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 | | | | |
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| 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. | | |