

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 119

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H119-ARI-47 [v.1]

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Comm. Sub. [YES]
Amends Title [YES]
Third Edition

Date June 16, 2011

Senator Rouzer

1 moves to amend the bill on page 11, lines 24 through 31,
2 by rewriting those lines to read:

3
4 "(a5) No permit shall be required to enter into a contract for the construction, installation,
5 or alteration of any treatment works or disposal system or to construct, install, or alter any
6 treatment works or disposal system within the State when the system's or work's principle
7 function is to conduct, treat, equalize, neutralize, stabilize, recycle, or dispose of industrial
8 waste or sewage from an industrial facility and the discharge of the industrial waste or sewage
9 is authorized under a permit issued for the discharge of the industrial waste or sewage into the
10 waters of the State. Notwithstanding the above, the permit issued for the discharge may be
11 modified if required by federal regulation.

12"; and

13
14 on page 12, lines 3 through 6,
15 by rewriting those lines to read:

16
17 "(7) Constructed for the purpose of providing water for agricultural use, when a
18 person who is licensed as a professional engineer under Chapter 89C of the
19 General Statutes designed or approved plans for the dam, supervised its
20 construction, and registered the dam with the Division of Land Resources of
21 the Department. This exemption shall not apply to dams that are determined
22 to be high-hazard by the Department."; and

23
24 on page 12, lines 10 and 11,
25 by inserting between those lines:

26
27 **"SECTION 10.(c)** If Sections 10(a) and 10(b) of this act become law, and Senate
28 Bill 492, 2011 Regular Session, becomes law, then Section 4 of Senate Bill 492 is repealed."
29 and



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1
2 on page 13, lines 1 through 13,
3 by rewriting those lines to read:

4
5 **"SECTION 11.3.(a)** G.S. 143-215.94B is amended by adding a new subsection to
6 read:

7 "(i) During each fiscal year, the Department shall use up to one million dollars
8 (\$1,000,000) of the funds in the Commercial Fund to fund necessary assessment and cleanup to
9 be conducted by the Department of discharges or releases for which a responsible party has
10 been identified but for which the responsible party can demonstrate that undertaking the costs
11 of assessment and cleanup will impose a severe financial hardship. Any portion of the
12 \$1,000,000 designated each fiscal year, which is not used during that fiscal year to address
13 situations of severe financial hardship, shall revert to the Commercial Fund for the uses
14 otherwise provided by this section. The Commission shall adopt rules to define severe financial
15 hardship; establish criteria for assistance due to severe financial hardship pursuant to this
16 section; and establish a process for evaluation and determinations of eligibility with respect to
17 applications for assistance due to severe financial hardship. The Commission shall create a
18 subcommittee of the Commission's Committee on Civil Penalty Remissions as established by
19 G.S. 143B-282.1 to render determinations of eligibility under this subsection."

20 **SECTION 11.3.(b)** G.S. 143-215.94D is amended by adding a new subsection to
21 read:

22 "(h) During each fiscal year, the Department shall use up to one hundred thousand
23 (\$100,000) of the funds in the Noncommercial Fund to fund necessary assessment and cleanup
24 to be conducted by the Department of discharges or releases for which a responsible party has
25 been identified but for which the responsible party can demonstrate that undertaking the costs
26 of assessment and cleanup will impose a severe financial hardship. Any portion of the \$100,000
27 designated each fiscal year, which is not used during that fiscal year to address situations of
28 severe financial hardship, shall revert to the Noncommercial Fund for the uses otherwise
29 provided by this section. The Commission shall adopt rules to define severe financial hardship;
30 establish criteria for assistance due to severe financial hardship pursuant to this section; and
31 establish a process for evaluation and determinations of eligibility with respect to applications
32 for assistance due to severe financial hardship. The Commission shall create a subcommittee of
33 the Commission's Committee on Civil Penalty Remissions as established by G.S. 143B-282.1
34 to render determinations of eligibility under this subsection."

35 **SECTION 11.3.(c)** G.S. 143-215.94C reads as rewritten:"; and

36
37 on page 16, line 40 through page 17, line 34,
38 by rewriting those lines to read:

39
40 **"SECTION 14.** Section 2(b) of S.L. 2009-216 reads as rewritten:

41 **"SECTION 2.(b)** Implementation. – Notwithstanding sub-subdivision (c) of subdivision
42 (6) of Wastewater Discharge Rule 15A NCAC 02B .0270, each existing discharger with a
43 permitted flow greater than or equal to 0.1 million gallons per day (MGD) shall limit its total

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1 nitrogen discharge to its active individual discharge allocation as defined or modified pursuant
2 to Wastewater Discharge Rule 15A NCAC 02B .0270 no later than calendar year ~~2016~~2016,
3 unless the discharger has received an authorization pursuant to G.S. 143-215.1 for construction,
4 installation, or alteration of the treatment works for purposes of complying with the allocation
5 under Wastewater Discharge Rule 15A NCAC 02B .0270 by December 31, 2016, at which
6 point the compliance date shall be no later than calendar year 2018.""; and
7

8 on page 18, line 35, through page 19, line 3,
9 by rewriting those lines to read:

10
11 **"SECTION 17.(a) Definitions.** – The following definitions apply to this act and its
12 implementation:

- 13 (1) The definitions set out in G.S. 113A-103 and G.S. 143-212.
14 (2) The definitions set out in the Neuse River Basin Riparian Buffer Rule and
15 the Tar-Pamlico River Basin Riparian Buffer Rule.
16 (3) "Coastal wetlands" means marshland as defined in G.S. 113-229.
17 (4) "Commission" means the Environmental Management Commission.
18 (5) "Existing lot" means a lot of two acres in size or less that was platted and
19 recorded in the office of the appropriate county Register of Deeds prior to
20 August 1, 2000.
21 (6) "Neuse River Basin Riparian Buffer Rule" means 15A NCAC 02B .0233
22 (Neuse River Basin: Nutrient Sensitive Waters Management Strategy:
23 Protection and Maintenance of Existing Riparian Buffers), effective August
24 1, 2000.
25 (7) "Tar-Pamlico River Basin Riparian Buffer Rule" means 15A NCAC 02B
26 .0259 (Tar-Pamlico River Basin: Nutrient Sensitive Waters Management
27 Strategy: Protection and Maintenance of Existing Riparian Buffers),
28 effective August 1, 2000.

29 **SECTION 17.(b) Neuse River Basin Riparian Buffer Rule and Tar-Pamlico River**
30 **Basin Riparian Buffer Rule.** – Until the effective date of the revised permanent rules that the
31 Commission is required to adopt pursuant to Section 17.(d) of this act, the Commission and the
32 Department shall implement the Neuse River Basin Riparian Buffer Rule and the Tar-Pamlico
33 River Basin Riparian Buffer Rule, as provided in Section 17.(c) of this act.

34 **SECTION 17.(c) Implementation.** – The riparian buffer requirements of the Neuse
35 River Basin Riparian Buffer Rule and the Tar-Pamlico River Basin Riparian Buffer Rule shall
36 apply to development of an existing lot located adjacent to surface waters in the coastal area as
37 provided in this section. Where application of the riparian buffer requirements would preclude
38 construction of a single-family residence and necessary infrastructure, such as an on-site
39 wastewater system, the single-family residence may encroach on the buffer if all of the
40 following conditions are met:

- 41 (1) The residence is set back the maximum feasible distance from the normal
42 high-water level or normal water level, whichever is applicable, on the
43 existing lot and designed to minimize encroachment into the riparian buffer.

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- 1 (2) The residence is set back a minimum of 30 feet landward of the normal
2 high-water level or normal water level, whichever is applicable.
3 (3) Stormwater generated by new impervious surface within the riparian buffer
4 is treated and diffuse flow of stormwater is maintained through the buffer.
5 (4) If the residence will be served by an on-site wastewater system, no part of
6 the septic tank or drainfield may encroach into the riparian buffer.

7 **SECTION 17.(d)** Additional Rule-Making Authority. – The Commission shall
8 adopt a rule to amend the Neuse River Basin Riparian Buffer Rule and the Tar-Pamlico River
9 Basin Riparian Buffer Rule. Notwithstanding G.S. 150B-19(4), the rules adopted by the
10 Commission pursuant to this section shall be substantively identical to the provisions of Section
11 17.(c) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9
12 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as
13 provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as
14 provided by G.S. 150B-21.3(b2).

15 **SECTION 17.(e)** The Department of Environment and Natural resources shall
16 study the application and implementation of the Neuse River Basin Riparian Buffer Rule and
17 the Tar-Pamlico River Basin Riparian Buffer Rule. The Department shall specifically consider:
18 (i) whether the rules might be amended or implemented in a different way to achieve the same
19 level of water quality protection while reducing the impact to riparian property owners in the
20 river basins; and (ii) exempting all single family residence lots platted prior to August 1, 2000.
21 In conducting this study, the Department shall consult with representatives of the development
22 community, the agricultural community, the forestry industry, the environmental community,
23 local governments, property owners, and other interested parties. The Department shall report
24 its findings and recommendations to the Environmental Review Commission no later than
25 February 1, 2012."; and

26
27 on page 19, lines 35 through 45,
28 by rewriting those lines to read:

29
30 **"SECTION 21.** In order to ensure the ongoing delivery of services by the nonpoint
31 source pollution control programs of the Division of Forest Resources and the Division of Soil
32 and Water Conservation, the Division of Water Quality in the Department of Environment and
33 Natural Resources shall transfer Clean Water Act (CWA) Section 319 Nonpoint Source
34 Management Program Base Grant funds to the Division of Forest Resources and Division of
35 Soil and Water Conservation, where consistent with the federal grant program requirements, in
36 an amount that is no less than the average annual amount of funding received by each of those
37 two Divisions over the two most-recent fiscal bienniums. In the event that the level of Section
38 319 base grant funds received by the Department of Environment and Natural Resources by the
39 United States Environmental Protection Agency is increased or decreased in any funding cycle,
40 the level of funding received by the Division of Forest Resources and the Division of Soil and
41 Water Conservation shall be adjusted proportionally. Section 319 Nonpoint Source
42 Management Program Competitive Grant funds shall consider water quality benefit and be
43 distributed in a fair and equitable manner based on the grant requirements and the benefit. The

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1 Division of Water Quality will establish a Workgroup of Nonpoint Source Agencies, including
2 the Division of Forest Resources and the Division of Soil and Water Conservation, which will
3 consider the competitive grant project proposals. The Workgroup will be given full input to the
4 project funding decisions."; and

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6
7 on page 19, line 46, through page 20, line 34,
8 by rewriting those lines to read:

9
10 **"SECTION 22.** If House Bill 750, 2011 Regular Session, becomes law, then
11 G.S. 130A-55(7), as amended by Section 2 of that act, reads as rewritten:

12 **"§ 130A-55. Corporate powers.**

13 A sanitary district board shall be a body politic and corporate and may sue and be sued in
14 matters relating to the sanitary district. Notwithstanding any limitation in the petition under
15 G.S. 130A-48, but subject to the provisions of G.S. 130A-55(17)e, each sanitary district may
16 exercise all of the powers granted to sanitary districts by this Article. In addition, the sanitary
17 district board shall have the following powers:

18 ...

19 (7) To adopt rules necessary for the proper functioning of the district. However,
20 these rules shall not conflict with rules adopted by the Commission for
21 Public Health, Environmental Management Commission, or the local board
22 of health having jurisdiction over the area. Further, such sanitary district
23 board rules shall be no more restrictive than or conflict with requirements or
24 ordinances of any county having jurisdiction over the area, and, if a conflict
25 should arise, the requirements or ordinances of the county having
26 jurisdiction over the area shall control.

27 "; and

28
29 on page 2, lines 7 through 10,
30 by rewriting those lines to read:

31
32 **"REQUIREMENTS FOR AIRPORTS IN THE STATE; (21) DIRECT CERTAIN**
33 **TRANSFERS OF FUNDS FOR NONPOINT SOURCE POLLUTION CONTROL**
34 **PROGRAMS; AND (22) MAKE A TECHNICAL AND CLARIFYING CHANGE TO**
35 **G.S. 130A-55, AS AMENDED BY HOUSE BILL 750, 2011 REGULAR SESSION, IF**
36 **ENACTED, CONCERNING SANITARY DISTRICT RULES."**

37
38

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SIGNED *Did Touze*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 49-0 FAILED _____ TABLED _____

Sarah Clapp
6.16.11

ADOPTED