



SENATE BILL 372: Electrical Lic./Bldg. Code/Dev. Reform 2022.

2021-2022 General Assembly

Committee: House Local Government - Land Use, **Date:** June 2, 2022
Planning and Development. If favorable, re-
refer to Rules, Calendar, and Operations of the
House

Introduced by: Sens. McInnis, Jarvis, Galey

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Analysis of: PCS to First Edition
S372-CSBR-29

OVERVIEW: *The Proposed Committee Substitute (PCS) to Senate Bill 372 would make various changes to the electrical licensing, wastewater, building code and development laws of the State.*

- *Section 1 of this PCS (Section 1 of SB 372 originally) remains unchanged except for an effective date change.*

CURRENT LAW/BILL ANALYSIS:

Section 1: This section would cap the total number of required hours of experience to achieve a limited, intermediate, or unlimited electrical contracting license. Currently there is no statutory cap on required hours, but rules adopted by the Board of Examiners of Electrical Contractors set experience requirements in excess of the proposed cap. This section would become effective October 1, 2022, and apply to applicants for licensure on or after that date.

Section 2: This section would, notwithstanding the Administrative Procedures Act, delay the implementation of certain 18E wastewater rules adopted by the Commission for Public Health until January 1, 2024, and preserve the existing 18A wastewater rules until that date.

Section 3: This section would amend Section 8.26 of S.L. 2021-180 to set the funding cap for projects funded by the Innovative Highly Treated Wastewater Program at \$4,000,000, regardless of total project cost, and expand the types of entities eligible for the Program by eliminating the requirement that an entity be considered "distressed" pursuant to G.S. 159G-20. This section would also change the timeframe in which the manufacturer of a highly treated wastewater system has to file a performance bond with the Department of Environmental Quality (DEQ) to within five days of issuance of the permit to construct the system. Currently, the timeframe for filing the bond is within five days of the system being qualified pursuant to this section.

Section 4: This section would change the sunset date for a provision that allowed licensed soil scientists without an Authorized On-Site Wastewater Evaluator (AOWE) certification to approve on-site wastewater system projects. The current sunset is tied to the expiration of Executive Order 116, and this section would change that sunset to January 1, 2023.

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Section 5: This section would make the following changes to the statutes governing on-site wastewater systems:

- Establish a 10-business day limit for local health departments (LHD) to review certain on-site wastewater permit applications where a licensed soil scientist or licensed geologist submits soil evaluations, including a establishing a 10-business day limit for required pre-construction conferences and allowing a licensed engineer or an AOWE to conduct the pre-construction conference.
- Clarify that LHDs are not liable for any liabilities arising out of soil evaluations submitted by or pre-construction conferences conducted by non-LHD personnel, but that LHDs retain liability for existing obligations under law.
- Provide that a wastewater system contractor may conduct a pre-construction conference with the LHD no more than 10 business days prior to the start of installation of an on-site wastewater system.
- Allow an engineer to submit a site plan instead of a plat to an LHD as part of the Notice of Intent to Construct pursuant to the Engineered Option Permit (EOP) process for on-site wastewater systems.
- Eliminate a requirement that an LHD representative be present at the post-construction conference for an on-site wastewater system installed pursuant to the AOWE permit process. Section 12A of S.L. 2021-117 made the post-construction conference required as part of the EOP process waivable by the system owner.
- Make other technical and conforming changes.

Section 6: This section would provide that an LHD may not conduct a grouting inspection for the construction, repair, or abandonment of a private drinking water well if certain notice requirements are met and the well contractor provides certification to the LHD that the grouting complies with State law. Current law requires a grout inspection conducted by the LHD, but rules do allow for a well contractor to self-certify compliance with grout requirements in certain circumstances. This section would become effective October 1, 2022, and would apply to inspections conducted on or after that date.

Section 7: This section would direct DEQ to study the requirements of the Sedimentation Pollution Control Act of 1973 and related federal requirements applicable to stormwater discharges from construction activities to identify any State requirements that are more stringent or duplicative of federal law. DEQ must report its findings, including legislative recommendations to streamline State permitting of NCG01, to the Environmental Review Commission no later than September 1, 2022.

Section 8: This section would add a requirement that the North Carolina Building Code Council promulgate rules, procedures, and policies for the approval of alternative designs and construction. Current law requires that alternative design and construction methods follow the State Building Code and specifies that the Division of Engineering of the Department of Insurance hear disputes between a local inspector and the project designer/owner for these methods.

Section 9: Current law authorizes local governments to create and organize an inspection department and specifies that their duties/responsibilities include enforcing applicable planning and development regulations within their jurisdiction that relate to, among other items, (i) the construction of buildings and other structures; (ii) the installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air conditioning systems, (iii) the maintenance of buildings and other structures in a safe, sanitary, and healthful condition, and (iv) other matters that may be specified by the

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governing board. This section would require that local governments designate a person responsible for the daily oversight of these duties and responsibilities. This section would also require local governments to publish, no later than October 1, of 2023, 2024, and 2025, an annual financial report on how it used fees the previous year for its building code enforcement program. This section would become effective October 1, 2022, and would apply to financial reports due after that date.

Section 10: This section would authorize a building permit holder to obtain a required residential inspection from a North Carolina licensed architect or licensed professional engineer when the local government is unable to conduct an inspection within two business days after the inspection is requested. Currently, local governments are required to provide for the enforcement of State Building Code regulations through use of its own inspection department, a joint department with other local government units, or by contracting with other local government units. For this purpose, local governments may also contract with individuals who are not local government employees provided those individuals hold the appropriate certificates issued by the North Carolina Code Officials Qualification Board (Q-Board). This section would become effective October 1, 2022, and would apply to inspections conducted on or after that date.

Section 11: This section would expressly prohibit a zoning or development regulation from setting a maximum parking space size larger than nine feet wide by twenty feet long, unless the parking space is a handicap, parallel, or diagonal parking space. Current law authorizes local government to adopt zoning regulations generally with limitations. This section would become effective October 1, 2022, and after that date any zoning or other development regulation inconsistent with G.S. 160D-702(c), as enacted by this act, would become void and unenforceable.

Section 12: This section would clarify the definition/scope of "home inspection" to mean an inspection that is based on observation or noninvasive testing and would further define noninvasive testing as testing methods that do not result in any damage to a component or system. This section would also increase the deadline (from 3 days to 10 business days) for inspection reports that describe deficiencies as violations of the State Residential Building Code. Currently, Article 9F of Chapter 143 sets out the laws that apply to the licensure and regulation of home inspectors, who are individuals that engage in the business of home inspections for compensation. This section would become effective October 1, 2022, and would apply to inspections conducted on or after that date.

Section 13: Currently, Article 1 of Chapter 87 sets out the laws that apply to the licensure and regulation of general contractors generally, and more specific limitations and requirements for certain classifications of general contractor licenses. The holder of an intermediate license is authorized to act as a general contractor for a single project with a value of up to \$1,000,000. The holder of a limited license is authorized to act as a general contractor for a single project with a value of up to \$500,000. This section would increase these project value limitations to \$1,500,000 (increase of \$500,000) for intermediate licensees, and \$750,000 (increase of \$250,000) for limited licensees.

Section 14: Currently, Section 6 of S.L. 2021-121, directed the Building Code Council to adopt Fire Code appendix revisions that relates to an exception allowing for automatic fire sprinklers as an alternative to multiple fire apparatus access roads in residential developments that contain more than 30 dwellings. That S.L. section required that the Council not require automatic fire sprinklers where there are less than 100 dwellings on a single fire apparatus access road with access from one direction. This section would amend that directive to the Council to adopt revisions that would not require two or more separate and approved fire apparatus access roads in residential developments where there are fewer than 100 dwelling units.

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Section 15: Current law authorizes and outlines the process for a permit holder, that has been informed by a local inspection department that an inspection was not conducted within two business days, to request the Commissioner of Insurance to assign personnel who are Code-enforcement officials, which includes officials from within the DOI administered marketplace pool, to conduct the inspection. This section would require the Commissioner to contract with individuals, corporations, or other business entities who hold applicable Code-enforcement certificates and who would conduct inspections pursuant to this process. This section would become effective October 1, 2022, and would apply to inspections conducted on or after that date.

Section 16: This section would make technical changes to conform certain statutory citations to Chapter 160D of the General Statutes.

Section 17: The Current Operations Appropriations Act of 2021, as amended, contained provisions that relate to grants and funds allocated from the State Capital and Infrastructure Fund. This section would amend the allocation for funds to Anson County for economic development of county facilities, in the sum of eight million dollars (\$8,000,000), to be provided to the Anson Economic Development Corporation to be used for economic development purposes, including facilities.

Section 18: Counties and cities are granted general ordinance making power and G.S. 160A-174(b) requires that a city ordinance be consistent with the Constitution and laws of this State and of the United States, and sets out instances of inconsistency. The North Carolina Supreme Court held in *Craig v Chatham County*, 356 N.C. 40, (2002) that G.S. 160A-174(b) also applies to counties. G.S. 160D-706(a) addresses conflicts between development regulations in Chapter 160D of the General Statutes and those in other areas of the General Statutes and provides that its provisions apply with respect to cities unless prohibited by G.S. 160A-174(b). This section would clarify that the provisions of G.S. 160D-706(a) apply to both cities and counties.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.