



# HOUSE BILL 74: Regulatory Reform Act of 2013

2013-2014 General Assembly

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<b>Committee:</b>	Floor	<b>Date:</b>	July 25, 2013
<b>Introduced by:</b>	Reps. Murry, Moffitt, Samuelson, Bryan	<b>Prepared by:</b>	Karen Cochrane- Brown, Jeff Hudson, Jennifer McGinnis Staff Attorney
<b>Analysis of:</b>	Conference Report		

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**SUMMARY:** *The Conference Committee Substitute (CCS) for House Bill 74 makes numerous changes to rulemaking laws and procedures, State and local government regulations, business and labor regulations, and various environmental and public health regulations. The CCS also amends certain environmental and natural resources laws.*

## BILL ANALYSIS:

### PART I. IMPROVE RULE MAKING PROCESS

**Section 1** adds a definition of the term "policy" to the Administrative Procedure Act (APA).

**Section 2** amends the APA provision relating to fiscal notes. This amendment would streamline the rulemaking process by making the review of the fiscal note and the public comment period run concurrently rather than consecutively. The amendment also raises the threshold for substantial economic impact notes to \$1 million for all persons affected by a rule in a 12-month period.

**Section 3** establishes a three-tiered process for the periodic review of existing rules. The Rules Review Commission is directed to establish a schedule for the review. If an agency fails to conduct the review by the date set in the schedule, the rule will automatically expire. However, if the rule is required to conform to or implement federal law, the rule will not automatically expire. The RRC is directed to report to the Joint Legislative Administrative Procedure Oversight Committee on any rules that do not expire for this reason. The current provision relating to review of existing rules is repealed.

Subsection (d) of this section directs the Rules Review Commission to subject rules related to surface water quality and wetlands to review in the first year of the program.

**Section 4** directs the Joint Legislative Administrative Procedure Oversight Committee to study the exemptions from rulemaking contained in the APA and elsewhere in the General Statutes. The Committee shall evaluate the continued need for exemption and possible consequences of repeal of the exemption and report to the 2014 Session of the General Assembly.

### PART II. STATE AND LOCAL GOVERNMENT REGULATIONS

**Section 5(a) & (b)** prohibits the enforcement of a zoning or unified development ordinance against a grandfathered use more than ten years after the termination of the grandfathered status, unless the violation poses an imminent hazard to health or public safety.

**Section 5(c) & 5(d)** prohibits local governments from requiring a private contractor to abide by any restriction the locality could not impose on all employers as a condition of bidding on a contract.

O. Walker Reagan  
Director



Research Division  
(919) 733-2578

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# House Bill 74

Page 2

**Section 6(a) & (b)** prohibits a local zoning or unified development ordinance from differentiating between fraternities and sororities that are approved or recognized by a college or university and those that are not.

**Section 6(c) through 6(e)** provides that a student or student organization at a constituent institution charged with violating the disciplinary or conduct rules of the constituent institution may be represented by an attorney or non-attorney advocate at any formal stage of the disciplinary proceedings, at the student or organization's own expense (explicit language is included to clarify that the provision is not to be construed to create a right to be represented at a disciplinary proceeding at public expense).

The CCS directs each constituent institution to track the number and type of disciplinary proceedings impacted by this section, as well as the number of cases in which a student or student organization is represented by an attorney or nonattorney advocate. The constituent institutions must report their findings to the Board of Governors of The University of North Carolina, and the Board of Governors must submit a combined report to the Joint Legislative Education Oversight Committee and the House and Senate Education Appropriations Subcommittees by May 1, 2014.

**Section 7** amends the definition of the term "Private club" contained in the Public Health law to include the definition of the term contained in the ABC law.

**Section 8(a) & (b)** amends the outdoor advertising act to allow vegetation cutting and removal along acceleration and deceleration ramps so long as the view of the outdoor advertising sign is improved and total aggregate amount of cut area is not increased. Also, prohibits local governments from restricting the repair or reconstruction of outdoor advertising, without just compensation, as long as the advertising surface area is not increased. Reconstruction includes changing an existing multi-pole to a monopole structure.

**Section 9** directs the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to amend its Records Retention and Disposition Schedule Manual to provide that if a Medicaid service has been eliminated by the State, the provider must retain records for three years after the last date of the service, unless federal law requires a longer period. At the termination of that time period, records must be destroyed or transferred to a State agency or contractor identified by the Department of Health and Human Services.

**Section 10** directs the Joint Legislative Program Evaluation Oversight Committee to include in the 2013-2014 Work Plan for the Program Evaluation Division a study to evaluate the structure, organization, and operation of the various independent occupational licensing boards. The study must include:

- (1) Consideration of the feasibility of establishing a single state agency to oversee the administration of all or some of the occupational licensing boards.
- (2) Whether greater efficiency and cost-effectiveness can be realized by combining the administrative functions of the boards, while allowing the boards to continue performing the regulatory functions.
- (3) Whether the total number of boards should be reduced by combining and/or Eliminating Some Boards.

**Section 10.1(a) and (b)** prohibit local governments from enacting or enforcing ordinances that require an employer to assume responsibility for the mitigation of their employees' commute or transportation to or from the workplace, which may result in the employer being subject to fines or other negative consequences.

# House Bill 74

Page 3

**Section 10.2(a) through 10.2(d)** prohibits a local government from enacting an environmental ordinance unless the ordinance is approved by a unanimous vote of the governing members of the local government present and voting. This prohibition would be effective when the act becomes law, would apply to ordinances enacted on or after that date, and would expire October 1, 2014. This section would also direct the Environmental Review Commission to study the circumstances under which local governments should be authorized to enact environmental ordinances that are more stringent than State or federal environmental laws. The Environmental Review Commission will report its findings and recommendations to the 2014 Short Session.

## **PART III. BUSINESS AND LABOR REGULATIONS**

**Section 11** amends the law to allow a bed and breakfast to offer three meals per day to its guests.

**Section 11.1(a) through (i)** makes the following changes to the Professional Employer Organization (PEO) Act:

- (1) Deletes the definition of "hazardous financial condition" applicable to PEO license applicants; instead, an applicant must demonstrate that its current assets exceed current liabilities;
- (2) Sets the bond requirement for licensure applicants at \$100,000; additional bond is required for those applicants whose current assets do not exceed current liabilities;
- (3) Deletes requirement that a licensee give assigned employees written notice when the employee ceases to be an employee;
- (4) Makes changes concerning the rights of a PEO and client company to control, hire, discipline, and terminate assigned employees;
- (5) Provides that Commissioner may only recover the reasonable costs of examination of a licensee following disciplinary violations or prohibited acts of a licensee; and
- (6) Repeals the provision in PEO Act giving Commissioner authority to discipline a licensee who, as an insurance fiduciary, willfully fails to give notice of group health or life insurance plan termination. If licensee is an insurance fiduciary, failure to provide notice remains a Class H felony under existing law.

**Section 12** amends the law providing for mandatory criminal history checks for child care providers to require that the check be completed within 15 days of the request for the check. If the check reveals that the child care provider has no criminal history, the Department of Health and Human Services must make a determination of the fitness of the provider within 15 calendar days of receipt of the results of the check. If the check reveals that the child care provider has a criminal history, the Department must make a determination of the fitness of the provider within 30 business days of receipt of the results of the check.

**Section 12.1** Prohibits local governments from regulating or licensing digital dispatching services for prearranged transportation services for hire.

**Section 13** allows an insurer to cancel a workers' compensation policy using any method of service provided in Rule 4 of the North Carolina Rules of Civil Procedure and would allow electronic communications and records to satisfy requirements that communications be provided in writing.

**Section 14** allows private, nonpublic employers in the State to provide an employment preference to veterans and spouses of honorably discharged veterans who have a service-connected permanent and

# House Bill 74

Page 4

total disability. The provision specifically provides that granting of the preference is not a violation of any State or local equal employment opportunity law.

**Section 15** amends the Right to Work statute to prohibit agreements that condition the purchase of agricultural products on the agricultural producer's status as a union or non-union employer by making such agreements invalid and unenforceable as against public policy in restraint of trade or commerce.

**Section 17** creates a rebuttable presumption that taxi operators who own or lease their vehicles are independent contractors not covered under the Workers Compensation Act. The section also provides that the presumption is not rebutted solely because a taxicab accepts a trip request to be at a specific place at a specific time; provides that the presumption may be rebutted by application of the common law test for determining independent contractor status.

## **PART IV. ENVIRONMENTAL AND PUBLIC HEALTH REGULATIONS**

**Section 18** amends a provision enacted in 2012, which required the Department of Environment and Natural Resources to adopt rules to prohibit permitted scrap tire collectors from contracting with a scrap tire processing facility unless the processing facility documents that it has access to a facility permitted to receive scrap tires. The CCS would codify this requirement in the statutes and eliminate the rulemaking requirement.

**Section 19(a)** directs the Building Code Council to adopt rules to require lodging establishments to install electrical, hard-wired, carbon monoxide detectors in every enclosed space having a fossil-fuel burning heater, appliance, or fireplace, and in any enclosed space, including a sleeping room, that shares a common wall, floor, or ceiling with an enclosed space having a fossil-fuel burning heater, appliance, or fireplace. The section also establishes two associated requirements in the statute providing for permitting of lodging establishments: (1) **Section 19(b)** requires installation of battery-operated or electrical carbon monoxide detectors in these same locations within lodging establishments, effective October 1, 2013, and would expire October 1, 2014; and (2) **Section 19(c)** requires installation of electrical, hard-wired, carbon monoxide detectors in these same locations within lodging establishments, effective October 1, 2014. **Section 19(c)** directs the Building Code Council, the Department of Health and Human Services, and the Commission for Public Health, to jointly study these requirements in order to determine whether the requirements are adequate to protect the health and safety of the traveling public, and report their findings and recommendations to the General Assembly no later than April 15, 2014. At a minimum, the entities are directed to study the requirements for placement of detectors and evaluate whether sufficient coverage will be provided to guests and occupants in all areas of an establishment.

**Sections 20 and 21** provide for alternative implementation of a rule governing closure requirements for containment basins, such as lagoons or waste storage structures, permitted at a cattle facility to allow for an alternative closure process if the cattle facility no longer meets the definition of an animal operation under the statutes. These sections direct the Environmental Management Commission (EMC) to adopt a rule consistent with the provisions of the act, and direct the EMC to amend the definition for "new animal waste management system" under the Administrative Code.

**Section 22** provides for alternative implementation of a rule governing various required setbacks applicable to reclaimed water irrigation and directs the EMC to adopt a rule consistent with the provisions of the act.

# House Bill 74

Page 5

**Section 23** directs the Commission for Public Health to amend and clarify its rules for the implementation of the prohibition on smoking in restaurants and bars to ensure consistent interpretation and enforcement and to specifically clarify the definition of enclosed areas.

**Section 24** directs the Environmental Review Commission to study the statutory models for establishing, operating, and financing certain organizations that provide water and sewer services in the State and to report to the 2014 Session of the General Assembly.

## **PART V. AMEND ENVIRONMENTAL LAWS**

**Section 25** directs the Environmental Management Commission to repeal the "Model Year 2008 and Subsequent Model Year Heavy-Duty Diesel Requirements" (15A NCAC 02D .1009) rule on or before December 1, 2013. The rule provides that no model year 2008 or subsequent model year heavy-duty vehicle may be leased or registered in North Carolina unless the vehicle or its engine has been certified by the California Air Resources Boards as meeting the applicable model year requirements of the California Code of Regulations.

**Section 26** directs the Department of Environment and Natural Resources to study whether all of the counties covered under the emissions testing and maintenance program are needed to maintain the current and proposed federal ozone standards in the State.

**Section 27** provides the Environmental Management Commission with the flexibility to determine whether rules are necessary for controlling the effects of complex sources on air quality.

**Section 28** amends the rules in the North Carolina Administrative Code (NCAC) that pertain to open burning for land clearing or right-of-way maintenance to provide that an air quality permit is not required if materials are not carried offsite or transported over public roads for open burning unless the materials are carried or transported to: (i) facilities permitted for the operation of an air curtain burner; or (ii) a location where the material is burned no more than 4 times per year; that is at least 500 feet from any dwelling or occupied structure not located on the property; there are no more than 2 piles, each 20 feet in diameter burned at one time; and the location is not a permitted solid waste facility. This section also makes conforming statutory changes.

**Section 29** provides that with the exception of permits issued pursuant to Title V of the federal Clean Air Act, air quality permits must be issued for a term of eight years. This section also provides that in addition to a permit applicant and a permittee, a third party who is dissatisfied with a decision of the Environmental Management Commission may commence a contested case within 30 days of the Commission notifying the applicant of its decision.

**Section 30** amends the Department of Environment and Natural Resources' notice requirements for minor permits issued pursuant to the Coastal Area Management Act.

**Section 33** clarifies the process for appeals from civil penalties assessed by a local government that has established and administers a State-approved erosion and sedimentation control program. This section also provides that civil penalties assessed by a local government under the Sedimentation and Pollution Control Act of 1973 must be remitted to the Civil Penalty and Forfeiture Fund.

**Section 34** amends the rules in the North Carolina Administrative Code to provide for reduced flow alternatives to the Daily Flow Rate for Design for wastewater systems as required by Table No. 1 in 15A NCAC 18A .1949(b). This section would exempt proposed wastewater systems from complying with the Daily Flow Rate for Design and any design flow standard established by the Commission for Public Health or the Department of Health and Human Services provided (i) the daily flow rate for design of

# House Bill 74

Page 6

the system is less than the rate listed by rule (Table No. 1, 15A NCAC 18A .1949(b)), (ii) the daily flow rate for design can be achieved through engineering design that utilizes low-flow fixtures and low-flow technologies, and (iii) the design is prepared, sealed, and signed by a professional engineer licensed in North Carolina. This section further provides that proposed wastewater systems with a daily flow for design of less than 3,000 gallons per day are not required to obtain State-level review for the system.

**Section 35** directs the Commission for Public Health (Commission) to adopt rules governing permits issued for private drinking water wells for circumstances in which the local health department has determined that the proposed site for the well is located within 1,000 feet of a known source of contamination. The rules adopted by the Commission must provide for notice and information of the known sources of contamination and any known risk of issuing a permit for the construction and use of a private drinking water well on such a site. This section also directs local health departments to either issue a permit or deny an application for a permit for the construction, repair, or operation of a private drinking water well within 30 days of receipt of an application, and provides that a permit shall automatically be issued if not acted upon within that 30 day period (and gives a local health department a right to appeal issuance of the permit in this circumstance in accordance with Chapter 150B of the General Statutes).

**Section 36** provides that underground storage tanks and systems installed after January 1, 1991, and prior to April 1, 2001, are not required to comply with well setback requirements or provide secondary containment until January 1, 2020.

**Section 37** amends various statutes governing protected species, marine, and wildlife resources to conform to analogous federal law.

**Section 38(a)** amends the statute regulating ownership or use of venomous reptiles to correctly refer to the term "antivenin," not "antivenom," as the serum or treatment for venom.

**Section 38(b)** amends the statute governing the investigation of suspected violations, seizure, and disposition of reptiles to direct law enforcement personnel to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park to identify appropriate and safe methods to seize a reptile. If there is an immediate risk to public safety, the officer is not required to first consult with Museum or Zoo representatives. This section further provides that representatives of the Museum or the Zoological Park may euthanize a venomous reptile for which antivenin is not readily available.

**Section 39** amends the Administrative Procedure Act to provide the Wildlife Resources Commission with temporary rulemaking authority for manner of take.

**Section 40** prohibits the State and the Community Colleges System from purchasing or acquiring an ownership interest in real property with known contamination without approval of the Governor and the Council of State. This section becomes effective September 1, 2013 and applies to a purchase or acquisition of interest in real property occurring on or after that date.

**Section 41** clarifies that no building permit is required under the Building Code for routine maintenance on fuel dispensing pumps and other dispensing devices.

**Section 42** clarifies that the Secretary of Environment and Natural Resources may, in addition to adopting a schedule of entrance fees for the aquariums, may do so for the piers operated by the aquariums, and may adopt fees for facility rentals and educational programs.

**Section 43** repeals the Mountain Resources Planning Act.

# House Bill 74

Page 7

**Sections 44(a) and 44(b)** provide an exemption from the 25 acre or more size requirement for local governments entering into development agreements for developable properties of any size provided the property is subject to an executed brownfields agreement.

**Section 45** directs the Department of Transportation to adopt rules for selective pruning within highway rights-of-way for vegetation that obstructs a motorists' view of properties on which agritourism activities occur. The Department is exempt from preparing fiscal notes for any rules proposed pursuant to this section.

**Section 46(a)** amends the statute that regulates sources of water pollution and the activities for which a permit is required by requiring any source that must obtain a permit must also have a compliance boundary established, either by the permit or by a rule adopted by the Environmental Management Commission, beyond which groundwater quality standards may not be exceeded. The compliance boundary must be established at the property boundary, unless otherwise established by the Commission. Multiple contiguous properties under common ownership and permitted for use as a disposal site must be treated as a single property.

This Section also provides that the Commission must only require a permitted disposal system to remedy an exceedance of groundwater quality standards within the compliance boundary when certain conditions are met. Where operation of a disposal system results in an exceedance of groundwater quality standards at or beyond the compliance boundary, the exceedance must be remedied through clean-up, recovery, containment, or other response as directed by the Commission.

**Section 46(b)** provides that the statutory amendments described above in Section 46(a) apply to exceedances of groundwater quality standards within a compliance boundary rather than certain requirements of the Restricted Designations rule (15A NCAC 2L .0104(d) and (e)) until the Department of Environment and Natural Resources revises the rules to comply with Section 46(a).

**Section 47** adds radio towers to those towers exempt from applicability with the Military Lands Protection Act of 2013 under certain conditions.

**Section 48(a)** clarifies a provision enacted in 2012 that extended the duration of permits for sanitary landfills and transfer stations such that permits are for both construction and operation of the facility.

**Section 48(b)** provides that if Senate Bill 328, 2013 Regular Session becomes law, Section 48(a) would be repealed.

**Section 49** codifies existing factors and adds the amount of money a violator saved as a new factor for consideration in assessing solid waste penalties. Current law under the General Statutes and the North Carolina Administrative Code (15A NCAC 13B .0702) requires the Secretary of Environment and Natural Resources to consider numerous factors to determine the amount of a penalty for violations of solid waste management laws.

**Section 50** prohibits a local government from impeding the storage, retention, or use of nonhazardous recyclable materials, including asphalt pavement, rap, or roofing shingles in properly zoned storage facilities through regulation of the height or setback of recyclable materials stockpiles, except when such facilities are located on lots within 200 yards of residential districts.

For purposes of implementing stormwater programs, **Section 51** amends the definition of "built-upon area" to mean " impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface into the subsoil. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or gravel. This Section directs the Environmental Management Commission to amend its rules to be consistent with the

# House Bill 74

Page 8

definition of "built-upon area." The definition of "built-upon area" applies to projects for which permit applications are received on or after the effective date of this act.

The provision also directs the Environmental Review Commission to study State stormwater programs, including how partially impervious surfaces are treated in the calculation of built-upon area under those programs, and report its findings and recommendations to the 2014 Regular Session of the 2013 General Assembly.

**Section 52** exempts freshwater ponds that are constructed and used for agriculture (as that term is defined in G.S. 106-581.1), provided the pond is not a component of an animal waste management system, from the: (i) Neuse River Basin riparian buffer rules; (ii) Tar-Pamlico River Basin riparian buffer rules; (iii) Jordan Water Supply Watershed riparian buffer rules; (iv) Randleman Lake Water Supply Watershed riparian buffer rules; (v) riparian buffer rules in the Catawba River Basin; (vi) riparian buffer rules in the Goose Creek Watershed (Yadkin Pee-Dee River Basin) and; (vii) any similar rule adopted for the protection and maintenance of riparian buffers.

This section provides that the riparian buffer rules must apply if the use of the property adjacent to the pond changes such that it no longer is used for agriculture.

This section becomes effective when this act becomes law and applies to ponds used for agriculture that were either in existence on or constructed after July 22, 1997.

**Section 53** provides that in addition to a permit applicant and a permittee, a third party who is dissatisfied with a decision of the Environmental Management Commission regarding a water quality permit may commence a contested case within 30 days of the Commission notifying the applicant of its decision.

**Section 54** repeals the Article that provides alternative requirements for land-disturbing activity that results in an increase in vehicular surface area of one acre or more.

**Section 55** amends the notice procedure to riparian property owners that adjoin property subject to an application for a dredge and fill permit.

**Section 56** provides that water treatment systems with expired authorizations may obtain new authorizations that allow the systems to withdraw surface water from the same water body and at the same rate as was approved in the expired authorization and such new authorizations are not required to prepare an environmental document pursuant to the State Environmental Policy Act. This section applies only those systems whose authorization for the water treatment plant expired within the last ten calendar years of the effective date of this act.

**Section 57(a)** directs the Department of Environment and Natural Resources to combine the Division of Water Quality and the Division of Water Resources to create a new Division of Water Resources.

**Sections 57(b) through (gg)** make conforming statutory and Session Law changes related to combining the Division of Water Quality with the Division of Water Resources.

**Section 58** directs the Department of Environment and Natural Resources, in conjunction with the Departments of Transportation and Health and Human Services, and local governments operating delegated permitting programs on behalf of the departments, to study their internal processes for review of applications and plans submitted for approval, including: (1) standard processes for each environmental permit program with respect to evaluation of applications and plans submitted for approval, and the role professional engineers play in each permit program in terms of direct review of applications or plans, or supervisory responsibilities for review of applications and plans by other staff; (2) mechanisms in place to ensure that staff who are not professional engineers are not engaged in the



# House Bill 74

Page 9

unauthorized practice of engineering; (3) the standard scope of review within each permit program, including whether staff are reviewing applications or plans solely on the basis of the application or plan's ability to satisfy the requirements of the statute, rule, standard, or criterion against which the application or plan is being evaluated, or whether staff are requiring revisions that exceed statutory or rulemaking requirements when evaluating such permits or plans; and (4) opportunities to eliminate unnecessary or superfluous revisions that may have resulted in the past from review processes that exceeded requirements under law, and opportunities to otherwise streamline and improve the review process for applications and plans submitted for approval. The entities are required to report their findings and recommendations to the Environmental Review Commission no later than January 1, 2014.

The Environmental Review Commission is then directed to study the matter, with the assistance of the departments, applicable local governments, the North Carolina State Board of Examiners for Engineers and Surveyors, and the Professional Engineers of North Carolina, and report its findings and recommendations on the matter, including any legislative proposals, to the 2014 General Assembly upon its convening.

## **PART VI. SOLID WASTE REFORM PROVISIONS**

**Section 59** modifies a basis on which DENR is statutorily required to deny a permit for solid waste management facilities. Under current law DENR must deny a permit if the cumulative impact of the proposed facility, when considered in relation to other similar impacts of facilities located or proposed in the community, would have a disproportionate adverse impact on a minority or low-income community protected by Title VI of the federal Civil Rights Act of 1964. The CCS would modify this provision to specify that the provision only applies to the extent required by federal law.

**Section 59.1** makes modifications to certain requirements governing sanitary landfills including: environmental impact studies, applicable buffers, cleaning and inspection of leachate collection lines, alternative daily cover, and required studies for certain landfill owners and operators, as follows:

- Modifies the requirement that an applicant for a proposed sanitary landfill conduct an environmental impact study of the proposed facility, to provide that the applicant must contract with a qualified third party approved by DENR to conduct the study (DENR conducts the study under existing law, with reimbursement of costs from the applicant).
- Modifies the one mile buffer from the outermost boundary of a State gameland owned, leased, or managed by the Wildlife Resources Commission, by providing that only buffers established on or before July 1, 2013 would apply.
- Deletes requirements for annual cleaning of leachate collection lines, but provide that these lines must be cleaned as necessary for proper functioning and to address buildup of leachate over the liner.
- Adds a requirement that with respect to requirements for daily cover at sanitary landfills, once the Department has approved use of an alternative method of daily cover for use at any sanitary landfill, that alternative method of daily cover shall be approved for use at all sanitary landfills located within the State.
- Adds requirements that owners or operators of sanitary landfills permitted to receive more than 240,000 tons of waste per year: (i) research the development of alternative disposal technologies and allow access to nonproprietary information and provide site resources for individual research and development projects related to alternative disposal techniques for the purpose of studies that may be conducted by local community or State colleges and universities or other third-party

# House Bill 74

Page 10

developers or consultants; and (ii) perform a feasibility study of landfill gas-to-energy, or other waste-to-energy technology, to determine opportunities for production of renewable energy from landfills in order to promote economic development and job creation in the State, and specifically examine opportunities for returning a portion of the benefits derived from energy produced from the landfill to the jurisdiction within which the landfill is located in the form of direct supply of energy to the local government and its citizens, or through revenue sharing with the local government from sale of the energy, with revenues owing to the local government credited to a fund specifically designated for economic development within the jurisdiction.

**Section 59.2** of the CCS directs the Commission for Public Health to amend a rule governing containers for collection and transport of solid waste to provide that vehicles or containers used for the collection and transportation of solid waste be designed and maintained to be leak-resistant in accordance with industry standards, rather than be leak-proof as required under existing law. In addition, the CCS amends a statute that requires vehicles to be constructed and loaded to prevent leakage, to provide that "leakage," for purposes of the statute does not include water accumulated from precipitation.

**Section 59.3** of the CCS amends the statutes governing solid waste to define "leachate" to exclude liquid adhering to tires of vehicles leaving sanitary landfills and transfer stations.

**Section 59.4.** of the CCS authorizes cities and counties to levy a surcharge on existing fees for use of waste disposal facilities provided by them on other cities and counties located within the State that use the disposal facility, and authorizes cities and counties imposing such a surcharge to use the funds that accrue in excess of the amount needed to operate the landfill for other purposes. In addition, the CCS authorizes cities and counties to include such a surcharge on other local governments' waste as part of a franchise agreement entered into with a private landfill owner or operator.

## **PART VII. INDUSTRIAL COMMISSION**

**Section 60** Amends the law governing the Industrial Commission to exempt the administrator and the deputy commissioners from the State Personnel Act. This section becomes effective July 1, 2015.

## **PART VI. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

**Section 61(a)** provides that if any section or provision of the act is declared unconstitutional or invalid by the courts, it would not affect the validity of the act as a whole or any part other than the part declared to be unconstitutional or invalid.

**Section 61(b)** Except as otherwise provided, the act would be effective when it becomes law.

*Jennifer Mundt, Legislative Analyst, and Giles S. Perry, Staff Attorney, substantially contributed to this summary.*