Short Title: Reform Agency Review of Engineering Work.

(Public)

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Sponsors:

Referred to:

		May 19, 2014				
1	A BILL TO BE ENTITLED					
2	AN ACT TO REFORM THE PROCESS BY WHICH REGULATORY AUTHORITIES					
3	REVIEW SUBMITTALS OF APPLICATIONS FOR PERMITS, LICENSES, AND					
4	APPROVALS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW					
5	COMMISSION.					
6	The General Assembly of North Carolina enacts:					
7	SECTION 1. Definitions. – The following definitions apply in this act:					
8	(1)	Practice of Engineering. – As defined in G.S. 89C-3.				
9	(2)	Professional Engineer. – As defined in G.S. 89C-3.				
10	(3)	Regulatory Authority The Department of Environment and Natural				
11		Resources, the Department of Health and Human Services, and any unit of				
12		local government operating a program (i) that grants permits, licenses, or				
13		approvals to the public and (ii) that is either approved by or delegated from				
14		the Department of Environment and Natural Resources or the Department of				
15		Health and Human Services.				
16	(4)	Regulatory Submittal. – An application or other submittal to a Regulatory				
17		Authority for a permit, license, or approval. In the case of a unit of local				
18 19		government, Regulatory Submittal shall mean an application or submittal				
19 20		submitted to a program approved by or delegated from the Department of Environment and Natural Resources or the Department of Health and				
20 21		Human Services.				
22	(5)	Submitting Party. – The person submitting the Regulatory Submittal to the				
23	(5)	Regulatory Authority.				
23 24	(6)	Working Job Title. – The job title a Regulatory Authority uses to publicly				
25	(0)	identify an employee with job duties that include the review of Regulatory				
26		Submittals. Working Job Title does not mean job titles that are used by the				
27		human resources department of a Regulatory Authority to classify jobs				
28		containing technical aspects related to the Practice of Engineering.				
29	SEC	FION 2. Standardize Certain Regulatory Review Procedures. – No later than				
30		14, each Regulatory Authority shall review and, where necessary, revise its				
31		eview of Regulatory Submittals to accomplish the following:				
32	(1)	Standardize the provision of review and comments on Regulatory Submittals				
33		so that revisions or requests for additional information that are required by				
34		the Regulatory Authority in order to proceed with the permit, license, or				
35		approval are clearly delineated from revisions or requests for additional				
36		information that constitute suggestions or recommendations by the				



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Regulatory Authority. For purposes of this subdivision, "suggestions or recommendations by the Regulatory Authority" means comments made by			
the reviewer of the Regulatory Submittal to the Submitting Party that make a suggestion or recommendation for consideration by the Submitting Party but			
that are not required by the Regulatory Authority in order to proceed with			
the permit, license, or approval.			
(2) With respect to revisions or requests for additional information that are			
required by the Regulatory Authority in order to proceed with the permit,			
license, or approval, the Regulatory Authority shall identify the statutory or			
regulatory authority for the requirement.			
SECTION 3.(a) Informal Review. – No later than December 1, 2014, each			
Regulatory Authority shall create a process for each regulatory program administered by the Regulatory Authority for an informal internal review at the request of the Submitting Party in			
each of the following circumstances:			
(1) The inclusion in a Regulatory Submittal of a design or practice sealed by a			
Professional Engineer but not included in the Regulatory Authority's existing			
guidance, manuals, or standard operating procedures. This review should			
first be conducted by the reviewing employee's supervisor or, in the case of a			
Regulatory Authority that is a unit of local government, either the reviewing			
employee's supervisor or the delegating or approving State agency. If this			
initial review was not conducted by a Professional Engineer, then the			
Submitting Party may request review by (i) a Professional Engineer on the			
staff of the Regulatory Authority or (ii) the delegating or approving State			
agency in the case of a Regulatory Authority that is a unit of local			
government. If the Regulatory Authority or delegating or approving State			
agency does not employ a Professional Engineer qualified and competent to			
perform the review, it may provide for review by a consulting Professional			
Engineer selected from a list developed and maintained by the Regulatory			
Authority. The Regulatory Authority may charge the Submitting Party for the costs of the review by the consulting Professional Engineer. Nothing in			
this subdivision is intended to limit the authority of the Regulatory Authority			
to make a final decision with regard to a Regulatory Submittal following the			
reviews described in this subdivision.			
(2) A disagreement between the reviewer of the Regulatory Submittal and the			
Submitting Party regarding whether the statutory or regulatory authority			
identified by the Regulatory Authority for revisions or requests for			
additional information designated as "required" under the procedures set			
forth in Section 2 of this act justifies a required change.			
SECTION 3.(b) Scope. – Nothing in this section shall limit or abrogate any rights			
available under Chapter 150B of the General Statutes to any Submitting Party.			
SECTION 3.(c) Procedure to Develop List of Consulting Professional Engineers. –			
Regulatory Authorities shall develop formal written procedures to prepare and maintain a list of			
consulting Professional Engineers required pursuant to subdivision (1) of Section 3(a) of this			
act. SECTION 4 (-) Pilot Stade - No loter then Merch 1, 2015 the Department of			
SECTION 4.(a) Pilot Study. – No later than March 1, 2015, the Department of			
Environment and Natural Resources shall complete a pilot study on the Pretreatment, Emergency Response and Collection System (PERCS) wastewater collection system permitting			
program and the stormwater permitting program and perform the following activities with the			
assistance and cooperation of the North Carolina Board of Examiners for Engineers and			
Surveyors and the Professional Engineers of North Carolina:			
Surveyors and the ribiessional Engineers of north Carolina.			

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1	(1)	Produce an inventory of work activities associated with the	operation of each	
2		regulatory program.		
3	(2)	Determine the work activities identified under subdivision	(1) of this section	
ŀ		that constitute the Practice of Engineering.		
	(3)	Develop recommendations for ensuring that work activitie		
		Practice of Engineering are conducted with the appr	ropriate level of	
		oversight.		
		TION 4.(b) Report. – The Department shall report the results	s of the pilot study	
		ental Review Commission no later than April 15, 2015.		
		TION 5. Review of Working Job Titles. – No later than D		
	0,	Authority and the Department of Transportation shall do the	U	
	(1)	Review the Working Job Titles of every employee wit	h job duties that	
		include the review of Regulatory Submittals.		
	(2)	Propose revisions to the Working Job Titles identified und		
		of this section or other administrative measures that will el	1	
		identification as "engineers" of persons reviewing Regu	latory Submittals	
	GE G	who are not Professional Engineers.	1 11	
		TION 6.(a) Initial Report. – Each Regulatory Authority s	-	
	Environmental Review Commission prior to the convening of the 2015 Regular Session of the			
		ssembly on implementation of the following, if applicable:		
	(1)	The standardized procedures required by Section 2 of this a		
	(2)	The informal review process required by Section 3 of this a		
	(3) SEC	The review of Working Job Titles required by Section 5 of $TION(6, b)$ A proved Benerit – Beginning in 2016, each Bee		
	SECTION 6.(b) Annual Report. – Beginning in 2016, each Regulatory Authority			
	shall annually report to the Environmental Review Commission no later than January 15 on the informal ravian process required by Section 2 of this act. The report shall include the number			
	informal review process required by Section 3 of this act. The report shall include the number of times the informal review process was utilized and the outcome of the review.			
	SECTION 6.(c) Annual Reporting Sunset. – Section 6(b) of this act expires on			
	January 1, 2019.			
		TION 7. This act is effective when it becomes law.		
	SEC	HOI <i>T</i> THIS act is checkive when it becomes law.		