

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 428
PROPOSED HOUSE COMMITTEE SUBSTITUTE S428-PCS85309-SB-61

Short Title: Selective Vegetation Amendments/W&S Study.

(Public)

Sponsors:

Referred to:

March 28, 2011

A BILL TO BE ENTITLED

AN ACT TO (1) ESTABLISH CRITERIA FOR TREE CLEARING AROUND BILLBOARDS WITHIN STATE RIGHTS-OF-WAY TO ENSURE COMPLIANCE WITH LOCAL GOVERNMENT REQUIREMENTS; PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE; AND PRESERVE PRIOR PUBLIC INVESTMENTS, (2) MODIFY RULEMAKING PROVISIONS CONCERNING GRAY WATER, AND (3) DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY THE REDUCTION AND CONSOLIDATION OF THE STATUTORY MODELS FOR ESTABLISHING, OPERATING, AND FINANCING CERTAIN ORGANIZATIONS THAT PROVIDE WATER AND SEWER SERVICES IN THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 136-93(d) reads as rewritten:

"(d) If the application for vegetation cutting, thinning, pruning, replanting, or removal is for a site located within the corporate limits or territorial jurisdiction of a municipality, the municipality shall be given 30 days to review and provide comments on the application if the municipality has previously advised the Department in writing of the desire to review such applications and the name of the local official to whom notice of such application should be directed."

SECTION 1.(b) G.S. 136-133(c) reads as rewritten:

"(c) No electrical permit shall be denied to an outdoor advertising sign described in G.S. 136-129(4) and G.S. 136-129(5) for which the Department has issued a permit which has not been revoked, and the electrical permit is otherwise compliant with technical utility ~~standards~~ standards and local government ordinances."

SECTION 1.(c) G.S. 136-133.1(d) and (e) read as rewritten:

"§ 136-133.1. Outdoor advertising vegetation cutting or removal.

(d) ~~Except as provided in subsection (e) of this section, trees~~ Trees existing at the time the outdoor advertising sign was erected may only be removed within the zone created in subsection (a) of this section if the applicant in addition to implementing a compensatory replanting plan as provided under subsection (e) of this section satisfies one of the following two options selected by the applicant: (i) reimbursement to the Department pursuant to G.S. 136-93.2 or (ii) ~~trees that existed at the time of the erection of the sign may be removed if the applicant agrees to remove~~ removal of two nonconforming outdoor advertising signs for each sign at which removal of existing trees is requested. The surrendered nonconforming signs must be located within the same county as the sign at which removal of existing trees is



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1 requested, must be fully disassembled before any removal of existing trees is permitted and
2 shall not be eligible for future outdoor advertising permits in perpetuity.

3 (e) Removal of trees and vegetation of any age, including complete removal, except for
4 native dogwoods and native redbuds, shall be permitted within the cut or removal zone
5 established in subsection (a) of this section in accordance with the Department's rules. Such
6 rules shall include, but not be limited to, provisions if the applicant for the selective vegetation
7 removal permit, in lieu of compliance with subsection (d) of this section, agrees to submit to
8 the Department a plan for beautification and replanting related to the site for which the
9 vegetation permit request is made. The Department shall develop rules for compensatory
10 replanting, including the criteria for determining which the sites qualify for replanting, which
11 replanting is required, which shall include, but not be limited to, sites for which a local
12 government requests replanting. and shall, in consultation with The rules shall provide for the
13 applicant and local government representatives, ~~determine which sites must be replanted, and~~
14 ~~representatives that have requested replanting to have input on the types of plants and trees to~~
15 be replanted. The replanting and maintenance shall be conducted by the applicant or his or her
16 agents in accordance with the rules adopted by the Department. ~~If the conditions detailed in this~~
17 ~~subsection are agreed to by the applicant and approved by the Department, there shall be no~~
18 ~~reimbursement to the Department under G.S. 136-93.2 for removal of trees that existed at the~~
19 ~~time the outdoor sign was erected, nor shall the applicant be required to remove two~~
20 ~~nonconforming outdoor advertising signs for removal of existing trees at the site."~~

21 **SECTION 1.(d)** G.S. 136-133.2 reads as rewritten:

22 "**§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

23 Except as provided in G.S. 136-133.1(g), permits to remove vegetation may be granted for
24 outdoor advertising locations that have been permitted for at least two years prior to the date of
25 application. The Department shall approve or deny an application submitted pursuant to this
26 section, including the fee required by G.S. 136-18.7 and all required documentation, or approve
27 the permit with conditions, within 30 days of the receipt of an application for a selective
28 vegetation removal permit. If written notice of approval or denial is not given to the applicant
29 within the 30-day period, then the application shall be deemed approved. If the application is
30 denied, the Department shall advise the applicant, in writing, by registered or certified mail,
31 return receipt requested, addressed to the party to be noticed, and delivering to the addressee,
32 the reasons for the denial. Reasons for denial shall be based on criteria set forth in the
33 Department's rules. Such criteria shall include, but not be limited to, conformance with all
34 applicable State laws and regulations, conformance with local government ordinances and
35 requirements, preservation of prior public investments, and disallowance of new billboards in
36 areas where vegetation obscures such billboards."

37 **SECTION 1.(e)** Nothing in G.S. 136-133.1 or G.S. 136-133.2 preempts authority
38 of local government to regulate outdoor advertising.

39 **SECTION 2.** G.S. 143-355.5(c) reads as rewritten:

40 "(c) Gray Water Rule Making. – The Commission shall encourage and promote the safe
41 and beneficial use of gray water. The Commission shall adopt rules to:

- 42 (1) Identify acceptable uses of gray water, including toilet flushing, fire
43 protection, ~~decorative water features,~~ and landscape irrigation.
- 44 (2) Facilitate the permitting of gray water systems.
- 45 (3) Establish standards, in coordination with the Commission for Public Health,
46 for gray water systems that protect public health and safety and the
47 environment and reduce the use of potable water within individual
48 structures."

49 **SECTION 3.(a)** The Environmental Review Commission shall study the statutory
50 models for establishing, operating, and financing certain organizations that provide water and

1 sewer services in the State. The Commission shall specifically consider the statutory models
2 for the following:

- 3 (1) Sanitary Districts (Part 2 of Article 2 of Chapter 130A of the General
4 Statutes).
- 5 (2) Water and Sewer Authorities (Article 1 of Chapter 162A of the General
6 Statutes).
- 7 (3) Metropolitan Water Districts (Article 4 of Chapter 162A of the General
8 Statutes).
- 9 (4) Metropolitan Sewerage Districts (Article 5 of Chapter 162A of the General
10 Statutes).
- 11 (5) County Water and Sewer Districts (Article 6 of Chapter 162A of the General
12 Statutes).
- 13 (6) Any other similar organizations that provide water or sewer service in the
14 State.

15 **SECTION 3.(b)** The Commission shall determine whether, how, and to what
16 extent the number of statutory models should be reduced and consolidated. In making these
17 determinations, the Commission shall consider and address any impacts such reduction and
18 consolidation would have on the ongoing operations and financing of existing organizations for
19 the provision of water and sewer services.

20 **SECTION 3.(c)** The Commission shall report its findings and recommendations, if
21 any, to the 2013 General Assembly upon its convening.

22 **SECTION 4.** This act is effective when it becomes law.