

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 2873*
Committee Substitute Favorable 6/29/06

Short Title: Safe Drinking Water/Private Wells.

(Public)

Sponsors:

Referred to:

May 30, 2006

A BILL TO BE ENTITLED

AN ACT TO REQUIRE PERMITTING AND INSPECTION OF NEW PRIVATE
DRINKING WATER WELLS AND TO REQUIRE WATER QUALITY TESTING
OF PRIVATE DRINKING WATER WELLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-85 is amended by adding a new subdivision to read:

"(10a) 'Private drinking water well' means any excavation that is cored, bored, drilled, jetted, dug, or otherwise constructed to obtain groundwater for human consumption and that serves or is proposed to serve 14 or fewer service connections or that serves or is proposed to serve 24 or fewer individuals. The term 'private drinking water well' includes a well that supplies drinking water to a transient noncommunity water system as defined in 40 Code of Federal Regulations § 141.2 (1 July 2003 Edition)."

SECTION 2. G.S. 87-87 reads as rewritten:

"§ 87-87. Authority to adopt rules, regulations, and procedures.

~~The Environmental Management Commission shall adopt, and may from time to time amend, rules and regulations not inconsistent with this Article~~ adopt rules governing the location, construction, repair, and abandonment of wells, the operation of water wells or well systems with a designed capacity of 100,000 gallons per day or greater, and the installation and repair of pumps and pumping equipment, and equipment. The Environmental Management Commission shall be responsible for the administration of this Article. ~~With respect thereto it Article and shall:~~

- (1) Hold public hearings, upon not less than 30 days' prior notice setting forth the date, place, and time of hearing, and the proposed rules and regulations to be considered at said public hearing, which notice shall be published in one or more newspapers having general circulation throughout the State, in connection with proposed rules and regulations and amendments ~~thereto;~~ thereto.

- 1 (2) Enforce the provisions of this Article, and any rules and regulations
2 not inconsistent with the provisions of this Article adopted pursuant
3 ~~thereto;~~thereto.
- 4 (3) Establish procedures and forms for the submission, review, approval,
5 and rejection of applications, notifications, and reports required under
6 this ~~Article;~~Article.
- 7 (4) Issue such additional regulations as may be necessary to carry out the
8 provisions of this ~~Article;~~ and Article.
- 9 (5) Neither adopt nor enforce any rule or regulation that concerns the civil
10 liability of an owner to a well driller for any costs or expenses of
11 drilling and installing a well for the owner.
- 12 (6) Adopt rules governing the permitting and inspection by the
13 Commission of private drinking water wells with a designed capacity
14 of 100,000 gallons per day or greater.
- 15 (7) Adopt rules governing the permitting and inspection by local health
16 departments of private drinking water wells pursuant to G.S. 87-97."

17 **SECTION 3.** G.S. 87-88 reads as rewritten:

18 **"§ 87-88. General standards and requirements.**

19 (a) Prior Permission. – Prior permission shall be obtained from the
20 Environmental Management Commission for the construction of (i) any water well or of
21 well systems with a designed capacity of 100,000 gallons per day or greater; and (ii) of
22 any well in a geographical area where the Environmental Management Commission
23 finds, after public hearings, such permission to be reasonably necessary to protect the
24 groundwater resources and the public welfare, safety and health, taking into
25 consideration other applicable State laws; provided, however, that the Environmental
26 Management Commission shall not reject any application under this subsection for
27 permission to construct a well except upon the ground that the well would not be in
28 compliance with a provision of this Article or with a rule or regulation of the
29 Environmental Management Commission adopted pursuant to the provisions of
30 G.S. 87-87 of this Article. Notification of approval or rejection of an application for
31 permission to construct a well shall be given the applicant within a period of 15 days
32 after receipt of such application. Private drinking water wells (i) with a designed
33 capacity of 100,000 gallons per day or greater or (ii) that are to be constructed in a
34 geographical area where the Environmental Management Commission has found that
35 prior permission is necessary shall be subject to permitting and inspection by the
36 Environmental Management Commission and shall not be subject to permitting and
37 inspection by a local health department. All other private drinking water wells shall be
38 subject to permitting and inspection by the local health department as provided in
39 G.S. 87-97.

40 (b) Reports. – Any person completing or abandoning any well shall furnish the
41 Environmental Management Commission a certified record of the construction or
42 abandonment of such well within a period of 30 days after completion of construction or
43 abandonment.

1 (c) Prevention of Contamination. – Every well shall be constructed and
2 maintained in a condition whereby it is not a source or channel of contamination of the
3 groundwater supply or any aquifer. Wells subject to the provisions of subdivision (a)(i)
4 of this section shall be operated in such a way that they shall not cause the violation of
5 applicable groundwater quality standards. Contamination as used herein shall mean the
6 act of introducing into water foreign materials of such a nature, quality, and quantity as
7 to cause degradation of the quality of the water.

8 (d) Valves and Casing on Flowing Artesian Wells. – Valves and casing on all
9 flowing artesian wells shall be maintained in a condition so that the flow of water can be
10 completely stopped when the well is not being put to a beneficial use. Valves shall be
11 closed when a beneficial use is not being made.

12 (e) Access Port. – Every water-supply well and such other wells, as may be
13 specified by the Environmental Management Commission, shall be equipped with a
14 usable access port or air line and to be a minimum of 0.5 inch inside diameter opening
15 so that the position of the water level can be determined at any time. Such port shall be
16 installed and maintained in such manner as to prevent entrance of water or foreign
17 material.

18 (f) Mineralized Water. – Whenever a water-bearing stratum or aquifer that
19 contains nonpotable mineralized water is encountered in well construction, the stratum
20 shall be adequately cased or cemented off as conditions may require so that
21 contamination of the overlying or underlying groundwater zones will not occur.

22 (g) Polluted Water. – In constructing any well, all water-bearing zones that are
23 known to contain polluted water shall be adequately cased or cemented off so that
24 pollution of the overlying and underlying groundwater zones will not occur.

25 (h) Well Test. – Every water-supply well shall be tested for capacity by a method
26 and for a period of time acceptable to the Department and depending on the intended
27 use of the well.

28 (i) Chlorination of the Well. – Upon completion of the well construction and
29 pump installation, all water-supply wells installed for the purpose of obtaining
30 groundwater for ~~domestic~~ human consumption and all private drinking water wells shall
31 be sterilized in accordance with standards for sterilization of drinking water wells
32 established by the U.S. Public Health Service.

33 (j) Use of Well for Recharge or Disposal. – No well shall be used for recharge,
34 injection or disposal purposes without prior permission from the Environmental
35 Management Commission.

36 (k) Abandonment of Wells. –

37 (1) Temporary Abandonment: When any well is temporarily removed
38 from service, the top of the well shall be sealed with a water-tight cap
39 or seal.

40 (2) Permanent Abandonment: Any well that is to be permanently
41 abandoned shall be filled, plugged, or sealed in such a manner as to
42 prevent the well from being a channel allowing the vertical movement
43 of water and a source of contamination of the groundwater supply.

- 1 (3) Abandonment of Water Supply Wells for Other Use: Any water supply
2 well that is removed from service as a potable water supply source
3 may be used for other purposes, including, but not limited to,
4 irrigation, commercial use, or industrial use, and such well is not
5 subject to either subdivision (1) or (2) of this subsection during its use
6 for other purposes."

7 **SECTION 4.** Article 7 of Chapter 87 of the General Statutes is amended by
8 adding a new section to read:

9 **"§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

10 (a) Mandatory Local Well Programs. – Each county, through the local health
11 department that serves the county, shall implement a private drinking water well
12 permitting, inspection, and testing program. Local health departments shall administer
13 the program and enforce the minimum well construction, permitting, inspection, repair,
14 and testing requirements set out in this Article and rules adopted pursuant to this
15 Article.

16 (b) Permit Required. – Except for those wells required to be permitted by the
17 Environmental Management Commission pursuant to G.S. 87-88, no person shall:

18 (1) Construct or assist in the construction of a private drinking water well
19 unless a construction permit has been obtained from the local health
20 department.

21 (2) Repair or assist in the repair of a private drinking water well unless a
22 repair permit has been obtained from the local health department.

23 (c) Permit Not Required for Maintenance. – A repair permit shall not be required
24 for any private drinking water well maintenance work that does not involve breaking or
25 opening the well seal.

26 (d) Well Site Evaluation. – The local health department shall conduct a field
27 investigation to evaluate the site on which a private drinking water well is proposed to
28 be located before issuing a permit pursuant to this section. The field investigation shall
29 determine whether there is any abandoned well located on the site, and if so, the
30 construction permit shall be conditioned upon the proper closure of all abandoned wells
31 located on the site in accordance with the requirements of this Article and rules adopted
32 pursuant to this Article. If a private drinking water well is proposed to be located on a
33 site on which a wastewater system subject to the requirements of Article 11 of Chapter
34 130A of the General Statutes is located or proposed to be located, the application for a
35 construction permit shall be accompanied by a plat, as defined in G.S. 130A-334.

36 (e) Issuance of Permit. – The local health department shall issue a construction
37 permit or repair permit if it determines that a private drinking water well can be
38 constructed or repaired and operated in compliance with this Article and rules adopted
39 pursuant to this Article. The local health department may impose any conditions on the
40 issuance of a construction permit or repair permit that it determines to be necessary to
41 ensure compliance with this Article and rules adopted pursuant to this Article.

42 (f) Expiration and Revocation. – A construction permit or repair permit shall be
43 valid for a period of five years except that the local health department may revoke a
44 permit at any time if it determines that there has been a material change in any fact or

1 circumstance upon which the permit is issued. The foregoing shall be prominently
2 stated on the face of the permit. The validity of a construction permit or a repair permit
3 shall not be affected by a change in ownership of the site on which a private drinking
4 water well is proposed to be located or is located if the location of the well is unchanged
5 and the well and the facility served by the well remain under common ownership.

6 (g) Certificate of Completion. – Upon completion of construction or repair of a
7 private drinking water well, the local health department shall inspect the well to
8 determine whether it was constructed or repaired in compliance with the construction
9 permit or repair permit. If the local health department determines that the private
10 drinking water well has been constructed or repaired in accordance with the
11 requirements of the construction permit or repair permit, this Article, and rules adopted
12 pursuant to this Article, the local health department shall issue a certificate of
13 completion. No person shall place a private drinking water well into service without
14 first having obtained a certificate of completion. No person shall return a private
15 drinking water well that has undergone repair to service without first having obtained a
16 certificate of completion.

17 (h) Drinking Water Testing. – Within 30 days after it issues a certificate of
18 completion for a newly constructed private drinking water well, the local health
19 department shall test the water obtained from the well for the following parameters:
20 arsenic, barium, cadmium, chromium, copper, fluoride, lead, iron, magnesium,
21 manganese, mercury, nitrates, nitrites, selenium, silver, sodium, zinc, pH, and bacterial
22 indicators.

23 (i) Commission for Health Services to Adopt Drinking Water Testing Rules. –
24 The Commission for Health Services shall adopt rules governing the sampling and
25 testing of well water and the reporting of test results. The rules shall allow local health
26 departments to designate third parties to collect and test samples and report test results.
27 The rules shall also provide for corrective action and retesting where appropriate. The
28 Commission for Health Services may by rule require testing for additional parameters if
29 the Commission makes a specific finding that testing for the additional parameters is
30 necessary to protect public health.

31 (j) Test Results. – The local health department shall provide test results to the
32 owner of the newly constructed private drinking water well and, to the extent
33 practicable, to any leaseholder of a dwelling unit or other facility served by the well at
34 the time the water is sampled.

35 (k) Registry of Permits and Test Results. – Each local health department shall
36 maintain a registry of all private drinking water wells for which a construction permit or
37 repair permit is issued. The registry shall specify the physical location of each private
38 drinking water well and shall include the results of all tests of water from each well. The
39 local health department shall retain a record of the results of all tests of water from a
40 private drinking water well until the well is properly closed in accordance with the
41 requirements of this Article and rules adopted pursuant to this Article.

42 (l) Authority Not Limited. – This section shall not be construed to limit any
43 authority of local boards of health, local health departments, the Department of Health
44 and Human Services, or the Commission for Health Services to protect public health."

1 **SECTION 5.** G.S. 130A-4 reads as rewritten:

2 "**§ 130A-4. Administration.**

3 (a) Except as provided in subsection (c) of this section, the Secretary shall
4 administer and enforce the provisions of this Chapter and the rules of the Commission.
5 A local health director shall administer the programs of the local health department and
6 enforce the rules of the local board of health.

7 (b) When requested by the Secretary, a local health department shall enforce the
8 rules of the Commission under the supervision of the Department. The local health
9 department shall utilize local staff authorized by the Department to enforce the specific
10 rules.

11 (c) The Secretary of Environment and Natural Resources shall administer and
12 enforce the provisions of Articles 8, 9, 10, 11, and 12 of this Chapter and the rules of the
13 Commission.

14 (d) When requested by the Secretary of Environment and Natural Resources, a
15 local health department shall enforce the rules of the Commission and the rules adopted
16 by the Environmental Management Commission pursuant to G.S. 87-87 under the
17 supervision of the Department of Environment and Natural Resources. The local health
18 department shall utilize local staff authorized by the Department of Environment and
19 Natural Resources to enforce the specific rules."

20 **SECTION 6.** G.S. 130A-39(g) reads as rewritten:

21 "(g) A local board of health may impose a fee for services to be rendered by a
22 local health department, except where the imposition of a fee is prohibited by statute or
23 where an employee of the local health department is performing the services as an agent
24 of the State. Notwithstanding any other provisions of law, a local board of health may
25 impose cost-related fees for services performed pursuant to Article 11 of this Chapter,
26 "Wastewater Systems," for services performed pursuant to Part 10, Article 8 of this
27 Chapter, "Public Swimming Pools", ~~and~~ for services performed pursuant to Part 11,
28 Article 8 of this Chapter, "~~Tattooing~~". "Tattooing", and for services performed pursuant
29 to G.S. 87-97. Fees shall be based upon a plan recommended by the local health director
30 and approved by the local board of health and the appropriate county board or boards of
31 commissioners. The fees collected under the authority of this subsection are to be
32 deposited to the account of the local health department so that they may be expended for
33 public health purposes in accordance with the provisions of the Local Government
34 Budget and Fiscal Control Act."

35 **SECTION 7.** G.S. 143-300.8 reads as rewritten:

36 "**§ 143-300.8. Defense of local sanitarians.**

37 Any local health department sanitarian enforcing rules of the Commission for Health
38 Services or of the Environmental Management Commission under the supervision of the
39 Department of Environment and Natural Resources pursuant to ~~G.S. 130A-4(b)~~
40 G.S. 130A-4 shall be defended by the Attorney General, subject to the provisions of
41 G.S. 143-300.4, and shall be protected from liability in accordance with the provisions
42 of this Article in any civil or criminal action or proceeding brought against the
43 sanitarian in his official or individual capacity, or both, on account of an act done or
44 omission made in the scope and course of enforcing the rules of the Commission for

1 ~~Health Services.~~Services or of the Environmental Management Commission. The
2 Department of Environment and Natural Resources shall pay any judgment against the
3 sanitarian, or any settlement made on his behalf, subject to the provisions of
4 G.S. 143-300.6."

5 **SECTION 8.** G.S. 87-97, as enacted by Section 4 of this act, becomes
6 effective 1 July 2008 except that G.S. 87-97(i) becomes effective when this act becomes
7 law. All other sections of this act become effective when this act becomes law.