

SB 2100 by *Johnson

(HB 1892) by *Lamberth

Safety - As introduced, authorizes the use of certain third-party examiners, inspectors, engineers, and professionals in lieu of a local or state examiner, inspector, engineer, or professional for certain permitted processes and requirements; establishes procedures and requirements for the use of a third-party examiner, inspector, engineer, or professional. - Amends TCA Title 68, Chapter 120; Title 68, Chapter 221 and Title 69, Chapter 3, Part 1.

Summary

FISCAL SUMMARY

NOT SIGNIFICANT

BILL SUMMARY

CONSTRUCTION SAFETY STANDARDS

Under present law, the state fire marshal must promulgate rules establishing minimum statewide building construction safety standards. The standards established apply to municipal, county, state, and private buildings, including one- and two-family dwellings.

Such standards do not apply to any building, other than state buildings, educational occupancies or any other occupancy requiring an inspection by the state fire marshal for initial licensure, located within the jurisdiction of a local government that certifies in writing to the state fire marshal that the local government is adequately enforcing their code and performing any reviews of construction plans and specifications and inspections required by the state fire marshal. This bill revises this provision by requiring the local government to be adequately performing any examination of construction plans and specifications within 30 days of the request of the examination or plan, and as required by the state fire marshal.

As an alternative to the local jurisdiction performing the inspection, present law authorizes procedures for registered engineers to perform electrical inspections to be submitted to and accepted by the state fire marshal or local government. This bill deletes such alternative and provides other procedures, as described below.

EMPLOYMENT AS AN ELECTRICAL INSPECTOR

Under present law, all persons entering into employment as a municipal, county, or state employed plumbing inspector or mechanical inspector, or both, must receive certification from the state fire marshal before enforcing applicable plumbing, mechanical, and fuel gas codes.

This bill requires, a person entering into employment as a state, municipal, or county building, plumbing, mechanical, or electrical inspector to be able to perform field inspections as of the date of employment and to obtain certification as described above from the state fire marshal within 12 months of employment.

THIRD-PARTY INSPECTORS

EXAMINATION OF PLANS AND SPECIFICATIONS. In a local jurisdiction acting pursuant to the construction safety standards described above, this bill authorizes a person to engage a third-party plans examiner to examine plans and specifications prior to construction, in lieu of examination by the local jurisdiction. As used in this provision, a "third-party plans examiner" means an individual who is registered with the state fire marshal to perform such plans examinations and registered as an engineer or architect with the Tennessee state board of examiners for architects and engineers.

INSPECTIONS AND REPORTS. In a local jurisdiction acting pursuant to the construction safety standards described above, this bill authorizes a person to engage a third-party inspector to complete locally required building construction inspections and provide the inspection reports to the local jurisdiction no later than 10 business days after the date of inspection. As used in this provision, a "third-party inspector" means an individual who is registered with the state fire marshal to perform such inspections and registered as an engineer or architect with the Tennessee state board of examiners for architects and engineers and properly certified as appropriate to the type of inspection being performed.

FEES. If a person engages a third-party plans examiner in lieu of examination by the local jurisdiction, then this bill requires the person to submit the appropriate fee and a stamped and sealed copy of all plans that were examined to the local jurisdiction and must also meet the requirements in (i)-(vi) below. Likewise, if a person engages a third-party inspector to complete locally required building inspections, then the person must submit the appropriate fee, a copy of any building inspection report for that structure, and any approved plans and fire safety codes, and meet the requirements in (i)-(vi) below.

PERMIT PACKAGE OR EXAMINATION. This bill requires the permit package or examination that is submitted to the local jurisdiction to include (i) the building name, intended address, and local jurisdiction of the structure; (ii) the examiner or inspector's name and registration number assigned by the state fire marshal, and if an inspection the type of inspection; (iii) a sworn statement under penalty of perjury by the examiner or inspector, declaring that the plans comply with the applicable codes and that no deficiencies remain; (iv) a statement of the applicable codes of the local jurisdiction; (v) the occupancy classification of the structure; and (vi) other information as the state fire marshal may reasonably require. This bill requires the local jurisdiction to accept, reject, report deficiencies, or request additional information regarding the plan or inspection no later than 10 business days after submission of the documents required in (i)-(vi).

APPROVAL. This bill requires the local jurisdiction to approve the examination plan, if the plans comply with adopted codes; provide to the person, or the person's designee, a report of deficiencies; or request additional information necessary to ensure compliance with applicable codes no later than 10 business days after submission of the documents required in (i)-(vi) above. If the state fire marshal's office approves the examination plan or inspection, then the examiner or inspector must file with the local jurisdiction a copy of the approval from the state fire marshal. The filing of this approval has the same effect as if the local

jurisdiction had approved the plans.

REJECTION. If the state fire marshal's office rejects the inspection, then this bill requires a new inspection, and a new inspection report, to be completed after the date of rejection and submitted to the state fire marshal's office prior to further consideration.

REQUEST OF ADDITIONAL INFORMATION. If the state fire marshal's office provides a report of deficiencies, or if the state fire marshal's office requests additional information, then this bill provides that the person's submission of a substantive response begins a new 10-business-day period.

FAILURE TO ACT. If 10 business days pass and the local jurisdiction fails to take an action as required by this bill, then this bill requires the local jurisdiction to refund any associated examination plan or inspection fees that were collected.

WITHDRAWAL. This bill authorizes a person to file a withdrawal of review with the local jurisdiction, including the information listed in (i)-(vi) above, a copy of the withdrawal of review, and the appropriate fee with the state fire marshal's office. The state fire marshal's office must accept, reject or request additional information regarding the inspection, but must approve the examination, if the plans comply with adopted codes, provide the person's designee, a report of deficiencies, or request additional information necessary to ensure compliance with applicable codes no later than 10 business days after submission of the person's, or the person's designee's, withdrawal of review, and all required documentation and fees

REJECTION IN ERROR. This bill authorizes an applicant who believes the local jurisdiction has either interpreted the adopted building code incorrectly or rejected a plan or inspection in error may file a proceeding in the court of competent jurisdiction seeking a determination that the examiner or inspector's report complies with this bill and all relevant codes and legal requirements, as appropriate, and seek an order requiring the local jurisdiction to accept the plans or inspection. Additionally, this bill authorizes an applicant who believes the state fire marshal has interpreted the adopted building code incorrectly or rejected a plan or inspection in error to seek a determination in accordance with the Uniform Administrative Procedures Act, that the examination or inspection report complies with this bill and all relevant codes and legal requirements, as appropriate, and seek an order requiring the state fire marshal's office to accept the plans or inspection

EXEMPTIONS. This bill provides that the provisions above do not apply to state buildings, educational occupancies, or any other occupancy requiring an inspection by the state fire marshal for initial licensure, except that agencies licensed by the department of human services may engage third-party inspectors.

THIRD PARTY WATER RESOURCE ENGINEER

PERMIT PACKAGE AND FINAL INSPECTION. This bill authorizes a person to engage a third-party water resources engineer to prepare a permit package to install a subsurface sewage disposal system, or to conduct a final inspection of a subsurface sewage disposal system, in lieu of the department of environment and conservation or the contract county. The person may submit the permit package or final inspection to the department or, as applicable, to the contract county and must provide (i) the appropriate fee, which must be the same amount charged by the department or the contract county to perform the same services; (ii) if a permit package a copy of either the complete subsurface sewage disposal system application, or if an inspection report, a copy of the inspection; (iii) if a permit package, a copy of the sealed plans for the subsurface sewage disposal system, if an inspection, a certificate of completion; (iv) if a permit package, a completed but unsigned permit for construction of the subsurface disposal system; (v) a sworn statement

under penalty of perjury by the third-party water resources engineer that all of the information is accurate; and (vi) such other information as the department or the contract county may reasonably require.

APPROVAL, REJECTION, OR REQUEST FOR MORE INFORMATION. This bill requires the department or the contract county to review the submission and approve or reject it, or request additional information, no later than 10 business days after submission of the permit package or inspection report.

APPROVAL. If the department or the contract county approves the permit package, then this bill requires the department or county to issue the permit for construction of the subsurface disposal system at the time of approval. If the department or the contract county approves the final inspection report, then it must issue the certificate of completion of the subsurface sewage system at the time of approval.

REJECTION. If the department or the contract county rejects the third-party permit package or final inspection report, or requests additional information, then this bill provides that receipt by the department or the contract county of a substantive response to that rejection or request begins a new 10-business-day period for review. If the department or the contract county rejects a third-party water resources engineer's permit package, then the applicant may seek a variance.

FAILURE TO ACT. If the department or the contract county fails to approve, reject, or request additional information concerning the permit package or inspection report within 10 business days of submission, then this bill requires the department or the contract county to refund the associated fee but still complete the review.

REVIEW OF ENGINEERING REPORT AND FINAL INSPECTION. This bill authorizes a person to engage a third-party water resources engineer to review engineering reports, plans, and specifications to construct, install, or modify a non-discharging treatment works or sewerage system, including the collection system, treatment facility, and land application components. Preliminary project discussions must be completed and approved with the department before an applicant may engage a third-party water resources engineer.

This bill also authorizes a person to engage a third-party water resources engineer to conduct a final inspection of a non-discharging treatment works or sewerage system when construction has been completed. No later than 10 business days after completing the inspection, the person who engaged the third-party water resources engineer must submit the information described in (i)-(vi) below.

This bill requires each review or inspection to include (i) the appropriate fee, if required, which must be the same amount charged by the department to perform the same services; (ii) as applicable, a copy of the engineering report or final inspection; (iii) if the review report, the intended address, parcel number or numbers, and county of the property to be served by the non-discharging treatment works or sewerage system; (iv) if the review report, the basis of design for the non-discharging treatment works or sewerage system as applicable; (v) a sworn statement under penalty of perjury by the third-party water resources engineer that all information complies with wastewater engineering practices; and (vi) such other information as the department may reasonably require.

APPROVAL, REJECTION, OR REQUEST FOR MORE INFORMATION. This bill requires the department to review the submission of the report or inspection and approve, reject, or request additional information, no later than 10 business days after submission of either.

APPROVAL. If the department approves the construction permit review, then it must issue conditional construction permit approval at the same time. Construction must not commence until after issuance of the

associated state operating permit. If the department approves the inspection report, then it must approve the installed non-discharging treatment works or sewerage system at the same time it approves the inspection report.

FAILURE TO ACT. If the department does not approve, reject, or request additional information concerning the permit review or inspection report within 10 business days of submission, then the department must refund the entire associated fee but still complete the review.

GENERAL AQUATIC RESOURCE ALTERATION PERMIT

For a general aquatic resource alteration permit to authorize wetland alterations, this bill authorizes a person to engage a third-party wetland professional to review an application in lieu of the department of environment and conservation. After the applicant has submitted an aquatic resource inventory and the department has concurred with this inventory, a third-party wetland professional may submit a permit application review to the department in a form required by the department. The permit application review must include (i) the appropriate fee; (ii) a copy of the completed application package; (iii) a sworn statement under penalty of perjury by the third-party wetland stating all information is complete; and (iv) such other information as the department may reasonably require.

APPROVAL, REJECTION, OR REQUEST FOR MORE INFORMATION. This bill requires the department to review the submission of the permit application and approve, reject, or request additional information, no later than 10 business days after its submission.

APPROVAL. If the department approves the permit application review, then it must issue coverage under the applicable general permit at the same time.

FAILURE TO ACT. If the department fails to approve, reject, or request additional information concerning the permit application review within 10 business days of submission, the department must refund the entire associated fee but still complete the review.

CONFLICT OF INTEREST

This bill prohibits a third-party inspector, examiner, water resource engineer, or wetland professional from conducting an inspection or examination if there is a conflict of interest. The state fire marshal's office may reject an applicant's submission if the office determines there is a conflict of interest. As used in this bill, a "conflict of interest" means employment or other affiliation with, or financial interest in, the individual, firm, or corporation engaged in the construction project to be inspected or examined; and a relationship with a family member or other individual involved in the construction project, examination of plans, or inspection that could create an appearance of impropriety.