

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 251 (Second Edition)

SHORT TITLE: Well Contractors Certification

SPONSOR(S): Representative Culp

FISCAL IMPACT

Yes (x) ** No () No Estimate Available ()
Well Construction Fund (created by this act)

	<u>FY 1997-98</u>	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>
REVENUES *					
Registration Fee	\$31,250				
Certification Renewal		\$130,000	\$135,000	\$140,000	\$145,000
Certification by Examination		\$20,000	\$2,500	\$2,500	\$2,500
Temporary Certification		\$2,500	\$2,500	\$2,500	\$2,500
Total	\$31,250	\$152,500	\$140,000	\$145,000	\$150,000
EXPENDITURES	\$10,652	\$96,752	\$85,925	\$88,115	\$90,446
POSITIONS:	0.0	2.0	2.0	2.0	2.0

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Environment, Health, and Natural Resources, Division of Water Quality

EFFECTIVE DATE: When the act becomes law, except for G.S. 87-98(a), the certification requirement, and G.S. 87-98.14, injunctive relief, as enacted by Section 2, which become effective January 1, 1999, and Section 5 requiring registration fees to be credited to the Well Construction Fund, which becomes effective July 1, 1997, and Section 6 repealing the registration fee requirement, which becomes effective January 1, 1999.

* Revenue estimate based on the maximum fee allowed by the act.

** See statement on page 3, under Assumptions and Methodology regarding the creation of the Well Construction Fund.

BILL SUMMARY: *TO CREATE THE WELL CONTRACTORS CERTIFICATION COMMISSION, TO REQUIRE THAT WELL CONTRACTORS BE CERTIFIED, AND TO MAKE VARIOUS AMENDMENTS TO THE WELL CONSTRUCTION ACT, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.* Adds new Part 9A (Well Contractors Certification Commission) to GS Chapter. 143B creating a new certification commission and new Article 7A (Well Contractors Certification) imposing a new certification requirement on well contractors.

New commission. The Well Contractors Certification Commission is composed of seven members serving three-year staggered terms. Two members appointed by the General Assembly on recommendation of the Speaker must be certified well contractors, one east of Interstate 95 and one west. Two members appointed by the General Assembly on recommendation of the President Pro Tem. must be certified well contractors, one engaged primarily with large capacity water supply wells and one engaged primarily with non-supply wells such as monitoring or recovery wells. Two members would be employees of local county health departments actively engaged in well inspection and permitting, one appointed by the General Assembly on recommendation of the Speaker and one on the recommendation of the President Pro Tem. One member must be appointed by the Governor from the public at large. The well contractor members will be selected from names nominated by anyone who is himself or herself a certified well contractor. The Commission may adopt rules with respect to certification of well contractors, make quasi-judicial decisions in any matter involving certification, and adopt rules necessary to secure federal grant-in-aid for the program of certification.

New certification requirement. Individuals engaged in the business of construction, installation, repair, alteration, or abandonment of wells must gain certification from the Commission. No person without certification may engage in such activity except (a) an individual performing services for a certified contractor and under the contractor's personal supervision or (b) an individual constructing, repairing, or abandoning a well located on land he or she owns or leases. Any person who has not been found to have engaged in improper conduct and who has been actively engaged as a well contractor since July 1, 1986 and has been continuously registered with the Department of Environment, Health, and Natural Resources since July 1, 1992 (or employed by a firm so registered) may be initially certified without examination. Imposes fees of \$150 for examination fee for new applicants; \$350 fee for annual renewal of certification; and \$100 for temporary certification (good for 45 days, maximum). Fees will be deposited into a fund to pay the costs of the certification program. Certification may be suspended or revoked if the well contractor (1) engages in fraud in connection with acquiring certification or in well construction, (2) fails to use reasonable care or judgment in well construction, (3) has been grossly negligent or has demonstrated willful disregard for laws or regulations governing well construction, or (4) fails to complete continuing education requirements set by Commission.

Amends GS 87-94, which sets civil penalties for well regulation violations, to add a penalty of \$100 for violation of certification requirements. Repeals GS 143-355(e), which now requires well contractors to register with the Department of Environment, Health, and Natural Resources. Repeals GS 87-91(b), which now requires registered or certified mail delivery of notice of Well Construction Act violations and makes corresponding changes in GS 87-94.¹
House Committee Substitute, Favorable June 9, 1997

¹ *Daily Bulletin*, Institute of Government, UNC-Chapel Hill, Volume 1997, Number 11, February 17, 1997.

Committee substitute makes the following changes to 1st edition. Deletes continuing education requirements for Commission members. Amends GS 87-91 to authorize the Environmental Management Commission to issue orders requiring specific remedial actions. Makes additional stylistic changes.²

Also revises the maximum fees for certification by examination to \$100.00 (previously \$150.00) and for annual renewal of certification to \$200.00 (previously \$350.00).

ASSUMPTIONS AND METHODOLOGY:

According to the bill, the Well Contractors Certification Commission may set fees for temporary certification, certification by examination and annual certification renewal up to the maximums stated in the bill, to cover the costs of implementing this act. **All fees collected are to be credited to the Well Construction Fund, a non-reverting account within the Department of Environment, Health, and Natural Resources, to cover the costs of administering the Well Construction Certification program, in accordance with the provisions of this act. Thus, there will be no impact on the General Fund, nor the need for an additional appropriation.**

Revenues

Revenue estimates are based on the maximum fee allowed under this act; however, the Commission may set fees for examination and certification at lower rates, commensurate with actual program costs.

◆ Registration Fee

Under current law, G.S. 143-355(e) requires persons, firms and corporations engaged in the well construction business to register with the Department of Environment, Health, and Natural Resources and pay a \$50.00 registration fee each year. The bill requires this registration fee to be credited to the Well Construction Fund beginning July 1, 1997.

There are approximately 600 well contractors currently registered, and the department expects an additional 25 persons to seek registration for the 1997-98 fiscal year. Therefore, total revenue from the registration fee for the 1997-98 fiscal year is projected to be \$31,250 (625 registered contractors x \$50 registration fee).

The bill repeals this registration fee requirement effective January 1, 1999 to coincide with the effective date of the certification requirement. Since G.S. 143-355(e) designates the registration period to be January 1 to January 31 of each year, most of the revenues from this fee are collected during the early part of the calendar year. Therefore, no registration fee revenue is projected for the 1998-99 fiscal year, even though the registration requirement is in effect for the first six months of the 1998-99 fiscal year.

◆ Annual Certification Renewal

² *Daily Bulletin*, Institute of Government, UNC-Chapel Hill, Volume 1997, Number 75, June 9, 1997.

The bill establishes a certification requirement for well contractors effective January 1, 1999 and sets the maximum annual certification fee charged by the commission at \$200.00. However, the commission is authorized to set a lower renewal fee to more accurately reflect actual program costs. The department estimates that an annual certification fee of \$125.00 is sufficient to cover the costs of the certification program.

All persons registered with the department for the 1997-98 fiscal year to perform well construction activities are expected to pay the certification fee beginning with the 1998-99 fiscal year. Again, the department expects the number of certifications to increase by 25 each year. Based on the number of annual certification renewals anticipated by the department, the projected revenue from the annual certification fee beginning with the 1998-99 fiscal year is reflected in the following table. The projected revenue from certifications based on a fee of \$125.00 as recommended by the department is also included.

- ◆ Certification by Examination

Any person performing well contractor activities who is not eligible for certification without examination must satisfactorily complete any training and examination requirements established by the commission. The bill authorizes the commission to charge up to \$100.00 for the examination. Because the well contractor certification requirement is new, the department initially expects 200 persons will be required to seek certification by examination for the 1998-99 fiscal year. However, the number of persons certified annually by examination is expected to level off immediately to 25, beginning with the 1999-2000 fiscal year.

- ◆ Temporary Certification

The bill also provides for temporary certification of persons approved by the commission. The department projects 25 persons will seek temporary certification each year. The commission may charge up to \$100.00 for each temporary certification.

Expenditures

The bill provides eighteen months for the commission to adopt permanent rules to meet the requirements of the bill, in accordance with the Administrative Procedures Act, before the certification requirement goes into effect January 1, 1999. Until such time, costs incurred by the commission are expected to be limited to allowable per diem, travel and subsistence for commission members, clerical support and operational expenses, such as postage, telephone and printing.

The commission is expected to meet more frequently during the first two years to adopt formal rules governing the certification of well contractors; therefore per diem and travel expenses for the commission will be higher the first two years. For the purpose of estimating commission expenses, it is assumed the commission will hold twelve meetings in 1997-98, eight meetings in 1998-99 and quarterly meetings each year thereafter.

According to the department, additional staff support will not required until the 1998-99 fiscal year, when the certification requirement becomes effective. The department will use existing staff to provide any clerical support needed by the commission during the 1997-98 fiscal year. Beginning with the 1998-99 fiscal year, the department anticipates the need for two full-time staff to support the commission and the certification program. An Office Assistant III will provide clerical support to the commission, as well as manage and maintain the certification records. A hydrogeologist will also be employed to provide technical expertise to the commission, to include assistance with certification oversight and enforcement.

The total estimated budget requirements for the Well Contractors Certification program are outlined in the following table:

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** Beginning with the 1998-99 fiscal year, salaries are adjusted to reflect the projected growth estimated for average hourly earnings in manufacturing. The inflation rates used are based on forecasts by Data Resources, Inc.*

TECHNICAL CONSIDERATIONS:

The bill allows the commission and the Secretary of DEHNR to provide training for well contractors in cooperation with educational institutions, professional associations and others. If the commission and the Secretary decide to make training and continuing education offerings available to well contractors, the costs associated with those offerings will be funded with receipts from the Well Construction Fund, as required by the bill.

Until the scope of any proposed educational requirements/offerings is defined, the costs of implementing training and education programs for contractors cannot be estimated. However, according to the department, some professional associations offer well drilling review courses at a cost of \$100 per course. A more comprehensive training program is expected to require additional staff and operating support.

SOURCES OF DATA:

The Department of Environment, Health, and Natural Resources; Division of Water Quality,
Groundwater Section

FISCAL RESEARCH DIVISION 733-4910

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DATE: June 11, 1997



Signed Copy Located in the NCGA Principal Clerk's Offices