

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 810*
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PROPOSED HOUSE COMMITTEE SUBSTITUTE S810-PCS75209-RO-36

Short Title: Regulatory Reform Act of 2012.

(Public)

Sponsors:

Referred to:

May 21, 2012

A BILL TO BE ENTITLED

1 AN ACT TO (1) REESTABLISH THE JOINT LEGISLATIVE ADMINISTRATIVE
2 PROCEDURE OVERSIGHT COMMITTEE; (2A) MAKE VARIOUS TECHNICAL AND
3 CLARIFYING CHANGES TO THE ADMINISTRATIVE PROCEDURES ACT; (2B)
4 MAKE CONFORMING CHANGES TO THE STATE PERSONNEL ACT; (3) EXTEND
5 THE EFFECTIVE DATE FOR CHANGES TO FINAL DECISION-MAKING
6 AUTHORITY IN CERTAIN CONTESTED CASES; (4) LIMIT THE PERIOD DURING
7 WHICH RECORDS OF UNCLAIMED PROPERTY MUST BE MAINTAINED; (5A)
8 DIRECT AGENCIES TO SUBMIT A REPORT ON NOTICE GIVEN BEFORE
9 AUDITING OR EXAMINING A BUSINESS TO THE JOINT LEGISLATIVE
10 ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE; (5B) LIMIT STATE
11 AGENCY IDENTITY THEFT REPORTING REQUIREMENTS; (5C) REQUIRE THE
12 DEPARTMENT OF LABOR TO PROVIDE NOTICE PRIOR TO INSPECTIONS; (6)
13 CLARIFY THAT THE DISCHARGE OF WASTE INTO WATERS OF THE STATE
14 DOES NOT INCLUDE THE RELEASE OF AIR CONTAMINANTS INTO THE
15 OUTDOOR ATMOSPHERE; (7) AUTHORIZE RATHER THAN REQUIRE THE
16 COMMISSION FOR PUBLIC HEALTH TO ADOPT RULES FOR THE TESTING OF
17 WATER FROM NEW DRINKING WATER WELLS FOR CERTAIN VOLATILE
18 ORGANIC COMPOUNDS; (8) DIRECT THE DEPARTMENT OF ENVIRONMENT
19 AND NATURAL RESOURCES TO TRACK AND REPORT ON PERMIT
20 PROCESSING TIMES; (9) DELAY THE EFFECTIVE DATE FOR COMPLIANCE
21 WITH WADING POOL FENCING REQUIREMENTS FROM JULY 1, 2012, TO
22 JANUARY 1, 2013; (10) DIRECT THE COMMISSION FOR PUBLIC HEALTH TO
23 AMEND THE RULES GOVERNING THE DURATION OF PERMITS FOR SANITARY
24 LANDFILLS AND THE PERIOD IN WHICH THOSE PERMITS ARE REVIEWED; (11)
25 AMEND THE CRITERIA FOR DESIGNATION AS A PORT ENHANCEMENT ZONE;
26 (12) EXEMPT CERTIFIED ROADSIDE FARM MARKETS FROM CERTAIN
27 BUILDING CODE REQUIREMENTS; AND (13) ALLOW THE PERMITTING OF
28 MOBILE FOOD UNITS THAT MEET THE SANITATION REQUIREMENTS OF A
29 COMMISSARY.
30

31 The General Assembly of North Carolina enacts:

32 **SECTION 1.** Section 1.3 of S.L. 2011-291 is repealed.



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1 **SECTION 2.** G.S. 150B-18 reads as rewritten:

2 "**§ 150B-18. Scope and effect.**

3 This Article applies to an agency's exercise of its authority to adopt a rule. A rule is not
4 valid unless it is adopted in substantial compliance with this Article. An agency shall not seek
5 to implement or enforce against any person a policy, guideline, or other ~~nonbinding~~ interpretive
6 statement that meets the definition of a rule contained in G.S. 150B-2(8a) if the policy,
7 guideline, or other ~~nonbinding~~ interpretive statement has not been adopted as a rule in
8 accordance with this Article."

9 **SECTION 3.** G.S. 150B-19.1 reads as rewritten:

10 "**§ 150B-19.1. Requirements for agencies in the rule-making process.**

11 (a) In developing and drafting rules for adoption in accordance with this Article,
12 agencies shall adhere to the following principles:

- 13 (1) An agency may adopt only rules that are expressly authorized by federal or
14 State law and that are necessary to serve the public interest.
- 15 (2) An agency shall seek to reduce the burden upon those persons or entities
16 who must comply with the rule.
- 17 (3) Rules shall be written in a clear and unambiguous manner and must be
18 reasonably necessary to implement or interpret federal or State law.
- 19 (4) An agency shall consider the cumulative effect of all rules adopted by the
20 agency related to the specific purpose for which the rule is proposed. The
21 agency shall not adopt a rule that is unnecessary or redundant.
- 22 (5) When appropriate, rules shall be based on sound, reasonably available
23 scientific, technical, economic, and other relevant information. Agencies
24 shall include a reference to this information in the notice of text required by
25 G.S. 150B-21.2(c).
- 26 (6) Rules shall be designed to achieve the regulatory objective in a
27 cost-effective and timely manner.

28 (b) Each agency subject to this Article shall conduct an annual review of its rules to
29 identify existing rules that are unnecessary, unduly burdensome, or inconsistent with the
30 principles set forth in subsection (a) of this section. The agency shall repeal any rule identified
31 by this review.

32 (c) Each agency subject to this Article shall post on its ~~Web site when the agency~~
33 ~~submits the notice of text for publication in accordance with G.S. 150B-21.2~~ Web site, no later
34 than the publication date of the notice of text in the North Carolina Register, all of the
35 following:

- 36 (1) The text of a proposed rule.
- 37 (2) An explanation of the proposed rule and the reason for the proposed rule.
- 38 (3) The federal certification required by subsection (g) of this section.
- 39 (4) Instructions on how and where to submit oral or written comments on the
40 proposed rule.
- 41 (5) Any fiscal note that has been prepared for the proposed rule.

42 ~~The agency shall maintain the information in a searchable database and shall periodically~~
43 ~~update this online information to reflect changes in the proposed rule or the fiscal note prior to~~
44 ~~adoption.~~ If an agency proposes any change to a rule or fiscal note prior to the date it proposes
45 to adopt a rule, the agency shall publish the proposed change on its Web site as soon as
46 practicable after the change is drafted. If an agency's staff proposes any such change to be
47 presented to the rule-making agency, the staff shall publish the proposed change on the
48 agency's Web site as soon as practicable after the change is drafted.

49 (d) Each agency shall determine whether its policies and programs overlap with the
50 policies and programs of another agency. In the event two or more agencies' policies and

1 programs overlap, the agencies shall coordinate the rules adopted by each agency to avoid
2 unnecessary, unduly burdensome, or inconsistent rules.

3 (e) Each agency shall quantify the costs and benefits to all parties of a proposed rule to
4 the greatest extent possible. Prior to submission of a proposed rule for publication in
5 accordance with G.S. 150B-21.2, the agency shall review the details of any fiscal note prepared
6 in connection with the proposed rule ~~with the rule-making body, and the rule-making body~~
7 ~~must~~ and approve the fiscal note before submission.

8 (f) If the agency determines that a proposed rule will have a substantial economic
9 impact as defined in G.S. 150B-21.4(b1), the agency shall consider at least two alternatives to
10 the proposed rule. The alternatives may have been identified by the agency or by members of
11 the public.

12 (g) Whenever an agency proposes a rule that is purported to implement a federal law, or
13 required by or necessary for compliance with federal law, or on which the receipt of federal
14 funds is conditioned, the agency shall:

- 15 (1) Prepare a certification identifying the federal law requiring adoption of the
16 proposed rule. The certification shall contain a statement setting forth the
17 reasons why the proposed rule is required by federal law. If all or part of the
18 proposed rule is not required by federal law or exceeds the requirements of
19 federal law, then the certification shall state the reasons for that opinion.
- 20 (2) Post the certification on the agency Web site in accordance with subsection
21 (c) of this section.
- 22 (3) Maintain a copy of the federal law and provide to the Office of State Budget
23 and Management the citation to the federal law requiring or pertaining to the
24 proposed rule.

25 (h) Before an agency that is within the Governor's cabinet submits the proposed text of
26 a permanent rule change for publication in the North Carolina Register, the agency must submit
27 the text of the proposed rule change and an analysis of the proposed rule change to the Office
28 of State Budget and Management and obtain a certification from the Office that the agency
29 adhered to the principles set forth in this section. Before an agency that is within the
30 departments of the Council of State, other than the Governor, submits the proposed text of a
31 permanent rule change for publication in the North Carolina Register, the agency must submit
32 the text of the proposed rule change and an analysis of the proposed rule change to the
33 Commission and obtain a certification from the Commission, or the Commission's designee, as
34 described in G.S. 150B-21.1(b), that the agency adhered to the principles set forth in this
35 section. The Office of State Budget and Management or the Commission, respectively, must
36 respond to an agency's request for certification within 20 business days of receipt of the
37 request."

38 **SECTION 4.** G.S. 150B-21.4(a) reads as rewritten:

39 "(a) State Funds. – Before an agency publishes in the North Carolina Register the
40 proposed text of a permanent rule change that would require the expenditure or distribution of
41 funds subject to the State Budget Act, Chapter 143C of the General Statutes it must submit the
42 text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note on
43 the proposed rule change to the Office of State Budget and Management and obtain
44 certification from the Office that the funds that would be required by the proposed rule change
45 are available. ~~The Office must also determine and certify that the agency adhered to the~~
46 ~~principles set forth in G.S. 150B-19.1.~~ The fiscal note must state the amount of funds that
47 would be expended or distributed as a result of the proposed rule change and explain how the
48 amount was computed. The Office of State Budget and Management must certify a proposed
49 rule change if funds are available to cover the expenditure or distribution required by the
50 proposed rule change."

51 **SECTION 5.** G.S. 150B-23.2(b) reads as rewritten:

1 "(b) Time of Collection. – All fees that are required to be assessed, collected, and
2 remitted under subsection (a) of this section shall be collected by the Office of Administrative
3 Hearings at the time of commencement of the contested case (~~except in suits in forma~~
4 ~~pauperis~~), except as may be allowed by rule to permit or complete late payment or in suits in
5 forma pauperis."

6 **SECTION 6.** G.S. 150B-23(a) reads as rewritten:

7 "(a) A contested case shall be commenced by paying a fee in an amount established in
8 G.S. 150B-23.2 and by filing a petition with the Office of Administrative Hearings and, except
9 as provided in Article 3A of this Chapter, shall be conducted by that Office. The party who
10 files the petition shall serve a copy of the petition on all other parties and, if the dispute
11 concerns a license, the person who holds the license. A party who files a petition shall file a
12 certificate of service together with the petition. A petition shall be signed by a ~~party or a~~
13 ~~representative of the party~~ party, an attorney representing a party, or other representative of the
14 party as may specifically be authorized by law, and, if filed by a party other than an agency,
15 shall state facts tending to establish that the agency named as the respondent has deprived the
16 petitioner of property, has ordered the petitioner to pay a fine or civil penalty, or has otherwise
17 substantially prejudiced the petitioner's rights and that the agency:

- 18 (1) Exceeded its authority or jurisdiction;
- 19 (2) Acted erroneously;
- 20 (3) Failed to use proper procedure;
- 21 (4) Acted arbitrarily or capriciously; or
- 22 (5) Failed to act as required by law or rule.

23 The parties in a contested case shall be given an opportunity for a hearing without undue delay.
24 Any person aggrieved may commence a contested case hereunder.

25 A local government employee, applicant for employment, or former employee to whom
26 Chapter 126 of the General Statutes applies may commence a contested case under this Article
27 in the same manner as any other petitioner. The case shall be conducted in the same manner as
28 other contested cases under this Article."

29 **SECTION 7.1.** G.S. 150B-29(a) reads as rewritten:

30 "(a) In all contested cases, irrelevant, immaterial and unduly repetitious evidence shall
31 be excluded. Except as otherwise provided, the rules of evidence as applied in the trial division
32 of the General Court of Justice shall be followed; but, when evidence is not reasonably
33 available under the rules to show relevant facts, then the most reliable and substantial evidence
34 available shall be admitted. On the judge's own motion, an administrative law judge may
35 exclude evidence that is inadmissible under this section. The party with the burden of proof in a
36 contested case must establish the facts required by G.S. 150B-23(a) by a preponderance of the
37 evidence. It shall not be necessary for a party or his attorney to object at the hearing to evidence
38 in order to preserve the right to object to its consideration by the administrative law judge in
39 making a ~~decision, by the agency in making a final decision,~~ decision or by the court on judicial
40 review."

41 **SECTION 7.2.** G.S. 150B-33(b) reads as rewritten:

42 "(b) An administrative law judge may:

43 ...

- 44 (11) Order the assessment of reasonable attorneys' fees and witnesses' fees
45 against the State agency involved in contested cases decided under this
46 Article where the administrative law judge finds that the State agency named
47 as respondent has substantially prejudiced the petitioner's rights and has
48 acted arbitrarily or capriciously or under Chapter 126 where the
49 administrative law judge finds discrimination, harassment, or orders
50 reinstatement or back pay.

51 "

1 **SECTION 7.3.** Section 55.2 of S.L. 2011-398 reads as rewritten:

2 "**SECTION 55.2.** If necessary to effectuate the purposes of this act, the Office of
3 Administrative Hearings shall seek United States Environmental Protection Agency approval to
4 become an agency responsible for administering programs under the federal Clean Water Act,
5 33 U.S.C. §1251 et seq., the Clean Air Act, 42 U.S.C. §7401 et seq., and the Resource
6 Conservation and Recovery Act, 42 U.S.C. §6901 et seq. On or before December 31, 2011, the
7 Office of Administrative Hearings and the Department of Environment and Natural Resources
8 shall jointly develop and submit any Memoranda of Agreement, delineations of programmatic
9 responsibility, procedure for coordination, and other information that United States
10 Environmental Protection Agency may require in order to effectuate ~~the~~any necessary approval
11 process."

12 **SECTION 8.1.** Section 63 of S.L. 2011-398 reads as rewritten:

13 "**SECTION 63.** Sections 2 through 14 of this act become effective October 1, 2011, and
14 apply to rules adopted on or after that date. Sections 15 through 55 of this act become effective
15 January 1, 2012, and apply to contested cases commenced on or after that date. With regard to
16 contested cases affected by Section 55.2 of this act, the provisions of Sections 15 through 27 of
17 this act become effective when the United States Environmental Protection Agency approvals
18 referenced in Section 55.2 have been issued or ~~June 15, 2012,~~October 1, 2012, whichever
19 occurs first. With regard to contested cases affected by Section 55.1 of this act, the provisions
20 of Sections 15 through 27 and Sections 32 and 33 of this act become effective when the waiver
21 referenced in Section 55.1 has been granted or February 1, 2013, whichever occurs first. Unless
22 otherwise provided elsewhere in this act, the remainder of this act is effective when it becomes
23 law."

24 **SECTION 8.2.** G.S. 126-34 reads as rewritten:

25 "**§ 126-34. Grievance appeal for career State employees.**

26 Unless otherwise provided in this Chapter, any career State employee having a grievance
27 arising out of or due to the employee's employment and who does not allege unlawful
28 harassment or discrimination because of the employee's age, sex, race, color, national origin,
29 religion, creed, handicapping condition as defined by G.S. 168A-3, or political affiliation shall
30 first discuss the problem or grievance with the employee's supervisor and follow the grievance
31 procedure established by the employee's department or agency. Any State employee having a
32 grievance arising out of or due to the employee's employment who alleges unlawful harassment
33 because of the employee's age, sex, race, color, national origin, religion, creed, or handicapping
34 condition as defined by G.S. 168A-3 shall submit a written complaint to the employee's
35 department or agency. The department or agency shall have 60 days within which to take
36 appropriate remedial action. If the employee is not satisfied with the department or agency's
37 response to the complaint, the employee shall have the right to appeal directly to the ~~State~~
38 ~~Personnel Commission~~Office of Administrative Hearings."

39 **SECTION 8.3.** G.S. 126-34.1(e) reads as rewritten:

40 "(e) Any issue for which appeal to the ~~State Personnel Commission~~Office of
41 Administrative Hearings through the filing of a contested case under Article 3 of Chapter 150B
42 of the General Statutes has not been specifically authorized by this section shall not be grounds
43 for a contested case under Chapter 126."

44 **SECTION 8.4.** G.S. 126-35(a) reads as rewritten:

45 "(a) No career State employee subject to the State Personnel Act shall be discharged,
46 suspended, or demoted for disciplinary reasons, except for just cause. In cases of such
47 disciplinary action, the employee shall, before the action is taken, be furnished with a statement
48 in writing setting forth in numerical order the specific acts or omissions that are the reasons for
49 the disciplinary action and the employee's appeal rights. The employee shall be permitted 15
50 days from the date the statement is delivered to appeal to the head of the department. However,
51 an employee may be suspended without warning for causes relating to personal conduct

1 detrimental to State service, pending the giving of written reasons, in order to avoid undue
2 disruption of work or to protect the safety of persons or property or for other serious reasons.
3 The employee, if he is not satisfied with the final decision of the head of the department, or if
4 he is unable, within a reasonable period of time, to obtain a final decision by the head of the
5 department, may appeal to the ~~State Personnel Commission~~Office of Administrative Hearings.
6 Such appeal shall be filed not later than 30 days after receipt of notice of the department head's
7 decision. The State Personnel Commission may adopt, subject to the approval of the Governor,
8 rules that define just cause."

9 **SECTION 8.5.** G.S. 126-36 reads as rewritten:

10 **"§ 126-36. Appeal of unlawful State employment practice.**

11 (a) Any State employee or former State employee who has reason to believe that
12 employment, promotion, training, or transfer was denied the employee or that demotion, layoff,
13 transfer, or termination of employment was forced upon the employee in retaliation for
14 opposition to alleged discrimination or because of the employee's age, sex, race, color, national
15 origin, religion, creed, political affiliation, or handicapping condition as defined by
16 G.S. 168A-3 except where specific age, sex or physical requirements constitute a bona fide
17 occupational qualification necessary to proper and efficient administration, shall have the right
18 to appeal directly to the ~~State Personnel Commission~~Office of Administrative Hearings.

19 (b) Subject to the requirements of G.S. 126-34, any State employee or former State
20 employee who has reason to believe that the employee has been subjected to any of the
21 following shall have the right to appeal directly to the ~~State Personnel Commission~~Office of
22 Administrative Hearings:

- 23 (1) Harassment in the workplace based upon age, sex, race, color, national
24 origin, religion, creed, or handicapping condition, whether the harassment is
25 based upon the creation of a hostile work environment or upon a quid pro
26 quo.
27 (2) Retaliation for opposition to harassment in the workplace based upon age,
28 sex, race, color, national origin, religion, creed, or handicapping condition,
29 whether the harassment is based upon the creation of a hostile work
30 environment or upon a quid pro quo."

31 **SECTION 8.6.** G.S. 126-36.1 reads as rewritten:

32 **"§ 126-36.1. Appeal to ~~Personnel Commission~~Office of Administrative Hearings by**
33 **applicant for employment.**

34 Any applicant for State employment who has reason to believe that employment was denied
35 in violation of G.S. 126-16 shall have the right to appeal directly to the ~~State Personnel~~
36 ~~Commission~~Office of Administrative Hearings."

37 **SECTION 8.7.** G.S. 126-36.2 reads as rewritten:

38 **"§ 126-36.2. Appeal to ~~Personnel Commission~~Office of Administrative Hearings by**
39 **career State employee denied notice of vacancy or priority consideration.**

40 Any career State employee who has reason to believe that he was denied promotion due to
41 the failure of the agency, department, or institution that had a job vacancy to:

- 42 (1) Post notice of the job vacancy pursuant to G.S. 126-7.1(a) or;
43 (2) Give him priority consideration pursuant to G.S. 126-7.1(c)

44 may appeal directly to the ~~State Personnel Commission~~Office of Administrative Hearings."

45 **SECTION 9.** G.S. 116B-73(a) reads as rewritten:

46 "(a) Except as otherwise provided in subsection (b) of this section, a holder required to
47 file a report under G.S. 116B-60 shall maintain the records containing the information required
48 to be included in the report for ~~10 years~~five years after the holder files the report, unless a
49 shorter period is provided by rule of the Treasurer."

50 **SECTION 10.1.(a)** Each State agency, as defined in G.S. 150B-2(1a), shall submit
51 a report of the audit, examination, and inspection functions performed by the agency and the

1 amount of notice, if any, that the agency is required, by law or rule, to provide to a business,
2 nonprofit, or individual prior to conducting the audit, examination, or inspection. The agency
3 shall submit the report to the Joint Legislative Administrative Procedure Oversight Committee,
4 as reestablished by Section 1 of this act, no later than October 31, 2012.

5 **SECTION 10.1.(b)** The Department of Labor shall, in consultation with farm
6 organizations and the Department of Agriculture and Consumer Services, develop an
7 employer's notice of rights which must be presented by any inspector at the time of beginning
8 any inspection under Chapter 95 of the General Statutes. Such notice of rights shall be provided
9 to any employer of agriculture employees as defined in G.S. 95-223.1. This section becomes
10 effective July 1, 2012. The Department shall provide a copy of this notice and any explanation
11 of its development it deems relevant to the Joint Regulatory Reform Committee by July 1,
12 2012.

13 **SECTION 10.2** G.S. 120-270 reads as rewritten:

14 "**§ 120-270. Report by State agencies to the General Assembly on ways to reduce**
15 **incidence of identity theft.**

16 Agencies of the State shall evaluate ~~and report annually by January 1 to the General~~
17 ~~Assembly about~~ the agency's efforts to reduce the dissemination of personal identifying
18 information, as defined in G.S. 14-113.20(b). The evaluation shall include the review of public
19 forms, the use of random personal identification numbers, restriction of access to personal
20 identifying information, and reduction of use of personal identifying information when it is not
21 necessary. Special attention shall be given to the use, collection, and dissemination of social
22 security numbers. If the collection of a social security number is found to be unwarranted, the
23 State agency shall immediately discontinue the collection of social security numbers for that
24 purpose. Any agency that determines that an act of the General Assembly or other provision of
25 law impedes the agency's ability to reduce the incidence of identity theft shall report such
26 findings to the General Assembly by January 1 of the year following such a determination."

27 **SECTION 10.3.** G.S. 143B-431(e) reads as rewritten:

28 "(e) The Department of Commerce may establish a clearinghouse for State business
29 license information and shall perform the following duties:

30 ...

31 (5) Collaborate with the business license coordinator designated in State
32 agencies in providing information on the licenses and regulatory
33 requirements of the agency, and in coordinating conferences with applicants
34 to clarify license and regulatory requirements.

35 ...

36 f. Report, on a ~~quarterly~~ annual basis, to the Department on the
37 number of licenses issued during the previous ~~quarter~~ fiscal year on a
38 form prescribed by the Department."

39 **SECTION 11.** G.S. 143-213 reads as rewritten:

40 "**§ 143-213. Definitions.**

41 Unless the context otherwise requires, the following terms as used in this Article and
42 Articles 21A and 21B of this Chapter are defined as follows:

43 ...

44 (9) Whenever reference is made in this Article to "discharge" or the "discharge
45 of waste," it shall be interpreted to include discharge, spillage, leakage,
46 pumping, placement, emptying, or dumping into waters of the State, or into
47 any unified sewer system or arrangement for sewage disposal, which system
48 or arrangement in turn discharges the waste into the waters of the State. A
49 reference to "discharge" or the "discharge of waste" shall not be interpreted
50 to include "emission" as defined in subdivision (12) of this section.

51 ...

1 (12) The term "emission" means a release into the outdoor atmosphere of air
2 contaminants.

3"

4 **SECTION 12.(a)** Section 1 of S.L. 2008-198, S.L. 2009-124, and Section 10.10A
5 of S.L. 2010-31 are repealed.

6 **SECTION 12.(b)** G.S. 87-97 reads as rewritten:

7 "**§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

8 ...

9 (h) Drinking Water Testing. – Within 30 days after it issues a certificate of completion
10 for a newly constructed private drinking water well, the local health department shall test the
11 water obtained from the well or ensure that the water obtained from the well has been sampled
12 and tested by a certified laboratory in accordance with rules adopted by the Commission for
13 Public Health. The water shall be tested for the following parameters: arsenic, barium,
14 cadmium, chromium, copper, fluoride, lead, iron, magnesium, manganese, mercury, nitrates,
15 nitrites, selenium, silver, sodium, zinc, pH, and bacterial indicators.

16 (i) Commission for Public Health to Adopt Drinking Water Testing Rules. – The
17 Commission for Public Health shall adopt rules governing the sampling and testing of well
18 water and the reporting of test results. The rules shall allow local health departments to
19 designate third parties to collect and test samples and report test results. The rules shall also
20 provide for corrective action and retesting where appropriate. The Commission for Public
21 Health may by rule require testing for additional ~~parameters~~ parameters, including volatile
22 organic compounds, if the Commission makes a specific finding that testing for the additional
23 parameters is necessary to protect public health. If the Commission finds that testing for certain
24 volatile organic compounds is necessary to protect public health and initiates rule making to
25 require testing for certain volatile organic compounds, the Commission shall consider all of the
26 following factors in the development of the rule: (i) known current and historic land uses
27 around well sites and associated contaminants; (ii) known contaminated sites within a given
28 radius of a well and any known data regarding dates of contamination, geology, and other
29 relevant factors; (iii) any GIS-based information on known contamination sources from
30 databases available to the Department of Environment and Natural Resources; and (iv) visual
31 on-site inspections of well sites.

32"

33 **SECTION 13.(a)** Part 1 of Article 7 of Chapter 143B of the General Statutes is
34 amended by adding a new section to read:

35 "**§ 143B-279.17. Tracking and report on permit processing times.**

36 The Department of Environment and Natural Resources shall track the time required to
37 process all permit applications in the One-Stop for Certain Environmental Permits Programs
38 established by G.S. 143B-279.12 and the Express Permit and Certification Reviews established
39 by G.S. 143B-279.13 that are received by the Department. The processing time tracked shall
40 include (i) the total processing time from when an initial permit application is received to
41 issuance or denial of the permit and (ii) the processing time from when a complete permit
42 application is received to issuance or denial of the permit. No later than March 1 of each year,
43 the Department shall report to the Fiscal Research Division of the General Assembly and the
44 Environmental Review Commission on the permit processing times required to be tracked
45 pursuant to this section."

46 **SECTION 13.(b)** The Department of Environment and Natural Resources shall
47 inventory all permits, licenses, and approvals issued by the Department. The Department shall
48 provide a list of all permits, licenses, and approvals to the Environmental Review Commission
49 no later than January 15, 2013, and shall recommend which of the permits, licenses, and
50 approvals that are not subject to a reporting requirement on permit processing times should be
51 subject to that requirement.

1 **SECTION 14.** Section 3(b) of S.L. 2011-39 reads as rewritten:

2 **"SECTION 3.(b)** Wading Pool Fence Compliance. – From the effective date of this act
3 through ~~July 1, 2012,~~January 1, 2013, the Department of Environment and Natural Resources
4 shall not require owners and operators of public swimming pools to comply with 15A NCAC
5 18A .2531(a)(7)."

6 **SECTION 15.1.** No later than July 1, 2013, the Commission for Public Health
7 shall adopt rules to allow applicants for sanitary landfills the option to (i) apply for a permit to
8 construct a five-year phase of landfill development and apply to amend the permit to construct
9 subsequent five-year phases of landfill development; or (ii) apply for a permit to construct a
10 10-year phase of landfill development and apply to amend the permit to construct subsequent
11 10-year phases of landfill development, with a limited review of the permit five years after
12 issuance of the initial permit and five years after issuance of each amendment for subsequent
13 phases of development. In developing these rules, the Department of Environment and Natural
14 Resources shall examine the current fee schedule for permits for sanitary landfills set forth
15 under G.S. 130A-295.8, and formulate recommendations for adjustments to the current fee
16 schedule sufficient to address any additional demands associated with review of permits issued
17 for 10-year phases of landfill development. The Department shall report its findings and
18 recommendations, including any legislative proposals, to the Environmental Review
19 Commission on or before December 1, 2012. The rules required by this section shall not
20 become effective until the fee schedule set forth under G.S. 130A-295.8 is amended as
21 necessary to address any additional demands associated with review of permits issued for
22 10-year phases of landfill development.

23 **SECTION 15.2.(a)** G.S. 143B-437.013(a) reads as rewritten:

24 "(a) Port Enhancement Zone Defined. – A port enhancement zone is an area that meets
25 all of the following conditions:

- 26 (1) It is comprised of part or all of one or more contiguous census tracts, census
27 block groups, or both, in the most recent federal decennial census.
28 (2) All of the area is located within 25 miles of a State port and is capable of
29 being used to enhance port operations.
30 (3) Every census tract and census block group that comprises the area has at
31 least eleven percent (11%) of households with incomes of fifteen thousand
32 dollars (\$15,000) or less."

33 **SECTION 15.2.(b)** This section is effective for taxable years beginning on or after
34 January 1, 2013.

35 **SECTION 16.1.** G.S. 143-138(b4) reads as rewritten:

36 "(b4) Building rules do not apply to (i) farm buildings that are located outside the
37 building-rules jurisdiction of any municipality, or (ii) farm buildings that are located inside the
38 building-rules jurisdiction of any municipality if the farm buildings are greenhouses. For the
39 purposes of this subsection:

- 40 ...
- 41 (3) A "farm building" shall include any structure used for the display and sale of
42 produce, no more than 1,000 square feet in size, open to the public for no
43 more than 180 days per year, and certified by the Department of Agriculture
44 and Consumer Services as a Certified Roadside Farm Market."

45 **SECTION 16.2.** G.S. 130A-248(c1) reads as rewritten:

46 "(c1) The Commission shall adopt rules governing the sanitation of pushcarts and mobile
47 food units. A permitted restaurant or commissary shall serve as a base of operations for a
48 pusheart or mobile food unit-pushcart. A mobile food unit shall meet all of the sanitation
49 requirements of a permitted commissary or shall have a permitted restaurant or commissary
50 that serves as its base of operation."

1 **SECTION 17.** Except as otherwise provided, this act is effective when it becomes
2 law.