

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

SENATE BILL 166
RATIFIED BILL

AN ACT TO AMEND VARIOUS DEVELOPMENT REGULATIONS; TO AMEND VARIOUS NORTH CAROLINA STATE BUILDING CODES; TO AMEND VARIOUS CONSTRUCTION CONTRACTORS AND DESIGN PROFESSIONALS REGULATIONS; TO AMEND VARIOUS ENVIRONMENT AND ENVIRONMENTAL HEALTH REGULATIONS; AND TO REORGANIZE THE BUILDING CODE COUNCIL.

The General Assembly of North Carolina enacts:

PART I. DEVELOPMENT REGULATIONS

PROHIBIT CERTAIN BACKFLOW PREVENTER REQUIREMENTS BY PUBLIC WATER SYSTEMS

SECTION 1.1.(a) Article 10 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-330. Local authority to require backflow preventers; testing.

(a) No public water system owned or operated by a local government unit, as that term is defined in G.S. 159G-20(13), shall require a customer to install a backflow preventer on an existing nonresidential or residential connection, including multifamily dwellings, not otherwise required by State or federal law except where the degree of hazard from the customer's connection is determined to be high by the Department.

(b) The limitation established in subsection (a) of this section shall not be construed to prohibit requirements for installation of backflow preventers pursuant to the North Carolina Plumbing Code or the North Carolina Fire Code due to retrofit or upfit/fit-up to the customer's plumbing, facility addition on the customer's property, or change in use of the property served by the connection. The single act of a retrofit or upfit/fit-up to the customer's plumbing limited to the service line between the home or building and the meter, and without a change in use or facility addition, does not necessitate a backflow preventer. An increase in the flow of water to the home or building, without a change in use or facility addition, does not necessitate a backflow preventer.

(c) A public water system owned or operated by a local government unit, and its employees, including the Cross Connection Control Operator in Responsible Charge, is immune from civil liability in tort from any loss, damage, or injury arising out of or relating to the backflow of water into potable water supply systems where a backflow preventer is not required by State or federal law, or where the degree of hazard from the customer's connection is not determined to be high by the Department.

(d) The Department shall determine whether the degree of hazard for a service connection is high when the installation of a backflow preventer is not otherwise required by State or federal law. The Department shall provide notice of such determinations on its website.

(e) Nothing in this section shall prohibit a public water system owned or operated by a local government unit from requiring the installation of a backflow preventer if the system pays all costs associated with the backflow preventer, including the device, installation, and appropriate landscaping.



(f) No public water system owned or operated by a local government unit shall require periodic testing more frequently than once every three years for backflow preventers on residential irrigation systems that do not apply or dispose chemical feeds.

(g) A public water system owned or operated by a local government, and its employees, including the Cross Connection Control Operator in Responsible Charge, is immune from civil liability in tort from any loss, damage, or injury resulting from compliance with the limitations on periodic testing provided in subsection (f) of this section.

(h) A public water system owned or operated by a local government unit may accept the results of backflow preventer testing conducted by a plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes or a certified backflow prevention assembly tester approved by the public water system.

(i) For purposes of this section, the following definitions apply:

(1) "Backflow preventer" means an assembly, device, or method that prohibits the backflow of water into potable water supply systems.

(2) "Certified backflow prevention assembly tester" means a person who holds a certificate of completion from a training program in the testing and repair of backflow preventers.

(3) "High hazard" means a cross-connection or potential cross-connection involving any substance that could, if introduced into the potable water supply, cause illness or death, spread disease, or have a high probability of causing such effects."

SECTION 1.1.(b) G.S. 150B-2 reads as rewritten:

"§ 150B-2. Definitions.

As used in this Chapter, the following definitions apply:

...

(8a) Rule. – Any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:

...

m. Determinations by the Department of Environmental Quality of high hazards pursuant to G.S. 130A-330.

...."

SECTION 1.1.(c) This section is effective when it becomes law and applies to requirements for installation or testing of backflow preventers made by a public water supply on or after that date.