

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1766  
PROPOSED COMMITTEE SUBSTITUTE H1766-PCS50966-TF-4

Short Title: Amend Environmental Laws 2010.

(Public)

Sponsors:

Referred to:

May 18, 2010

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES  
3 LAWS TO: (1) CHANGE THE LOCATION OF THE HORIZONTAL CONTROL  
4 MONUMENT FILES FOR PLAT AND SUBDIVISION MAPPING REQUIREMENTS;  
5 (2) PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE  
6 SPEAKER OF THE HOUSE OF REPRESENTATIVES MAY DESIGNATE MULTIPLE  
7 MEMBERS TO SERVE AS COCHAIRS OF THE ENVIRONMENTAL REVIEW  
8 COMMISSION; (3) REPEAL THE REQUIREMENT THAT REMEDIAL ACTION  
9 PLANS BE RECORDED IN THE REGISTER OF DEEDS OFFICE AND MODIFY THE  
10 REQUIREMENT THAT REMEDIAL ACTION PLANS BE PLACED IN EACH PUBLIC  
11 LIBRARY IN THE COUNTY; (4) REESTABLISH THE SURFACE WATER  
12 IDENTIFICATION TRAINING AND CERTIFICATION PROGRAM AS A  
13 COMPONENT OF THE RIPARIAN BUFFER PROTECTION PROGRAM; (5) AMEND  
14 THE CUSTOMER REPORTING REQUIREMENTS FOR SMALL WASTEWATER  
15 SYSTEMS; (6) AMEND CIVIL PENALTIES FOR CERTAIN AIR QUALITY  
16 VIOLATIONS TO CONFORM WITH CHANGES MADE IN S.L. 2007-296; (7)  
17 CHANGE THE NAME OF THE NORTH CAROLINA NATIONAL PARK, PARKWAY  
18 AND FORESTS DEVELOPMENT COUNCIL TO THE WESTERN NORTH CAROLINA  
19 PUBLIC LANDS COUNCIL; (8) CLARIFY THE STANDARDS FOR QUALIFICATION  
20 OF VOLUNTARY WATER CONSERVATION AND WATER USE EFFICIENCY  
21 PROGRAMS; (9) AMEND THE ENFORCEMENT AUTHORITY OF THE  
22 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES UNDER THE  
23 DROUGHT MANAGEMENT PREPAREDNESS AND RESPONSE ACT; (10) AMEND  
24 DESIGNATION OF THE MEMBER OF THE SEDIMENTATION CONTROL  
25 COMMISSION REPRESENTING A NORTH CAROLINA PUBLIC UTILITY  
26 COMPANY; (11) AMEND THE NOTICE REQUIREMENTS FOR CITIES, COUNTIES,  
27 SANITARY DISTRICTS, AND WATER AND SEWER AUTHORITIES WHEN  
28 IMPOSING OR INCREASING CERTAIN FEES OR CERTAIN CHARGES; (12)  
29 PROVIDE THAT THE PROHIBITION ON ANY NEW OR INCREASED NUTRIENT  
30 LOADING ALLOCATION APPLIES TO IMPAIRED DRINKING WATER SUPPLY  
31 RESERVOIRS; (13) ESTABLISH THE NORTH CAROLINA WOOD AND CROP  
32 BIOMASS STRATEGIC WORKING GROUP; (14) DIRECT CERTAIN STATE  
33 AGENCIES TO REVIEW THEIR PLANNING AND REGULATORY PROGRAMS AND  
34 RECOMMEND WHETHER THOSE PROGRAMS SHOULD INCLUDE



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1 CONSIDERATION OF THE IMPACTS OF GLOBAL CLIMATE CHANGE; (15)  
2 REQUIRE ALL PUBLIC AGENCIES TO RECYCLE ALL SPENT FLUORESCENT  
3 LIGHTS AND MERCURY THERMOSTATS, REQUIRE THE REMOVAL OF ALL  
4 FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS  
5 PRIOR TO DEMOLITION, AND BAN MERCURY-CONTAINING PRODUCTS FROM  
6 UNLINED LANDFILLS, (16) AUTHORIZE THE ENVIRONMENTAL REVIEW  
7 COMMISSION TO STUDY THE PENALTIES APPLICABLE TO VIOLATIONS OF  
8 G.S. 130A-309.10 (PROHIBITED ACTS RELATED TO PACKAGING; CODED  
9 LABELING OF PLASTIC CONTAINERS REQUIRED; DISPOSAL OF CERTAIN  
10 SOLID WASTES IN LANDFILLS OR BY INCINERATION PROHIBITED); AND (17)  
11 PROVIDE THAT LOCAL GOVERNMENTS AND LARGE COMMUNITY WATER  
12 SYSTEMS ONLY REQUIRE SEPARATE METERS FOR NEW IN-GROUND  
13 IRRIGATION SYSTEMS FOR LOTS PLATTED AFTER JULY 1, 2009, THAT ARE  
14 CONNECTED TO THEIR SYSTEMS.

15 The General Assembly of North Carolina enacts:

16 **SECTION 1.** G.S. 47-30(f)(9) reads as rewritten:

17 "(9) Where the plat is the result of a survey, one or more corners shall, by a  
18 system of azimuths or courses and distances, be accurately tied to and  
19 coordinated with a horizontal control monument of some United States or  
20 State Agency survey system, such as the North Carolina Geodetic Survey  
21 where the monument is within 2,000 feet of the subject property. Where the  
22 North Carolina Grid System coordinates of the monument are on file in the  
23 ~~North Carolina Office of State Budget and Management, North Carolina~~  
24 Geodetic Survey Section in the Division of Land Resources of the  
25 Department of Environment and Natural Resources, the coordinates of both  
26 the referenced corner and the monuments used shall be shown in X (easting)  
27 and Y (northing) coordinates on the plat. The coordinates shall be identified  
28 as based on "NAD 83," indicating North American Datum of 1983, or as  
29 "NAD 27," indicating North American Datum of 1927. The tie lines to the  
30 monuments shall also be sufficient to establish true north or grid north  
31 bearings for the plat if the monuments exist in pairs. Within a previously  
32 recorded subdivision that has been tied to grid control, control monuments  
33 within the subdivision may be used in lieu of additional ties to grid control.  
34 Within a previously recorded subdivision that has not been tied to grid  
35 control, if horizontal control monuments are available within 2,000 feet, the  
36 above requirements shall be met; but in the interest of bearing consistency  
37 with previously recorded plats, existing bearing control should be used  
38 where practical. In the absence of ~~Grid Control~~, grid control, other  
39 appropriate natural monuments or landmarks shall be used. In all cases, the  
40 tie lines shall be sufficient to accurately reproduce the subject lands from the  
41 control or reference points used."

42 **SECTION 2.** G.S. 120-70.42(b) reads as rewritten:

43 "(b) The President Pro Tempore of the Senate shall designate one ~~Senator to serve as~~  
44 ~~cochair or more Senators~~ and the Speaker of the House of Representatives shall designate one  
45 ~~Representative to serve as cochair or more Representatives to serve as cochairs.~~"

46 **SECTION 3.** G.S. 130A-310.4(b) reads as rewritten:

47 "(b) Before approving any remedial action plan, the Secretary shall make copies of the  
48 proposed plan available for inspection as follows:

49 (1) A copy of the plan shall be provided to the local health director.

50 (2) ~~A copy of the proposed plan shall be filed with the register of deeds in the~~  
51 ~~county or counties in which the site is located.~~

1 (3) A copy of the plan shall be provided to the each public library located in  
2 closest proximity to the site in the county or counties in which the site is  
3 located.

4 (4) The Secretary may place copies of the plan in other locations so as to assure  
5 the availability thereof to the public.

6 In addition, copies of the plan shall be available for inspection and copying at cost by the  
7 public during regular business hours in the offices of the agency within the Department with  
8 responsibility for the administration of the remedial action program."

9 **SECTION 4.(a)** Part 1 of Article 21 of Chapter 143 of the General Statutes is  
10 amended by adding a new section to read:

11 "**§ 143-214.25A. Riparian Buffer Protection Program: Surface Water Identification**  
12 **Training and Certification Program.**

13 (a) The Division of Water Quality of the Department shall develop a program to train  
14 and certify individuals to determine the presence of surface waters that would require the  
15 application of rules adopted by the Commission for the protection of riparian buffers. The  
16 Division may train and certify employees of the Division as determined by the Director of the  
17 Division of Water Quality; employees of units of local government to whom responsibility for  
18 the implementation and enforcement of the riparian buffer protection rules is delegated  
19 pursuant to G.S. 143-214.23; and Registered Foresters under Chapter 89B of the General  
20 Statutes who are employees of the Division of Forest Resources of the Department as  
21 determined by the Director of the Division of Forest Resources. The Director of the Division of  
22 Water Quality may review the determinations made by individuals who are certified pursuant  
23 to this section, may override a determination made by an individual certified under this section,  
24 and, if the Director of the Division of Water Quality determines that an individual is failing to  
25 make correct determinations, revoke the certification of that individual.

26 (b) The Division of Water Quality shall develop standard forms for use in making and  
27 reporting determinations. Each individual who is certified to make determinations under this  
28 section shall prepare a written report of each determination and shall submit the report to the  
29 agency that employs the individual. Each agency shall maintain reports of determinations made  
30 by its employees, shall forward a copy of each report to the Director of the Division of Water  
31 Quality, and shall maintain these reports and all other records related to determinations so that  
32 they will be readily accessible to the public."

33 **SECTION 4.(b)** In implementing the Surface Water Identification Training and  
34 Certification Program established by G.S. 143-214.25A, as enacted by Section 4(a) of this act,  
35 the Division of Water Quality of the Department of Environment and Natural Resources shall  
36 give priority to training and certifying the most highly qualified and experienced personnel in  
37 each agency. The Division of Water Quality shall evaluate the effectiveness of the Surface  
38 Water Identification Training and Certification Program and shall submit an annual report of its  
39 findings and recommendations, if any, to the Environmental Review Commission on or before  
40 October 1 of each year. The Division of Water Quality shall submit the first report required by  
41 this section on or before October 1, 2011.

42 **SECTION 4.(c)** Sections 4(a), 4(b), and 4(c) of this act shall not be construed to  
43 obligate the General Assembly to appropriate any funds to implement the provisions of this act.  
44 Every agency to which this section applies shall implement the provisions of this act with funds  
45 otherwise appropriated or available to the agency.

46 **SECTION 5.** G.S. 143-215.1C(a) reads as rewritten:

47 "(a) Report to Wastewater System Customers. – The owner or operator of any  
48 wastewater collection or treatment works, the operation of which is primarily to collect or treat  
49 municipal or domestic wastewater and for which a permit is issued under this ~~Part, Part and~~  
50 having an average annual flow greater than 200,000 gallons per day, shall provide to the users  
51 or customers of the collection system or treatment works and to the Department an annual

1 report that summarizes the performance of the collection system or treatment works and the  
 2 extent to which the collection system or treatment works has violated the permit or federal or  
 3 State laws, regulations, or rules related to the protection of water quality. The report shall be  
 4 prepared on either a calendar or fiscal year basis and shall be provided no later than 60 days  
 5 after the end of the calendar or fiscal year."

6 **SECTION 6.** G.S. 143-215.112(d)(1a) reads as rewritten:

7 "(1a) Each governing body, or its authorized agent, shall have the power to assess  
 8 civil penalties under G.S. 143-215.114A. Any person assessed shall be  
 9 notified of the assessment by registered or certified mail, and the notice shall  
 10 specify the reasons for the assessment. If the person assessed fails to pay the  
 11 amount of the assessment to the governing body or its authorized agent  
 12 within 30 days after receipt of notice, or such longer period not to exceed  
 13 180 days as the governing body or its authorized agent may specify, the  
 14 governing body may institute a civil action in the superior court of the  
 15 county in which the violation occurred, to recover the amount of the  
 16 assessment. If any action or failure to act for which a penalty may be  
 17 assessed under this section is continuous, the governing body or its  
 18 authorized agent may assess a penalty not to exceed ~~ten thousand dollars~~  
 19 ~~(\$10,000)~~ twenty-five thousand dollars (\$25,000) per day for so long as the  
 20 violation continues. In determining the amount of the penalty, the governing  
 21 body or its authorized agent shall consider the degree and extent of harm  
 22 caused by the violation, the cost of rectifying the damage, and the amount of  
 23 money the violator saved by not having made the necessary expenditures to  
 24 comply with the appropriate pollution control requirements."

25 **SECTION 7.(a)** The title of Part 17A of Article 7 of Chapter 143B of the General  
 26 Statutes reads as rewritten:

27 "~~Part 17A. North Carolina National Park, Parkway and Forests Development Council.~~ Western  
 28 North Carolina Public Lands Council."

29 **SECTION 7.(b)** G.S. 143B-324.1 reads as rewritten:

30 "~~§ 143B-324.1. North Carolina National Park, Parkway and Forests Development~~  
 31 ~~Council; Western North Carolina Public Lands Council creation; powers;~~  
 32 ~~duties.~~

33 ~~The North Carolina National Park, Parkway and Forests Development Council Western~~  
 34 ~~North Carolina Public Lands Council~~ is created within the Department of Environment and  
 35 Natural Resources. The Council shall:

36 ...."

37 **SECTION 7.(c)** G.S. 143B-324.2 reads as rewritten:

38 ...."

39 "~~§ 143B-324.2. North Carolina National Park, Parkway and Forests Development~~  
 40 ~~Council—Western North Carolina Public Lands Council members; selection;~~  
 41 ~~officers; removal; compensation; quorum; services.~~

42 (a) Members; selection; and terms of service. – ~~The North Carolina National Park,~~  
 43 ~~Parkway and Forests Development Council Western North Carolina Public Lands Council~~  
 44 within the Department of Environment and Natural Resources shall consist of seven members  
 45 appointed by the Governor. The composition of the Council shall be as follows:

- 46 (1) ~~one~~ One member shall be a resident of Buncombe ~~County, County.~~  
 47 (2) ~~one~~ One member shall be a resident of Haywood ~~County, County.~~  
 48 (3) ~~one~~ One member shall be a resident of Jackson ~~County, County.~~  
 49 (4) ~~one~~ One member shall be a resident of Swain ~~County, County.~~  
 50 (5) One member shall be a resident of Cherokee County.

1           (6) ~~three~~ Two members shall be residents of counties adjacent to the Blue Ridge  
2           Parkway, the Great Smoky Mountains National Park or the Pisgah or  
3           Nantahala national forests.

4           The appointment of members shall be for terms of four years, or until their successors are  
5           appointed and qualify. Any appointment to fill a vacancy on the Council created by the  
6           resignation, dismissal, death or disability of a member shall be for the balance of the unexpired  
7           term.

8           (b) Officers. – The Council shall elect a ~~chairman, chair, a vice-chairman-vice-chair,~~ and  
9           a secretary. The ~~chairman and the vice-chairman~~ chair and vice-chair shall all be members of  
10          the Council, but the secretary need not be a member of the Council. These officers shall  
11          perform the duties usually pertaining to such offices and when elected shall serve for a period  
12          of one year, but may be reelected. In case of vacancies by resignation or death, the office shall  
13          be filled by the Council for the unexpired term of said officer.

14          (c) Removal. – The Governor shall have the power to remove any member of the  
15          Council from office in accordance with the provisions of G.S. 143B-16 of the Executive  
16          Organization Act of 1973.

17          (d) Compensation. – Members of the Council shall receive per diem and necessary  
18          travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and  
19          G.S. 143B-15 of the Executive Organization Act of 1973.

20          (e) Quorum. – Five members of the Council shall constitute a quorum for the  
21          transaction of business."

22          **SECTION 7.(d)** G.S. 143B-324.3 reads as rewritten:

23          "**§ 143B-324.3. ~~North Carolina National Park, Parkway and Forests Development~~**  
24          **Council—Western North Carolina Public Lands Council meetings.**

25          The ~~North Carolina National Park, Parkway and Forests Development Council—~~Western  
26          North Carolina Public Lands Council shall meet monthly and may hold special meetings at any  
27          time and place within the State at the call of the ~~chairman~~ chair or upon written request of at  
28          least a majority of the members."

29          **SECTION 7.(e)** G.S. 143B-432(a) reads as rewritten:

30          "(a) The Division of Economic Development of the Department of Natural and Economic  
31          Resources, the Science and Technology Committee of the Department of Natural and  
32          Economic Resources, the Science and Technology Research Center of the Department of  
33          Natural and Economic Resources, and the ~~North Carolina National Park, Parkway and Forests~~  
34          ~~Development Council—~~Western North Carolina Public Lands Council of the Department of  
35          Natural and Economic Resources are each hereby transferred to the Department of Commerce  
36          by a Type I transfer, as defined in G.S. 143A-6."

37          **SECTION 7.(f)** G.S. 143B-433 reads as rewritten:

38          "**§ 143B-433. Department of Commerce – organization.**

39          The Department of Commerce shall be organized to include:

40          (1) The following agencies:

41                 ...

42                 p. ~~North Carolina National Park, Parkway and Forests Development~~  
43                 Council—Western North Carolina Public Lands Council.

44                 ...."

45          **SECTION 7.(g)** G.S. 153B-3(d) reads as rewritten:

46          "(d) Membership. – The Commission shall consist of 17 members as follows:

47                 ...

48                 (4) One member to represent the ~~North Carolina National Parks, Parkway and~~  
49                 ~~Forests—Development Council—~~Western North Carolina Public Lands  
50                 Council.

51                 ...."

1           **SECTION 8.** G.S. 143-355.2(h1) reads as rewritten:

2           "(h1) A trade or professional organization representing commercial car washes may  
3 establish a voluntary water conservation and water use efficiency certification program to  
4 encourage and promote the use of year-round water conservation and water use efficiency  
5 ~~measures-measures. Implementation of a voluntary water conservation and water use efficiency~~  
6 program shall be considered in determining compliance with local government water shortage  
7 response plans as follows:

- 8           (1) A water conservation and water use efficiency certification may only be  
9 issued to a person that demonstrates ~~that water use from its water consuming~~  
10 ~~processes is reduced by and maintained at twenty percent (20%) or more~~  
11 ~~below the yearly average water use for the calendar year preceding~~  
12 application for certification.full implementation of a voluntary water  
13 conservation and water use efficiency program that is approved pursuant to  
14 subdivision (3) of this subsection. In order to receive and maintain  
15 certification, a person must have its facility inspected on an annual basis by a  
16 licensed plumbing contractor who will confirm that the applicant is in  
17 compliance with the standards of the certification program.
- 18           (2) A unit of local government that provides public water service or a large  
19 community water system shall recognize and credit a commercial car wash  
20 that has met the standards of a certification program for at least six months  
21 prior to the most recent extreme drought designation for water conservation  
22 achieved under the program. To the extent that a tiered response stage in the  
23 water shortage response plan requires commercial or industrial users to  
24 implement a percentage reduction in use, a car wash certified under a  
25 program shall be credited with the percentage reduction achieved by  
26 measures implemented under the program. Car washes certified under a  
27 program shall not be required to reduce consumption more than any other  
28 class of commercial or industrial water users during a water shortage  
29 emergency.
- 30           (3) To qualify as an approved water conservation and water use efficiency  
31 certification program, the Department of Environment and Natural  
32 Resources shall determine that the program ~~effectively utilizes industry best~~  
33 ~~management practices for the efficient use of water and achieves year-round~~  
34 reductions in water use-use and results in a reduction of twenty percent  
35 (20%) or more in average water use per vehicle. Best management practices  
36 may include, but are not limited to, recycling, reclaiming, or reusing a  
37 portion of the water in the consuming processes. If a unit of local  
38 government that provides public water service or a large community water  
39 system determines that a person certified under such a program is not  
40 complying with the terms and standards of the certification program, it may  
41 refuse to recognize and credit the conservation measures."

42           **SECTION 9.** G.S. 143-355.6 reads as rewritten:

43           "**§ 143-355.6. Enforcement.**

- 44           (a) The Secretary may assess a civil penalty of not less than one hundred dollars  
45 (\$100.00) nor more than five hundred dollars (\$500.00) against any person who:  
46           (1) Fails to report water use or other information required under  
47 G.S. 143-355(k).  
48           (2) Fails to act in accordance with the terms, conditions, or requirements of an  
49 order issued by the Secretary under G.S. 143-355.3.  
50           (3) Violates any provision of this Article or any rule adopted by the  
51 Commission, the Department, or the Secretary implementing this Article.

1 (b) For each willful action or failure to act for which a penalty may be assessed under  
2 this section, the Secretary may consider each day the action or inaction continues after notice is  
3 given of the violation as a separate violation. A separate penalty may be assessed for each  
4 separate violation.

5 (c) The Secretary may assess a civil penalty of not more than ten thousand dollars  
6 (\$10,000) per month against a unit of local government that provides public water service or a  
7 large community water system that fails to implement the water conservation measures set out  
8 in the water shortage response plan approved by the Department under G.S. 143-355.2,  
9 measures required by the Department under subsections (b) and (d) of G.S. 143-355.2, or the  
10 default measures required under rules adopted by the Commission under S.L. 2002-167. ~~The~~  
11 ~~Secretary may remit a civil penalty based on the factors set out in G.S. 143B-282.1(e)(1).~~

12 (c1) The amount of the civil penalty shall be based on the factors set out in  
13 G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty  
14 assessments that are presented to the Commission for final agency decision.

15 (c2) Requests for remission of civil penalties shall be filed with the Secretary. Remission  
16 requests shall not be considered unless made within 30 days of receipt of the notice of  
17 assessment. Remission requests must be accompanied by a waiver of the right to a contested  
18 case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on  
19 which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d),  
20 remission requests may be resolved by the Secretary and the violator. If the Secretary and the  
21 violator are unable to resolve the request, the Secretary shall deliver remission requests and the  
22 Secretary's recommended action to the Committee on Civil Penalty Remissions of the  
23 Commission appointed pursuant to G.S. 143B-282.1(c).

24 (c3) If any civil penalty has not been paid within 30 days after the notice of assessment  
25 has been served on the violator, the Secretary shall request the Attorney General to institute a  
26 civil action in the superior court of any county in which the violator resides or in which the  
27 violator's principal place of business is located to recover the amount of the assessment, unless  
28 the violator contests the assessment as provided in subsection (e) of this section, or requests  
29 remission of the assessment in whole or in part as provided in subsection (c2) of this section. If  
30 any civil penalty has not been paid within 30 days after the final agency decision or court order  
31 has been served on the violator, the Secretary shall request the Attorney General to institute a  
32 civil action in the superior court of any county in which the violator resides or in which the  
33 violator's principal place of business is located to recover the amount of the assessment.

34 (d) The violation of emergency water conservation rules adopted by the Secretary  
35 pursuant to G.S. 143-355.3(b) is a Class 1 misdemeanor.

36 (e) The Secretary shall notify any person assessed a civil penalty of the assessment and  
37 the specific reasons for the assessment by registered or certified mail or by any means  
38 authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of  
39 receipt of the notice of assessment.

40 (f) The clear proceeds of civil penalties assessed pursuant to this section shall be  
41 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

42 **SECTION 10.** G.S. 143B-299(a) reads as rewritten:

43 "(a) Creation; Membership. – There is hereby created in the Department of Environment  
44 and Natural Resources the North Carolina Sedimentation Control Commission, which is  
45 charged with the duty of developing and administering the sedimentation control program  
46 provided for in this Article. The Commission shall consist of the following members:

47 (1) A person to be nominated jointly by the boards of the North Carolina League  
48 of Municipalities and the North Carolina Association of County  
49 ~~Commissioners;~~Commissioners.

50 (2) A person to be nominated by the Board of the North Carolina Home  
51 ~~Builders Association;~~Association.

- 1 (3) A person to be nominated by the Carolinas Branch, Associated General  
2 Contractors of ~~America;America.~~
- 3 (4) ~~The president, vice president, or general counsel~~ A representative of a North  
4 Carolina public utility ~~company;company.~~
- 5 (5) The Director of the North Carolina Water Resources Research  
6 ~~Institute;Institute.~~
- 7 (6) A member of the State Mining Commission who shall be a representative of  
8 nongovernmental conservation interests, as required by  
9 ~~G.S. 74-38(b);G.S. 74-38(b).~~
- 10 (7) A member of the State Soil and Water Conservation  
11 ~~Commission;Commission.~~
- 12 (8) A member of the Environmental Management ~~Commission;Commission.~~
- 13 (9) A soil scientist from the faculty of North Carolina State  
14 ~~University;University.~~
- 15 (10) Two persons who shall be representatives of nongovernmental conservation  
16 ~~interests; andinterests.~~
- 17 (11) A professional engineer registered under the provisions of Chapter 89C of  
18 the General Statutes nominated by the Professional Engineers of North  
19 Carolina, Inc."

20 **SECTION 11.(a)** G.S. 153A-102.1 reads as rewritten:

21 "**§ 153A-102.1. ~~Electronic notice~~Notice of new fees and fee increases; public comment**  
22 **period.**

23 (a) ~~If a county has a Web site maintained by one or more of its employees, the~~ A county  
24 shall provide notice to interested parties of the imposition of or increase in fees or charges  
25 applicable solely to the construction of development subject to the provisions of Part 2 of  
26 Article 18 of this Chapter ~~on the county's Web site~~ at least seven days prior to the first meeting  
27 where the imposition of or increase in the fees or charges is on the agenda for consideration.  
28 The county shall employ at least two of the following means of communication in order to  
29 provide the notice required by this section:

- 30 (1) Notice of the meeting in a prominent location on a Web site managed or  
31 maintained by the county.
- 32 (2) Notice of the meeting in a prominent physical location, including, but not  
33 limited to, any government building, library, or courthouse within the  
34 county.
- 35 (3) Notice of the meeting by electronic mail to a list of interested parties that is  
36 created by the county for the purpose of notification as required by this  
37 section.
- 38 (4) Notice of the meeting by facsimile to a list of interested parties that is  
39 created by the county for the purpose of notification as required by this  
40 section.

41 (a1) If a county manages or maintains a Web site, it may provide the notice required  
42 pursuant to G.S. 160A-4.1, 130A-64.1, or 162A-9 on its Web site at the request of a city,  
43 sanitary district, or water and sewer authority that does not manage or maintain a Web site of  
44 its own. Any county that elects to provide such notice shall post the notice to its Web site  
45 within seven days of the request made by the city, sanitary district, or water and sewer  
46 authority.

47 (b) During the consideration of the imposition of or increase in fees or charges as  
48 provided in subsection (a) of this section, the governing body of the county shall permit a  
49 period of public comment.

50 (c) This section shall not apply if the imposition of or increase in fees or charges is  
51 contained in a budget filed in accordance with the requirements of G.S. 159-12."



1           **SECTION 11.(b)** G.S. 160A-4.1 reads as rewritten:

2   "**§ 160A-4.1. ~~Electronic notice~~ Notice of new fees and fee increases; public comment**

3           **period.**

4           (a) ~~If a city has a Web site maintained by one or more of its employees, the~~A city shall  
5 provide notice to interested parties of the imposition of or increase in fees or charges applicable  
6 solely to the construction of development subject to the provisions of Part 2 of Article 19 of  
7 this Chapter ~~on the city's Web site~~ at least seven days prior to the first meeting where the  
8 imposition of or increase in the fees or charges is on the agenda for consideration. The city  
9 shall employ at least two of the following means of communication in order to provide the  
10 notice required by this section:

11           (1) Notice of the meeting in a prominent location on a Web site managed or  
12 maintained by the city.

13           (2) Notice of the meeting in a prominent physical location, including, but not  
14 limited to, any government building, library, or courthouse within the city.

15           (3) Notice of the meeting by electronic mail to a list of interested parties that is  
16 created by the city for the purpose of notification as required by this section.

17           (4) Notice of the meeting by facsimile to a list of interested parties that is  
18 created by the city for the purpose of notification as required by this section.

19           (a1) If a city does not maintain its own Web site, it may employ the notice option  
20 provided by subdivision (1) of subsection (a) of this section by submitting a request to a county  
21 or counties in which the city is located to post such notice in a prominent location on a Web  
22 site that is maintained by the county or counties. Any city that elects to provide such notice  
23 shall make its request to the county or counties at least 15 days prior to the date of the first  
24 meeting where the imposition of or increase in the fees or charges is on the agenda for  
25 consideration.

26           (b) During the consideration of the imposition of or increase in fees or charges as  
27 provided in subsection (a) of this section, the governing body of the city shall permit a period  
28 of public comment.

29           (c) This section shall not apply if the imposition of or increase in fees or charges is  
30 contained in a budget filed in accordance with the requirements of G.S. 159-12."

31           **SECTION 11.(c)** G.S. 130A-64.1 reads as rewritten:

32   "**§ 130A-64.1. ~~Electronic notice~~ Notice of new or increased charges and rates; public**

33           **comment period.**

34           (a) ~~If a sanitary district has a Web site maintained by one or more of its employees,~~  
35 ~~the~~A sanitary district shall provide notice to interested parties of the imposition of or increase  
36 in service charges or rates applicable solely to the construction of development subject to Part 2  
37 of Article 19 of Chapter 160A or Part 2 of Article 18 of Chapter 153A of the General Statutes  
38 for any service provided by the sanitary district on the sanitary district's Web site at least seven  
39 days prior to the first meeting where the imposition of or increase in the charges or rates is on  
40 the agenda for consideration. The sanitary district shall employ at least two of the following  
41 means of communication in order to provide the notice required by this section:

42           (1) Notice of the meeting in a prominent location on a Web site managed or  
43 maintained by the sanitary district.

44           (2) Notice of the meeting in a prominent physical location, including, but not  
45 limited to, the district's headquarters or any government building, library, or  
46 courthouse located within the sanitary district.

47           (3) Notice of the meeting by electronic mail to a list of interested parties that is  
48 created by the sanitary district for the purpose of notification as required by  
49 this section.

1           (4) Notice of the meeting by facsimile to a list of interested parties that is  
2           created by the sanitary district for the purpose of notification as required by  
3           this section.

4           (a1) If a sanitary district does not maintain its own Web site, it may employ the notice  
5           option provided by subdivision (1) of subsection (a) of this section by submitting a request to a  
6           county or counties in which the district is located to post such notice in a prominent location on  
7           a Web site that is maintained by the county or counties. Any sanitary district that elects to  
8           provide such notice shall make its request to the county or counties at least 15 days prior to the  
9           date of the first meeting where the imposition of or increase in the fees or charges is on the  
10           agenda for consideration.

11           (b) During the consideration of the imposition of or increase in service charges or rates  
12 as provided in subsection (a) of this section, the governing body of the sanitary district shall  
13 permit a period of public comment.

14           (c) This section shall not apply if the imposition of or increase in service charges or  
15 rates is contained in a budget filed in accordance with the requirements of G.S. 159-12."

16           **SECTION 11.(d)** G.S. 162A-9 reads as rewritten:

17 **"§ 162A-9. Rates and charges; ~~electronic~~ notice; contracts for water or services; deposits;**  
18 **delinquent charges.**

19           (a) An authority may establish and revise a schedule of rates, fees, and other charges for  
20 the use of and for the services furnished or to be furnished by any water system or sewer  
21 system or parts thereof owned or operated by the authority. The rates, fees, and charges  
22 established under this subsection are not subject to supervision or regulation by any bureau,  
23 board, commission, or other agency of the State or of any political subdivision.

24           Before an authority sets or revises rates, fees, or other charges for stormwater management  
25 programs and structural or natural stormwater and drainage system service, the authority shall  
26 hold a public hearing on the matter. At least seven days before the hearing, the authority shall  
27 publish notice of the public hearing in a newspaper having general circulation in the area. An  
28 authority may impose rates, fees, or other charges for stormwater management programs and  
29 stormwater and drainage system service on a person even though the person has not entered  
30 into a contract to receive the service.

31           Rates, fees, and charges shall be fixed and revised so that the revenues of the authority,  
32 together with any other available funds, will be sufficient at all times:

- 33           (1) To pay the cost of maintaining, repairing, and operating the systems or parts  
34           thereof owned or operated by the authority, including reserves for such  
35           purposes, and including provision for the payment of principal of and  
36           interest on indebtedness of a political subdivision or of political subdivisions  
37           which payment shall have been assumed by the authority, and  
38           (2) To pay the principal of and the interest on all bonds issued by the authority  
39           under the provisions of this Article as the same shall become due and  
40           payable and to provide reserves therefor.

41           The fees established under this subsection must be made applicable throughout the service  
42 area. Schedules of rates, fees, charges, and penalties for providing stormwater management  
43 programs and structural and natural stormwater and drainage system service may vary  
44 according to whether the property served is residential, commercial, or industrial property, the  
45 property's use, the size of the property, the area of impervious surfaces on the property, the  
46 quantity and quality of the runoff from the property, the characteristics of the watershed into  
47 which stormwater from the property drains, and other factors that affect the stormwater  
48 drainage system. Rates, fees, and charges imposed under this subsection for stormwater  
49 management programs and stormwater and drainage system service may not exceed the  
50 authority's cost of providing a stormwater management program and a structural and natural  
51 stormwater and drainage system. The authority's cost of providing a stormwater management

1 program and a structural and natural stormwater and drainage system includes any costs  
2 necessary to assure that all aspects of stormwater quality and quantity are managed in  
3 accordance with federal and State laws, regulations, and rules.

4 No stormwater utility fee may be levied under this subsection whenever two or more units  
5 of local government operate separate stormwater management programs or separate structural  
6 and natural stormwater and drainage system services in the same area within a county.  
7 However, two or more units of local government may allocate among themselves the functions,  
8 duties, powers, and responsibilities for jointly operating a stormwater management program  
9 and structural and natural stormwater and drainage system service in the same area within a  
10 county, provided that only one unit may levy a fee for the service within the joint service area.  
11 For purposes of this subsection, a unit of local government shall include a regional authority  
12 providing stormwater management programs and structural and natural stormwater and  
13 drainage system services.

14 (a1) ~~If an authority has a Web site maintained by one or more of its employees, the~~ An  
15 authority shall provide notice to interested parties of the imposition of or increase in rates, fees,  
16 and charges under subsection (a) of this section applicable solely to the construction of  
17 development subject to Part 2 of Article 19 of Chapter 160A or Part 2 of Article 18 of Chapter  
18 153A of the General Statutes on the authority's Web site at least seven days prior to the first  
19 meeting where the imposition of or increase in the rates, fees, and charges is on the agenda for  
20 consideration. The authority shall employ at least two of the following means of  
21 communication in order to provide the notice required by this subsection:

22 (1) Notice of the meeting in a prominent location on a Web site managed or  
23 maintained by the authority.

24 (2) Notice of the meeting in a prominent physical location, including, but not  
25 limited to, the authority's headquarters or any government building, library,  
26 or courthouse located within the authority's service area.

27 (3) Notice of the meeting by electronic mail to a list of interested parties that is  
28 created by the authority for the purpose of notification as required by this  
29 section.

30 (4) Notice of the meeting by facsimile to a list of interested parties that is  
31 created by the authority for the purpose of notification as required by this  
32 section.

33 (a2) If an authority does not maintain its own Web site, it may employ the notice option  
34 provided by subdivision (1) of subsection (a1) of this section by submitting a request to a  
35 county or counties in which the authority is located to post such notice in a prominent location  
36 on a Web site that is maintained by the county or counties. Any authority that elects to provide  
37 such notice shall make its request to the county or counties at least 15 days prior to the date of  
38 the first meeting where the imposition of or increase in the fees or charges is on the agenda for  
39 consideration.

40 (a3) During the consideration of the imposition of or increase in rates, fees, or charges  
41 under this subsection, the authority shall permit a period of public comment.

42 (a4) ~~This subsection~~ The notice requirements in subsection (a1) of this section shall not  
43 apply if the imposition of or increase in rates, fees, and charges is contained in a budget filed in  
44 accordance with the requirements of G.S. 159-12.

45 (b) Notwithstanding any of the foregoing provisions of this section, the authority may  
46 enter into contracts relating to the collection, treatment or disposal of sewage or the purchase or  
47 sale of water which shall not be subject to revision except in accordance with their terms.

48 (c) In order to insure the payment of such rates, fees and charges as the same shall  
49 become due and payable, the authority may do the following in addition to exercising any other  
50 remedies which it may have:

- 1 (1) Require reasonable advance deposits to be made with it to be subject to  
2 application to the payment of delinquent rates, fees and charges.
- 3 (2) At the expiration of 30 days after any rates, fees and charges become  
4 delinquent, discontinue supplying water or the services and facilities of any  
5 water system or sewer system of the authority.
- 6 (3) Specify the order in which partial payments are to be applied when a bill  
7 covers more than one service."

8 **SECTION 12.** Section 4 of S.L. 2005-190, as amended by Section 31 of S.L.  
9 2006-259, reads as rewritten:

10 **"SECTION 4. Other drinking water supply reservoirs.** – The Environmental  
11 Management Commission shall not make any new or increased nutrient loading allocation to  
12 any person who is required to obtain a permit under G.S. 143-215 for an individual wastewater  
13 discharge directly or indirectly into any impaired drinking water supply reservoir for which the  
14 Division of Water Quality of the Department of Environment and Natural Resources has  
15 prepared or updated a calibrated nutrient response model since 1 July 2002 until permanent  
16 rules adopted by the Commission to implement the nutrient management strategy for that  
17 reservoir become effective. The Commission shall report its progress in developing and  
18 implementing nutrient management strategies for reservoirs to which this section applies to the  
19 Environmental Review Commission by 1 April of each year beginning 1 April 2006."

20 **SECTION 13.(a)** The Wood and Crop Biomass Strategic Working Group is  
21 established. The Working Group shall identify, study, and recommend a comprehensive  
22 package of appropriate and targeted policies and financial incentives in order to do all of the  
23 following:

- 24 (1) Ensure a reliable supply of sustainably managed wood and crop biomass for  
25 energy purposes and other sectors.
- 26 (2) Develop economic opportunities for rural communities.
- 27 (3) Enhance natural resources and promote farm and forestland retention.
- 28 (4) Integrate wood and crop biomass into the State's comprehensive energy plan,  
29 as recommended by the Energy Policy Council.

30 **SECTION 13.(b)** The Wood and Crop Biomass Strategic Working Group shall be  
31 convened jointly by the Biofuels Center of North Carolina, the Department of Commerce, the  
32 Department of Environment and Natural Resources, and the North Carolina Solar Center at  
33 North Carolina State University. The Working Group shall consist of 20 members as follows:

- 34 (1) The President of the Biofuels Center of North Carolina or the President's  
35 designee.
- 36 (2) The Secretary of Commerce or the Secretary's designee.
- 37 (3) The Secretary of Environment and Natural Resources or the Secretary's  
38 designee.
- 39 (4) The Executive Director of the North Carolina Solar Center at North Carolina  
40 State University or the Executive Director's designee.
- 41 (5) The Commissioner of Agriculture or the Commissioner's designee.
- 42 (6) The President of the North Carolina Biotechnology Center or the President's  
43 designee.
- 44 (7) The President of Duke Power or the President's designee.
- 45 (8) The President of Progress Energy or the President's designee.
- 46 (9) The Director of the Southeast Office of Environmental Defense or the  
47 Director's designee.
- 48 (10) The President of the North Carolina Farm Bureau Federation or the  
49 President's designee.
- 50 (10a) Two members who are farmers, to be appointed by the President of the  
51 North Carolina Farm Bureau Federation.

- 1 (11) The President of the North Carolina Forestry Association or the President's  
2 designee.
- 3 (11a) Two members who are forest landowners, to be appointed by the President  
4 of the North Carolina Forestry Association.
- 5 (12) The Director of the North Carolina Division of Forest Resources of the  
6 Department of Environment and Natural Resources or the Director's  
7 designee.
- 8 (13) The Executive Director of the North Carolina Chapter of The Nature  
9 Conservancy or the Executive Director's designee.
- 10 (14) The President of Novozymes North America or the President's designee.
- 11 (15) The Executive Director of the North Carolina Sustainable Energy  
12 Association or the Executive Director's designee.
- 13 (16) The Executive Director of the North Carolina Conservation Network or the  
14 Executive Director's designee.

15 **SECTION 13.(c)** The Wood and Crop Biomass Strategic Working Group shall  
16 meet monthly or upon the call of the conveners beginning no later than August 1, 2010.  
17 Members of the Working Group shall not receive a salary. Members of the Working Group  
18 shall not receive per diem and travel expenses for their service on the Working Group. Staff  
19 and administrative assistance to the Working Group shall be provided by the Biofuels Center of  
20 North Carolina. The authority granted to the Working Group shall be advisory in nature and in  
21 no way shall the Working Group be construed to have any regulatory authority.

22 **SECTION 13.(d)** The Wood and Crop Biomass Strategic Working Group shall  
23 submit an interim report of its findings and recommendations to the Environmental Review  
24 Commission, the Senate and the House of Representatives Appropriations Subcommittees on  
25 Natural and Economic Resources, and the Energy Policy Council no later than February 1,  
26 2011. A final report containing findings, recommendations, and any legislative proposals shall  
27 be submitted by the Working Group no later than May 1, 2011.

28 **SECTION 14.(a)** The Department of Administration, the Department of  
29 Agriculture and Consumer Services, the Department of Commerce, the Department of Crime  
30 Control and Public Safety, the Department of Environment and Natural Resources, the  
31 Department of Health and Human Services, the Department of Insurance, and the Department  
32 of Transportation shall:

- 33 (1) Review their respective planning and regulatory programs to determine  
34 whether the programs currently consider the impacts of global climate  
35 change, including adaptation and sea level rise.
- 36 (2) For those programs that currently consider the impacts of global climate  
37 change, the agency shall describe how the program considers the impacts of  
38 global climate change, including adaptation and sea level rise, and  
39 recommend whether the consideration of the impacts of global climate  
40 change should be modified or expanded.
- 41 (3) For those programs that do not currently consider the impacts of global  
42 climate change, the agency shall recommend if and how the program should  
43 consider the impacts of global climate change, including adaptation and sea  
44 level rise.

45 **SECTION 14.(b)** No later than September 1, 2011, each State agency shall report  
46 the results of its review and any recommendations to the Department of Environment and  
47 Natural Resources. The Department shall compile the results and recommendations and report  
48 them to the Environmental Review Commission and to any future legislative commission that  
49 directly and primarily addresses issues concerning global climate change no later than  
50 November 1, 2011.

1           **SECTION 15.(a)** Article 9 of Chapter 130A of the General Statutes is amended by  
2 adding a new Part to read:

3           "Part 7. Management of Certain Products That Contain Mercury.

4 **"§ 130A-310.60. Recycling required by public agencies.**

5           (a) Each State agency, including the General Assembly, the General Court of Justice,  
6 universities, community colleges, public schools, and political subdivisions using State funds  
7 shall establish a program in cooperation with the Department of Environment and Natural  
8 Resources and the Department of Administration for the collection and recycling of all spent  
9 fluorescent lights and thermostats that contain mercury generated in public buildings. The  
10 program shall include procedures for convenient collection, safe storage, and proper recycling  
11 of spent fluorescent lights and thermostats that contain mercury and contractual or other  
12 arrangements with buyers of the recyclable materials.

13           (b) Each State agency, including the General Assembly, the General Court of Justice,  
14 universities, community colleges, the Department of Public Instruction on behalf of the public  
15 schools, and political subdivisions shall submit a report on or before December 1, 2011, that  
16 documents the entity's compliance with the requirements of subsection (a) of this section to the  
17 Department of Environment and Natural Resources and the Department of Administration. The  
18 Departments shall compile the information submitted and jointly shall submit a report to the  
19 Environmental Review Commission on or before January 15, 2012, concerning the activities  
20 required by subsection (a) of this section. The information provided shall also be included in  
21 the report required by G.S. 130A-309.06(c).

22 **"§ 130A-310.61. Removal and recycling of mercury-containing products from structures**  
23 **to be demolished.**

24           Prior to demolition of any building or structure in the State, the contractor responsible for  
25 the demolition activity or the owner of the building or structure to be demolished shall remove  
26 all fluorescent lights and thermostats that contain mercury from the building or structure to be  
27 demolished."

28           **SECTION 15.(b)** G.S. 130A-309.10 is amended by adding a new subsection to  
29 read:

30           "(m) No person shall knowingly dispose of fluorescent lights and thermostats that contain  
31 mercury in a sanitary landfill for the disposal of construction and demolition debris waste that  
32 is unlined or in any other landfill that is unlined."

33           **SECTION 15.(c)** G.S. 130A-22 reads as rewritten:

34 **"§ 130A-22. Administrative penalties.**

35           (a) The Secretary of Environment and Natural Resources may impose an administrative  
36 penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission  
37 pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each  
38 day of a continuing violation shall constitute a separate violation. The penalty shall not exceed  
39 fifteen thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous  
40 waste. The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day  
41 in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or  
42 involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a  
43 manner that results in medical waste entering waters or lands of the State; and shall not exceed  
44 fifty thousand dollars (\$50,000) per day for a second or further violation involving the disposal  
45 of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in  
46 medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two  
47 thousand five hundred dollars (\$32,500) per day for a violation involving a voluntary remedial  
48 action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant  
49 to G.S. 130A-310.12(b). The penalty shall not exceed one hundred dollars (\$100.00) for a first  
50 violation; two hundred dollars (\$200.00) for a second violation within any 12-month period;  
51 and five hundred dollars (\$500.00) for each additional violation within any 12-month period for

1 any violation of Part 2G of Article 9 of this Chapter. The penalty shall not exceed one hundred  
2 dollars (\$100.00) for a first violation; two hundred dollars (\$200.00) for a second violation  
3 within any 12-month period; and five hundred dollars (\$500.00) for each additional violation  
4 within any 12-month period for any violation of Part 7 of Article 9 of this Chapter and  
5 G.S. 130A-309.10(m). If a person fails to pay a civil penalty within 60 days after the final  
6 agency decision or court order has been served on the violator, the Secretary of Environment  
7 and Natural Resources shall request the Attorney General to institute a civil action in the  
8 superior court of any county in which the violator resides or has his or its principal place of  
9 business to recover the amount of the assessment. Such civil actions must be filed within three  
10 years of the date the final agency decision or court order was served on the violator."

11 **SECTION 15.(d)** G.S. 130A-25 reads as rewritten:

12 "**§ 130A-25. Misdemeanor.**

13 (a) ~~A~~Except as otherwise provided, a person who violates a provision of this Chapter  
14 or the rules adopted by the Commission or a local board of health shall be guilty of a  
15 misdemeanor.

16 ...

17 (d) A violation of Part 7 of Article 9 of this Chapter or G.S. 130A-309.10(m) shall be  
18 punishable as a Class 3 misdemeanor."

19 **SECTION 16.** The Environmental Review Commission may study the penalties  
20 applicable to violations of G.S 130A-309.10 (Prohibited acts related to packaging; coded  
21 labeling of plastic containers required; disposal of certain solid wastes in landfills or by  
22 incineration prohibited), and report its findings, together with any recommended legislation, to  
23 the 2011 Regular Session of the 2011 General Assembly upon its convening.

24 **SECTION 17.** G.S. 143-355.4(a) reads as rewritten:

25 "(a) Local government water systems and large community water systems shall require  
26 separate meters for new in-ground irrigation systems on lots platted after July 1, 2009, that are  
27 connected to their systems."

28 **SECTION 18.** Section 6 of this act becomes effective October 1, 2010 and applies  
29 to violations that occur on or after that date. Section 9 of this act becomes effective October 1,  
30 2010, and applies to penalties assessed on or after that date. Sections 11(a), 11(b), 11(c), and  
31 11(d) of this act become effective February 1, 2011. Sections 15(a), 15(b), 15(c), and 15(d) of  
32 this act become effective December 1, 2010. All other sections of this act are effective when  
33 this act becomes law.