

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 44
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted
6/10/15
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Proposed Conference Committee Substitute H44-PCCS40511-ST-8

Short Title: Local Government Regulatory Reform 2015.

(Public)

Sponsors:

Referred to:

February 5, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO REFORM VARIOUS PROVISIONS OF THE LAW RELATED TO LOCAL
3 GOVERNMENT.

4 The General Assembly of North Carolina enacts:

5
6 **NOTICE TO CHRONIC VIOLATORS**

7 **SECTION 1.(a)** G.S. 160A-200 is repealed.

8 **SECTION 1.(b)** G.S. 160A-200.1 reads as rewritten:

9 "**§ 160A-200.1. Annual notice to chronic violators of public nuisance or overgrown**
10 **vegetation ordinance.**

11 (a) A city may notify a chronic violator of the city's public nuisance ordinance that, if
12 the violator's property is found to be in violation of the ordinance, the city shall, without further
13 notice in the calendar year in which notice is given, take action to remedy the violation, and the
14 expense of the action shall become a lien upon the property and shall be collected as unpaid
15 taxes.

16 (b) The notice shall be sent by registered or certified mail. When service is attempted
17 by registered or certified mail, a copy of the notice may also be sent by regular mail. Service
18 shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the
19 regular mail is not returned by the post office within 10 days after the mailing. If service by
20 regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises
21 affected. ~~A chronic violator is a person who owns property whereupon, in the previous calendar~~
22 ~~year, the city gave notice of violation at least three times under any provision of the public~~
23 ~~nuisance ordinance.~~

24 (c) A city may also give notice to a chronic violator of the city's overgrown vegetation
25 ordinance in accordance with this section.

26 (d) For purposes of this section, a chronic violator is a person who owns property
27 whereupon, in the previous calendar year, the city gave notice of violation at least three times
28 under any provision of the public nuisance ordinance."
29



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1 **AUTHORIZE CITIES TO REGULATE CERTAIN STRUCTURES THAT**
2 **UNREASONABLY RESTRICT THE PUBLIC'S RIGHT TO USE THE STATE'S**
3 **OCEAN BEACHES**

4 **SECTION 1.5.** G.S. 160A-205 reads as rewritten:

5 **"§ 160A-205. Cities enforce ordinances within public trust areas.**

6 (a) Notwithstanding the provisions of G.S. 113-131 or any other provision of law, a city
7 may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions upon the
8 State's ocean beaches and prevent or abate any unreasonable restriction of the public's rights to
9 use the State's ocean beaches. In addition, a city may, in the interest of promoting the health,
10 safety, and welfare of the public, regulate, restrict, or prohibit the placement, maintenance,
11 location, or use of structures that are uninhabitable and without water and sewer services for
12 more than 120 days, as determined by the city with notice provided to the owner of record of
13 the determination by certified mail at the time of the determination, equipment, personal
14 property, or debris upon the State's ocean beaches. A city may enforce any ordinance adopted
15 pursuant to this section or any other provision of law upon the State's ocean beaches located
16 within or adjacent to the city's jurisdictional boundaries to the same extent that a city may
17 enforce ordinances within the city's jurisdictional boundaries. A city may enforce an ordinance
18 adopted pursuant to this section by any remedy provided for in G.S. 160A-175. For purposes of
19 this section, the term "ocean beaches" has the same meaning as in G.S. 77-20(e).

20 (b) Nothing in this section shall be construed to (i) limit the authority of the State or any
21 State agency to regulate the State's ocean beaches as authorized by G.S. 113-131, or common
22 law as interpreted and applied by the courts of this State; (ii) limit any other authority granted
23 to cities by the State to regulate the State's ocean beaches; (iii) deny the existence of the
24 authority recognized in this section prior to the date this section becomes effective; (iv) impair
25 the right of the people of this State to the customary free use and enjoyment of the State's ocean
26 beaches, which rights remain reserved to the people of this State as provided in G.S. 77-20(d);
27 (v) change or modify the riparian, littoral, or other ownership rights of owners of property
28 bounded by the Atlantic Ocean; or (vi) apply to the removal of permanent residential or
29 commercial structures and appurtenances thereto from the State's ocean ~~beaches~~beaches,
30 except as provided in subsection (a) of this section."

31
32 **PROHIBIT CITIES AND COUNTIES FROM REQUIRING COMPLIANCE WITH**
33 **VOLUNTARY REGULATIONS AND RULES ADOPTED BY STATE DEPARTMENTS**
34 **OR AGENCIES**

35 **SECTION 2.(a)** Article 6 of Chapter 153A of the General Statutes is amended by
36 adding a new section to read as follows:

37 **"§ 153A-145.6. Requiring compliance with voluntary State regulations and rules**
38 **prohibited.**

39 (a) If a State department or agency declares a regulation or rule to be voluntary or the
40 General Assembly delays the effective date of a regulation or rule proposed or adopted by the
41 Environmental Management Commission, or any other board or commission, a county shall not
42 require or enforce compliance with the applicable regulation or rule, including any regulation
43 or rule previously or hereafter incorporated as a condition or contractual obligation imposed by,
44 agreed upon, or accepted by the county in any zoning, land use, subdivision, or other
45 developmental approval, including, without limitation, a development permit issuance,
46 development agreement, site-specific development plan, or phased development plan.

47 (b) This section shall apply to the following regulations and rules:

48 (1) Those currently in effect.

49 (2) Those repealed or otherwise expired.

50 (3) Those temporarily or permanently held in abeyance.

51 (4) Those adopted but not yet effective.

1 (c) This section shall not apply to any water usage restrictions during either extreme or
2 exceptional drought conditions as determined by the Drought Management Advisory Council
3 pursuant to G.S. 143-355.1."

4 **SECTION 2.(b)** Article 8 of Chapter 160A of the General Statutes is amended by
5 adding a new section to read as follows:

6 **"§ 160A-205.1. Requiring compliance with voluntary State regulations and rules**
7 **prohibited.**

8 (a) If a State department or agency declares a regulation or rule to be voluntary or the
9 General Assembly delays the effective date of a regulation or rule proposed or adopted by the
10 Environmental Management Commission, or any other board or commission, a city shall not
11 require or enforce compliance with the applicable regulation or rule, including any regulation
12 or rule previously or hereafter incorporated as a condition or contractual obligation imposed by,
13 agreed upon, or accepted by the city in any zoning, land use, subdivision, or other
14 developmental approval, including, without limitation, a development permit issuance,
15 development agreement, site-specific development plan, or phased development plan.

16 (b) This section shall apply to the following regulations and rules:

17 (1) Those currently in effect.

18 (2) Those repealed or otherwise expired.

19 (3) Those temporarily or permanently held in abeyance.

20 (4) Those adopted but not yet effective.

21 (c) This section shall not apply to any water usage restrictions during either extreme or
22 exceptional drought conditions as determined by the Drought Management Advisory Council
23 pursuant to G.S. 143-355.1."

24

25 **LOCAL PUBLIC HEALTH MAINTENANCE OF EFFORT MONIES**

26 **SECTION 2.5.(a)** G.S. 130A-34.4(a)(2) is repealed.

27 **SECTION 2.5.(b)** This section becomes effective July 1, 2016.

28

29 **DEVELOPMENTS LOCATED IN THE CITY AND THE COUNTY**

30 **SECTION 3.** G.S. 160A-365 reads as rewritten:

31 **"§ 160A-365. Enforcement of ordinances.**

32 (a) Subject to the provisions of the ordinance, any ordinance adopted pursuant to
33 authority conferred by this Article may be enforced by any remedy provided by
34 G.S. 160A-175.

35 (b) When any ordinance adopted pursuant to authority conferred by this Article is to be
36 applied or enforced in any area outside the territorial jurisdiction of the city as described in
37 G.S. 160A-360(a), the city and the property owner shall certify that the application or
38 enforcement of the city ordinance is not under coercion or otherwise based upon any
39 representation by the city that the city's approval of any land use planning would be withheld
40 from the property owner without the application or enforcement of the city ordinance outside
41 the territorial jurisdiction of the city. The certification may be evidenced by a signed statement
42 of the parties on any approved plat recorded in accordance with this Article."

43

44 **WELL DRILLING CHANGES**

45 **SECTION 3.5.(a)** G.S. 87-97 reads as rewritten:

46 **"§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

47 (a) **Mandatory Local Well Programs.** – Each county, through the local health
48 department that serves the county, shall implement a private drinking water well permitting,
49 inspection, and testing program. Local health departments shall administer the program and
50 enforce the minimum well construction, permitting, inspection, repair, and testing requirements
51 set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay

1 or refuse to permit a well that can be constructed or repaired and operated in compliance with
2 the requirements set out in this Article and rules adopted pursuant to this Article.

3 (a1) Use of Standard Forms. – Local well programs shall use the standard forms created
4 by the Department for all required submittals and shall not create their own forms ~~unless the~~
5 ~~local program submits a petition for rule making to the Environmental Management~~
6 ~~Commission, and the Commission by rule finds that conditions or circumstances unique to the~~
7 ~~area served by the local well program constitute a threat to public health that will be mitigated~~
8 ~~by use of a local form different from the form used by the Department.~~forms.

9 (b) Permit Required. – Except for those wells required to be permitted by the
10 Environmental Management Commission pursuant to G.S. 87-88, no person shall:

11 (1) Construct or assist in the construction of a private drinking water well unless
12 a construction permit has been obtained from the local health department.

13 (2) Repair or assist in the repair of a private drinking water well unless a repair
14 permit has been obtained from the local health department, except that a
15 permit shall not be required for the repair or replacement of a pump or tank.

16 (b1) Permit to Include Authorization for Electrical. – When a permit is issued under this
17 section, that permit shall also be deemed to include authorization for the installation,
18 construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment by a
19 person certified as a well contractor under Article 7A of this Chapter when running electrical
20 wires from the well pump to the pressure switch. The local health department shall be
21 responsible for notifying the appropriate building inspector of the issuance of the well permit.

22 (c) Permit Not Required for Maintenance or Pump Repair or Replacement. – A repair
23 permit shall not be required for any private drinking water well maintenance work that does not
24 involve breaking or opening the well seal. A repair permit shall not be required for any private
25 drinking water well repair work that involves only the repair or replacement of a pump or tank.

26 (d) Well Site Evaluation. – The local health department shall conduct a field
27 investigation to evaluate the site on which a private drinking water well is proposed to be
28 located before issuing a permit pursuant to this section. The field investigation shall determine
29 whether there is any abandoned well located on the site, and if so, the construction permit shall
30 be conditioned upon the proper closure of all abandoned wells located on the site in accordance
31 with the requirements of this Article and rules adopted pursuant to this Article. If a private
32 drinking water well is proposed to be located on a site on which a wastewater system subject to
33 the requirements of Article 11 of Chapter 130A of the General Statutes is located or proposed
34 to be located, the application for a construction permit shall be accompanied by a plat or site
35 plan, as defined in G.S. 130A-334.

36 If the well location marked on the map submitted with an application to a local well
37 program is also marked with a stake or similar marker on the property, then the local well
38 program may not require the contractor to be on site during the on-site predrill inspection, as
39 long as the contractor is available by telephone to answer questions.

40 (e) Issuance of Permit. – ~~Within~~ In accordance with G.S. 87-97.1 and G.S. 87-97.2,
41 within 30 days of receipt of an application to construct or repair a well, a local health
42 department shall make a determination whether the proposed private drinking water well can be
43 constructed or repaired and operated in compliance with this Article and rules adopted pursuant
44 to this Article and shall issue a permit or denial accordingly. If a local health department fails to
45 act within 30 days, the permit shall automatically be issued, and the local health department
46 may challenge issuance of the permit as provided in Chapter 150B of the General Statutes. The
47 local health department may impose any conditions on the issuance of a construction permit or
48 repair permit that it determines to be necessary to ensure compliance with this Article and rules
49 adopted pursuant to this Article. Notwithstanding any other provision of law, no permit for a
50 well that is in compliance with this Article and the rules adopted pursuant to this Article shall

1 be denied on the basis of a local government policy that discourages or prohibits the drilling of
2 new wells.

3 (e1) Notice for Wells at Contamination Sites. – The Commission shall adopt rules
4 governing permits issued for private drinking water wells for circumstances in which the local
5 health department has determined that the proposed site for a private drinking water well is
6 located within 1,000 feet of a known source of release of contamination. Rules adopted
7 pursuant to this subsection shall provide for notice and information of the known source of
8 release of contamination and any known risk of issuing a permit for the construction and use of
9 a private drinking water well on such a site.

10 (f) Expiration and Revocation. – A construction permit or repair permit shall be valid
11 for a period of five years except that the local health department may revoke a permit at any
12 time if it determines that there has been a material change in any fact or circumstance upon
13 which the permit is issued. The foregoing shall be prominently stated on the face of the permit.
14 The validity of a construction permit or a repair permit shall not be affected by a change in
15 ownership of the site on which a private drinking water well is proposed to be located or is
16 located if the location of the well is unchanged and the well and the facility served by the well
17 remain under common ownership.

18 (f1) Chlorination of the Well. – Upon completion of construction of a private drinking
19 water well, the well shall be sterilized in accordance with the standards of drinking water wells
20 established by the United States Public Health Service.

21 (g) Certificate of Completion. – Upon completion of construction of a private drinking
22 water well or repair of a private drinking water well for which a permit is required under this
23 section, the local health department shall inspect the well to determine whether it was
24 constructed or repaired in compliance with the construction permit or repair permit. If the local
25 health department determines that the private drinking water well has been constructed or
26 repaired in accordance with the requirements of the construction permit or repair permit, the
27 construction and repair requirements of this Article, and rules adopted pursuant to this Article,
28 the local health department shall issue a certificate of completion. No person shall place a
29 private drinking water well into service without first having obtained a certificate of
30 completion. No person shall return a private drinking water well that has undergone repair to
31 service without first having obtained a certificate of completion.

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

39 (i) Commission for Public Health to Adopt Drinking Water Testing Rules. – The
40 Commission for Public Health shall adopt rules governing the sampling and testing of well
41 water and the reporting of test results. The rules shall allow local health departments to
42 designate third parties to collect and test samples and report test results. The rules shall also
43 provide for corrective action and retesting where appropriate. The Commission for Public
44 Health may by rule require testing for additional parameters, including volatile organic
45 compounds, if the Commission makes a specific finding that testing for the additional
46 parameters is necessary to protect public health. If the Commission finds that testing for certain
47 volatile organic compounds is necessary to protect public health and initiates rule making to
48 require testing for certain volatile organic compounds, the Commission shall consider all of the
49 following factors in the development of the rule: (i) known current and historic land uses
50 around well sites and associated contaminants; (ii) known contaminated sites within a given
51 radius of a well and any known data regarding dates of contamination, geology, and other

1 relevant factors; (iii) any GIS-based information on known contamination sources from
2 databases available to the Department of Environment and Natural Resources; and (iv) visual
3 on-site inspections of well sites. In addition, the rules shall require local health departments to
4 educate citizens for whom new private drinking water wells are constructed and for citizens
5 who contact local health departments regarding testing an existing well on all of the following:

- 6 (1) The scope of the testing required pursuant to this Article.
- 7 (2) Optional testing available pursuant to this Article.
- 8 (3) The limitations of both the required and optional testing.
- 9 (4) Minimum drinking water standards.

10 (j) Test Results. – The local health department shall provide test results to the owner of
11 the newly constructed private drinking water well and, to the extent practicable, to any
12 leaseholder of a dwelling unit or other facility served by the well at the time the water is
13 sampled. The local health department shall include with any test results provided to an owner
14 of a private drinking water well, information regarding the scope of the required and optional
15 testing as established by rules adopted pursuant to subsection (i) of this section.

16 (k) Registry of Permits and Test Results. – Each local health department shall maintain
17 a registry of all private drinking water wells for which a construction permit or repair permit is
18 issued that is searchable by address or addresses served by the well. The registry shall specify
19 the physical location of each private drinking water well and shall include the results of all tests
20 of water from each well. The local health department shall retain a record of the results of all
21 tests of water from a private drinking water well until the well is properly closed in accordance
22 with the requirements of this Article and rules adopted pursuant to this Article.

23 (l) Authority Not Limited. – This section shall not be construed to limit any authority
24 of local boards of health, local health departments, the Department of Health and Human
25 Services, or the Commission for Public Health to protect public health."

26 **SECTION 3.5.(b)** Article 7A of Chapter 87 of the General Statutes is amended by
27 adding a new section to read:

28 **"§ 87-98.14. Reciprocity.**

29 To the extent that other states provide for the licensing or certification of well contractors,
30 the Commission shall permit those individuals who present valid proof of licensure or
31 certification in good standing in one or more of those states to sit for examination for a license
32 of the same or equivalent classification in North Carolina without delay, upon satisfactory
33 proof furnished to the Commission that the qualifications of the applicant are equal to the
34 qualifications of holders of similar licenses in North Carolina and upon payment of the required
35 fee."

36 **SECTION 3.5.(c)** Article 7 of Chapter 87 of the General Statutes is amended by
37 adding a new section to read:

38 **"§ 87-97.1. Issuance of permit for irrigation water well.**

39 (a) A property owner may apply for, and be issued, a permit for an irrigation water
40 well, whether the property is connected to, or served by, a public water system. The application
41 shall be in accordance with G.S. 87-97 and shall specifically state that the irrigation water well
42 will not be interconnected to plumbing required that is connected to any public water system
43 and will be used for irrigation or other nonpotable purposes only.

44 (b) This section shall not apply if the property is connected to, or may be served by, a
45 public water system that the public authority or unit of government operating the public water
46 system is being assisted by the Local Government Commission.

47 (c) For purposes of this section, "irrigation water well" shall mean any water well that is
48 not interconnected to any plumbing required to be connected to any public water system and
49 that produces water that is used for irrigation or other nonpotable purposes only."

50 **SECTION 3.5.(d)** Article 7 of Chapter 87 of the General Statutes is amended by
51 adding a new section to read:

1 **"§ 87-97.2. Issuance of permit for property within service area of a public water system.**

2 (a) Notwithstanding G.S. 130A-55(16), 153A-284, 160A-317, 162A-6(a)(14d), and
3 162A-14(2), a property owner may apply for, and be issued, a permit for a private drinking
4 water well to serve any undeveloped or unimproved property located so as to be served by a
5 public water system.

6 (b) Notwithstanding G.S. 130A-55(16), 153A-284, 160A-317, 162A-6(a)(14d), and
7 162A-14(2), a property owner of developed or improved property located so as to be served by
8 a public water system may apply for, and be issued, a permit for a private drinking water well if
9 the public water system has not yet installed water lines directly available to the property or
10 otherwise cannot provide water service to the property at the time the property owner desires
11 water service.

12 (c) Upon compliance with this Article, the property owner receiving a permit pursuant
13 to subsection (a) or (b) of this section shall not be required to connect to the public water
14 system for so long as the permitted private drinking water well remains compliant and in use. A
15 property owner may opt to connect to the public water system if the property owner so desires.
16 If the property owner opts to connect, the property owner may continue to operate the private
17 drinking water well if that well is not interconnected to any plumbing connected to the public
18 water system and that produces water that is used for irrigation or other nonpotable purposes
19 only.

20 (d) Nothing in this section shall require a property owner to install a private drinking
21 water well if the property is located so as to be served by a public water system and the public
22 water system is willing to provide service to the property.

23 (e) This section shall not apply, and a public water system may mandate connection to
24 that public water system, in any of the following situations:

25 (1) The private drinking water well serving the property has failed and cannot be
26 repaired.

27 (2) The property is located in an area where the drinking water removed by the
28 private drinking water well is contaminated or likely to become
29 contaminated due to nearby contamination.

30 (3) The public authority or unit of government operating the public water
31 system is being assisted by the Local Government Commission.

32 (4) The public authority or unit of government operating the public water
33 system is in the process of expanding or repairing the public water system
34 and is actively making progress to having water lines installed directly
35 available to provide water service to that property within the 24 months of
36 the time the property owner applies for the private drinking water well
37 permit."

38 **SECTION 3.5.(e) G.S. 153A-284 reads as rewritten:**

39 **"§ 153A-284. Power to require connections.**

40 (a) A county may require the owner of developed property on which there are situated
41 one or more residential dwelling units or commercial establishments located so as to be served
42 by a water line or sewer collection line owned, leased as lessee, or operated by the county or on
43 behalf of the county to connect the owner's premises with the water or sewer line and may fix
44 charges for these connections.

45 (b) In the case of improved property that would qualify for the issuance of a building
46 permit for the construction of one or more residential dwelling units or commercial
47 establishments and where the county has installed water or sewer lines or a combination thereof
48 directly available to the property, the county may require payment of a periodic availability
49 charge, not to exceed the minimum periodic service charge for properties that are connected.

50 (c) In accordance with G.S. 87-97.1, when developed property is located so as to be
51 served by a county water line and the property owner has connected to that water line, the

1 property owner may continue to use any private water well located on the property for
2 nonpotable purposes as long as the water well is not interconnected to the county water line and
3 the county shall not require the owner of any such water well to abandon, cap, or otherwise
4 compromise the integrity of the water well."

5 **SECTION 3.5.(f)** G.S. 160A-317 is amended by adding a new subsection to read:

6 "(d) In accordance with G.S. 87-97.1, when developed property is located so as to be
7 served by a city water line and the property owner has connected to that water line, the property
8 owner may continue to use any private water well located on the property for nonpotable
9 purposes as long as the water well is not interconnected to the city water line and the city shall
10 not require the owner of any such water well to abandon, cap, or otherwise compromise the
11 integrity of the water well."

12 **SECTION 3.5.(g)** G.S. 130A-55(16)a. reads as rewritten:

13 "a. To require the owners of developed property on which there are
14 situated one or more residential dwelling units or commercial
15 establishments located within the jurisdiction of the district and
16 within a reasonable distance of any waterline or sewer collection line
17 owned, leased as lessee, or operated by the district to connect the
18 property with the waterline, sewer connection line, or both and fix
19 charges for the connections. The power granted by this subdivision
20 may be exercised by a district only to the extent that the service,
21 whether water, sewer, or a combination thereof, to be provided by the
22 district is not then being provided to the improved property by any
23 other political subdivision or by a public utility regulated by the
24 North Carolina Utilities Commission pursuant to Chapter 62 of the
25 General Statutes. In the case of improved property that would qualify
26 for the issuance of a building permit for the construction of one or
27 more residential dwelling units or commercial establishments and
28 where the district has installed water or sewer lines or a combination
29 thereof directly available to the property, the district may require
30 payment of a periodic availability charge, not to exceed the minimum
31 periodic service charge for properties that are connected. In
32 accordance with G.S. 87-97.1, when developed property is located so
33 as to be served by a sanitary district water line and the property
34 owner has connected to that water line, the property owner may
35 continue to use any private water well located on the property for
36 nonpotable purposes as long as the water well is not interconnected
37 to the sanitary district water line and the sanitary district shall not
38 require the owner of any such water well to abandon, cap, or
39 otherwise compromise the integrity of the water well."

40 **SECTION 3.5.(h)** G.S. 162A-6(a)(14d) reads as rewritten:

41 "(14d) To require the owners of developed property on which there are situated one
42 or more residential dwelling units or commercial establishments located
43 within the jurisdiction of the authority and within a reasonable distance of
44 any waterline or sewer collection line owned, leased as lessee, or operated
45 by the authority to connect the property with the waterline, sewer connection
46 line, or both and fix charges for the connections. The power granted by this
47 subdivision may be exercised by an authority only to the extent that the
48 service, whether water, sewer, or a combination thereof, to be provided by
49 the authority is not then being provided to the improved property by any
50 other political subdivision or by a public utility regulated by the North
51 Carolina Utilities Commission pursuant to Chapter 62 of the General

1 Statutes. In the case of improved property that would qualify for the issuance
2 of a building permit for the construction of one or more residential dwelling
3 units or commercial establishments and where the authority has installed
4 water or sewer lines or a combination thereof directly available to the
5 property, the authority may require payment of a periodic availability
6 charge, not to exceed the minimum periodic service charge for properties
7 that are connected. In accordance with G.S. 87-97.1, when developed
8 property is located so as to be served by an authority water line and the
9 property owner has connected to that water line, the property owner may
10 continue to use any private water well located on the property for nonpotable
11 purposes as long as the water well is not interconnected to the sanitary
12 district water line and the sanitary district shall not require the owner of any
13 such water well to abandon, cap, or otherwise compromise the integrity of
14 the water well. This subdivision applies only to a water and sewer authority
15 whose membership includes part or all of a county that has a population of at
16 least 40,000 according to the most recent annual population estimates
17 certified by the State Budget Officer."

18 **SECTION 3.5.(i)** G.S. 162A-14(2)d. reads as rewritten:

19 "d. For requiring the owners of developed property on which there are
20 situated one or more residential dwelling units or commercial
21 establishments located within the corporate limits of the political
22 subdivision and located within a reasonable distance of any waterline
23 or sewer connection line owned, leased as lessee, or operated by the
24 authority to connect to the line and collecting, on behalf of the
25 authority, charges for the connections and requiring, as a condition to
26 the issuance of any development permit or building permit by the
27 political subdivision, evidence that any impact fee by the authority
28 has been paid by or on behalf of the applicant for the permit. In
29 accordance with G.S. 87-97.1, when developed property is located so
30 as to be served by the authority's water line and the property owner
31 has connected to that water line, the property owner may continue to
32 use any private water well located on the property for nonpotable
33 purposes as long as the water well is not interconnected to the
34 authority's water line and the authority shall not require the owner of
35 any such water well to abandon, cap, or otherwise compromise the
36 integrity of the water well."

37 **SECTION 3.5.(j)** Subsections (c) through (i) of this section become effective
38 August 1, 2016. The remainder of this section becomes effective December 1, 2015, and
39 applies to permits and licenses issued on or after that date. G.S. 87-97.2(e)(4), as enacted by
40 subsection (d) of this section, expires on July 1, 2017.

41
42 **REGULATION OF SIGNAGE**

43 **SECTION 4.(a)** G.S. 153A-340 is amended by adding a new subsection to read:

44 "(n) Fence wraps displaying signage when affixed to perimeter fencing at a construction
45 site are exempt from zoning regulation pertaining to signage under this Article until the
46 certificate of occupancy is issued for the final portion of any construction at that site or 24
47 months from the time the fence wrap was installed, whichever is shorter. If construction is not
48 completed at the end of 24 months from the time the fence wrap was installed, the county may
49 regulate the signage but shall continue to allow fence wrapping materials to be affixed to the
50 perimeter fencing. No fence wrap affixed pursuant to this subsection may display any

1 advertising other than advertising sponsored by a person directly involved in the construction
2 project and for which monetary compensation for the advertisement is not paid or required."

3 **SECTION 4.(b)** G.S. 160A-381 is amended by adding a new subsection to read:

4 "(j) Fence wraps displaying signage when affixed to perimeter fencing at a construction
5 site are exempt from zoning regulation pertaining to signage under this Article until the
6 certificate of occupancy is issued for the final portion of any construction at that site or 24
7 months from the time the fence wrap was installed, whichever is shorter. If construction is not
8 completed at the end of 24 months from the time the fence wrap was installed, the city may
9 regulate the signage but shall continue to allow fence wrapping materials to be affixed to the
10 perimeter fencing. No fence wrap affixed pursuant to this subsection may display any
11 advertising other than advertising sponsored by a person directly involved in the construction
12 project and for which monetary compensation for the advertisement is not paid or required."

13 14 **PERMIT CHOICE**

15 **SECTION 5.(a)** G.S. 143-755 reads as rewritten:

16 "**§ 143-755. Permit choice.**

17 (a) If a permit applicant submits a permit application for any type of development and a
18 rule or ordinance changes between the time the permit application was submitted and a permit
19 decision is made, the permit applicant may choose which version of the rule or ordinance will
20 apply to the permit.

21 (b) This section applies to all development permits issued by the State and by local
22 governments.

23 ~~(c) This section shall not apply to any zoning permit."~~

24 **SECTION 5.(b)** This section is effective when this act becomes law and applies to
25 permits for which a permit decision has not been made by that date.

26 27 **PREAUDIT CERTIFICATIONS**

28 **SECTION 6.(a)** G.S. 159-28 reads as rewritten:

29 "**§ 159-28. Budgetary accounting for appropriations.**

30 (a) Incurring Obligations. – No obligation may be incurred in a program, function, or
31 activity accounted for in a fund included in the budget ordinance unless the budget ordinance
32 includes an appropriation authorizing the obligation and an unencumbered balance remains in
33 the appropriation sufficient to pay in the current fiscal year the sums obligated by the
34 transaction for the current fiscal year. No obligation may be incurred for a capital project or a
35 grant project authorized by a project ordinance unless that project ordinance includes an
36 appropriation authorizing the obligation and an unencumbered balance remains in the
37 appropriation sufficient to pay the sums obligated by the transaction. Nothing in this section
38 shall require a contract to be reduced to writing.

39 (a1) **Preaudit Requirement.** – If an obligation is ~~evidenced by~~ reduced to a written
40 contract or written agreement requiring the payment of ~~money~~ money, or is evidenced by a
41 written purchase order for supplies and materials, the written contract, agreement, or purchase
42 order shall include on its face a certificate stating that the instrument has been preaudited to
43 assure compliance with this subsection unless the obligation or a document related to the
44 obligation has been approved by the Local Government Commission, in which case no
45 certificate shall be required. (a) of this section. The certificate, which shall be signed by the
46 finance ~~officer~~ officer, or any deputy finance officer approved for this purpose by the
47 governing board, shall take substantially the following form:

48 "This instrument has been preaudited in the manner required by the Local Government
49 Budget and Fiscal Control Act.

50 _____
51 (Signature of finance officer)."

1 Certificates in the form prescribed by G.S. 153-130 or 160-411 as those sections read on June
2 30, 1973, or by G.S. 159-28(b) as that section read on June 30, 1975, are sufficient until
3 supplies of forms in existence on June 30, 1975, are exhausted.

4 (a2) Failure to Preaudit. – An obligation incurred in violation of this
5 ~~subsection~~subsection (a) or (a1) of this section is invalid and may not be enforced. The finance
6 officer shall establish procedures to assure compliance with this ~~subsection~~section, in
7 accordance with any rules adopted by the Local Government Commission.

8 (b) Disbursements. – When a bill, invoice, or other claim against a local government or
9 public authority is presented, the finance officer shall either approve or disapprove the
10 necessary disbursement. If the claim involves a program, function, or activity accounted for in
11 a fund included in the budget ordinance or a capital project or a grant project authorized by a
12 project ordinance, the finance officer may approve the claim only if both of the following
13 apply:

- 14 (1) ~~He~~The finance officer determines the amount to be ~~payable and~~payable.
- 15 (2) The budget ordinance or a project ordinance includes an appropriation
16 authorizing the expenditure and either (i) an encumbrance has been
17 previously created for the transaction or (ii) an unencumbered balance
18 remains in the appropriation sufficient to pay the amount to be disbursed.

19 The finance officer may approve a bill, invoice, or other claim requiring disbursement from
20 an intragovernmental service fund or trust or agency fund not included in the budget ordinance,
21 only if the amount claimed is determined to be payable. A bill, invoice, or other claim may not
22 be paid unless it has been approved by the finance officer or, under subsection (c) of this
23 section, by the governing board. The finance officer shall establish procedures to assure
24 compliance with this ~~subsection~~subsection, in accordance with any rules adopted by the Local
25 Government Commission.

26 (c) Governing Board Approval of Bills, Invoices, or Claims. – The governing board
27 may, as permitted by this subsection, approve a bill, invoice, or other claim against the local
28 government or public authority that has been disapproved by the finance officer. ~~It~~The
29 governing board may not approve a claim for which no appropriation appears in the budget
30 ordinance or in a project ordinance, or for which the appropriation contains no encumbrance
31 and the unencumbered balance is less than the amount to be paid. The governing board shall
32 approve payment by formal resolution stating the board's reasons for allowing the bill, invoice,
33 or other claim. The resolution shall be entered in the minutes together with the names of those
34 voting in the affirmative. The chairman of the ~~board~~board, or some other member designated
35 for this ~~purpose~~purpose, shall sign the certificate on the check or draft given in payment of the
36 bill, invoice, or other claim. If payment results in a violation of law, each member of the board
37 voting to allow payment is jointly and severally liable for the full amount of the check or draft
38 given in payment.

39 (d) Payment. – A local government or public authority may not pay a bill, invoice,
40 salary, or other claim except by any of the following methods:

- 41 (1) ~~a check~~Check or draft on an official ~~depository~~depository.
- 42 (2) ~~a bank~~Bank wire transfer from an official ~~depository~~depository.
- 43 (3) ~~or an electronic~~Electronic payment or an electronic funds transfer originated
44 by the local government or public authority through an official depository.
- 45 (4) Cash, if the local government has adopted an ordinance authorizing the use
46 of cash, and specifying the limits of the use of cash.

47 (d1) Except as provided in this ~~subsection~~section, each check or draft on an official
48 depository shall bear on its face a certificate signed by the finance officer or a deputy finance
49 officer approved for this purpose by the governing board (or signed by the chairman or some
50 other member of the board pursuant to subsection (c) of this section). The certificate shall take
51 substantially the following form:

1 "This disbursement has been approved as required by the Local Government Budget and
2 Fiscal Control Act.

3
4 _____
(Signature of finance officer)."

5 (d2) An electronic payment or electronic funds transfer ~~must shall~~ be ~~subjected~~ subject
6 ~~to the pre-audit process. Execution~~ subject to ~~preaudit process in accordance with this section and any rules~~
7 adopted by the Local Government Commission. The rules so adopted shall address execution of
8 ~~the~~ the ~~electronic payment or electronic funds transfer shall and how to~~ indicate that the finance
9 officer or duly appointed deputy finance officer has performed the ~~pre-audit~~ preaudit process as
10 ~~required by G.S. 159-28(a) in accordance with this section. A finance officer or duly appointed~~
11 deputy finance officer shall be presumed in compliance with this section if the finance officer
12 or duly appointed deputy finance officer complies with the rules adopted by the Local
13 Government Commission.

14 ~~Certificates in the form prescribed by G.S. 153-131 or 160-411.1 as those sections read on June~~
15 ~~30, 1973, or by G.S. 159-28(a) as that section read on June 30, 1975, are sufficient until~~
16 ~~supplies in existence on June 30, 1975, are exhausted.~~

17 ~~No certificate is required on payroll checks or drafts on an imprest account in an official~~
18 ~~depository, if the check or draft depositing the funds in the imprest account carried a signed~~
19 ~~certificate.~~

20 ~~As used in this subsection, the term "electronic payment" means payment by charge card,~~
21 ~~credit card, debit card, or by electronic funds transfer, and the term "electronic funds transfer"~~
22 ~~means a transfer of funds initiated by using an electronic terminal, a telephone, a computer, or~~
23 ~~magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an~~
24 ~~account.~~

25 (e) Penalties. – If an officer or employee of a local government or public authority
26 incurs an obligation or pays out or causes to be paid out any funds in violation of this section,
27 ~~he that officer or employee,~~ and the sureties on ~~his any~~ any official bond for that officer or
28 employee, are liable for any sums so committed or disbursed. If the finance officer or any
29 ~~properly designated~~ duly appointed deputy finance officer gives a false certificate to any
30 contract, agreement, purchase order, check, draft, or other document, ~~he the~~ the finance officer or
31 duly appointed deputy finance officer, and the sureties on ~~his any official bond~~ bond, are liable
32 for any sums illegally committed or disbursed thereby. The governing board shall determine,
33 by resolution, if payment from the official bond shall be sought and if the governing body will
34 seek a judgment from the finance officer or duly appointed deputy finance officer for any
35 deficiencies in the amount.

36 (f) The certifications required by subsections (a1) and (d1) of this section shall not
37 apply to any of the following:

38 (1) An obligation or a document related to the obligation has been approved by
39 the Local Government Commission.

40 (2) Payroll expenditures, including all benefits for employees of the local
41 government.

42 (3) Electronic payments, as specified in rules adopted by the Local Government
43 Commission.

44 (g) As used in this section, the following terms shall have the following meanings:

45 (1) Electronic funds transfer. – A transfer of funds initiated by using an
46 electronic terminal, a telephone, a computer, or magnetic tape to instruct or
47 authorize a financial institution or its agent to credit or debit an account.

48 (2) Electronic payment. – Payment by charge card, credit card, debit card, gas
49 card, procurement card, or electronic funds transfer."

50 **SECTION 6.(b)** G.S. 115C-441 reads as rewritten:

51 **"§ 115C-441. Budgetary accounting for appropriations.**

1 (a) Incurring Obligations. – Except as set forth below, no obligation may be incurred by
2 a local school administrative unit unless the budget resolution includes an appropriation
3 authorizing the obligation and an unencumbered balance remains in the appropriation sufficient
4 to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year.
5 Nothing in this section shall require a contract to be reduced to writing.

6 (a1) Preaudit Requirement. – If an obligation is ~~evidenced by~~ reduced to a written
7 contract or written agreement requiring the payment of ~~money or by money~~, or is evidenced by
8 a purchase order for supplies and materials, the written contract, agreement, or purchase order
9 shall include on its face a certificate stating that the instrument has been preaudited to assure
10 compliance with subsection (a) of this section. The certificate, which shall be signed by the
11 finance officer, shall take substantially the following form:

12
13 "This instrument has been preaudited in the manner required by the School Budget and
14 Fiscal Control Act.

15 _____
16 (Date)
17 _____

18 (Signature of finance officer)"

19 (a2) Failure to Preaudit. – An obligation incurred in violation of subsection (a) or (a1) of
20 this section is invalid and may not be enforced. The finance officer shall establish procedures to
21 assure compliance with this ~~section~~ section, in accordance with any rules adopted by the Local
22 Government Commission.

23 (b) Disbursements. – When a bill, invoice, or other claim against a local school
24 administrative unit is presented, the finance officer shall either approve or disapprove the
25 necessary disbursement. The finance officer may approve the claim only ~~if he determines the~~
26 ~~amount~~ if all of the following apply:

27 (1) The amount claimed is determined to be payable, ~~payable.~~

28 (2) ~~the~~ The budget resolution includes an appropriation authorizing the
29 expenditure and either ~~expenditure.~~

30 (3) Either (i) an encumbrance has been previously created for the transaction or
31 (ii) an unencumbered balance remains in the appropriation sufficient to pay
32 the amount to be disbursed.

33 A bill, invoice, or other claim may not be paid unless it has been approved by the finance
34 officer or, under subsection (c) of this section, by the board of education. The finance officer
35 shall establish procedures to assure compliance with this subsection, in accordance with any
36 rules adopted by the Local Government Commission.

37 (c) Board of Education Approval of Bills, Invoices, or Claims. – The board of
38 education may, as permitted by this subsection, approve a bill, invoice, or other claim against
39 the local school administrative unit that has been disapproved by the finance officer. ~~It~~ The
40 board of education may not approve a claim for which no appropriation appears in the budget
41 resolution, or for which the appropriation contains no encumbrance and the unencumbered
42 balance is less than the amount to be paid. The board of education shall approve payment by
43 formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The
44 resolution shall be entered in the minutes together with the names of those voting in the
45 affirmative. The chairman of the ~~board~~ board, or some other member designated for this
46 ~~purpose~~ purpose, shall sign the certificate on the check or draft given in payment of the bill,
47 invoice, or other claim. If payment results in a violation of law, each member of the board
48 voting to allow payment is jointly and severally liable for the full amount of the check or draft
49 given in payment.

50 (c1) Continuing Contracts for Capital Outlay. – ~~An~~ A local school administrative unit
51 may enter into a contract for capital outlay expenditures, some portion or all of which is to be

1 performed ~~and/or~~ paid in ensuing fiscal years, without the budget resolution including an
 2 appropriation for the entire obligation, ~~provided~~provided all of the following apply:

- 3 a. The budget resolution includes an appropriation authorizing the current
 4 fiscal year's portion of the ~~obligation~~obligation.
 5 b. An unencumbered balance remains in the appropriation sufficient to pay in
 6 the current fiscal year the sums obligated by the transaction for the current
 7 fiscal year; ~~and year.~~
 8 c. Contracts for capital outlay expenditures are approved by a resolution
 9 adopted by the board of county commissioners, which resolution when
 10 adopted shall bind the board of county commissioners to appropriate
 11 sufficient funds in ensuing fiscal years to meet the amounts to be paid under
 12 the contract in those years.

13 (d) Payment. – A local school administrative unit may not pay a bill, invoice, salary, or
 14 other claim except by any of the following methods:

- 15 (1) ~~a check~~Check or draft on an official ~~depository~~depository.
 16 (2) ~~by a bank~~Bank wire transfer from an official ~~depository, or by a~~
 17 ~~warrant~~depository.
 18 (3) Electronic payment or an electronic funds transfer originated by the local
 19 school administrative unit through an official depository.
 20 (4) Cash, if the local school administrative unit has adopted a policy authorizing
 21 the use of cash, and specifying the limits of the use of cash.
 22 (5) Warrant on the State Treasurer.

23 (d1) Except as provided in ~~this subsection~~subsection (d) of this section, each check or
 24 draft on an official depository shall bear on its face a certificate signed by the finance officer or
 25 signed by the chairman or some other member of the board pursuant to subsection (c) of this
 26 section. The certificate shall take substantially the following form:
 27

28 "This disbursement has been approved as required by the School Budget and Fiscal Control
 29 Act.
 30

31 _____
 32 (Signature of finance officer)"

33 No certificate is required on payroll checks or drafts or on State warrants.

34 (d2) An electronic payment or electronic funds transfer shall be subject to the preaudit
 35 process in accordance with this section and any rules adopted by the Local Government
 36 Commission. The rules so adopted shall address execution of electronic payment or electronic
 37 funds transfer and how to indicate that the finance officer has performed the preaudit process in
 38 accordance with this section. A finance officer shall be presumed in compliance with this
 39 section if the finance officer complies with the rules adopted by the Local Government
 40 Commission.

41 (e) Penalties. – If an officer or employee of a local school administrative unit incurs an
 42 obligation or pays out or causes to be paid out any funds in violation of this section, ~~he that~~
 43 officer or employee, and the sureties on his any official bond for that officer or employee, are
 44 liable for any sums so committed or disbursed. If the finance officer gives a false certificate to
 45 any contract, agreement, purchase order, check, draft, or other document, he the finance officer
 46 and the sureties on his any official bond are liable for any sums illegally committed or
 47 disbursed thereby.

48 (f) The certifications required by subsections (a1) and (d1) of this section shall not
 49 apply to any of the following:

- 50 (1) An obligation or a document related to the obligation has been approved by
the Local Government Commission.

1 (2) Payroll expenditures, including all benefits for employees of the local
2 government.

3 (3) Electronic payments, as specified in rules adopted by the Local Government
4 Commission.

5 (g) As used in this section, the following terms shall have the following meanings:

6 (1) Electronic funds transfer. – A transfer of funds initiated by using an
7 electronic terminal, a telephone, a computer, or magnetic tape to instruct or
8 authorize a financial institution or its agent to credit or debit an account.

9 (2) Electronic payment. – Payment by charge card, credit card, debit card, gas
10 card, procurement card, or electronic funds transfer."

11 **SECTION 6.(c)** This section becomes effective October 1, 2015, and applies to
12 expenditures incurred on or after that date.

13 14 **VERIFICATION OF ESCHEATS REPORTS**

15 **SECTION 7.(a)** G.S. 116B-72 is amended by adding a new subsection to read:

16 "(g) Any examination under this section may include the Treasurer utilizing any and all
17 reliable external data, including electronic databases deemed relevant by the Treasurer."

18 **SECTION 7.(b)** This section is effective when this act becomes law and applies to
19 any examination pending on or after that date.

20 21 **LOCAL REGULATION OF BEEHIVES**

22 **SECTION 8.** Article 55 of Chapter 106 of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 106-645. Limitations on local government regulation of hives.**

25 (a) Notwithstanding Article 6 of Chapter 153A of the General Statutes, no county shall
26 adopt or continue in effect any ordinance or resolution that prohibits any person or entity from
27 owning or possessing five or fewer hives.

28 (b) Notwithstanding Article 8 of Chapter 160A of the General Statutes, a city may
29 adopt an ordinance to regulate hives in accordance with this subsection. The city shall comply
30 with all of the following:

31 (1) Any ordinance shall permit up to five hives on a single parcel within the land
32 use planning jurisdiction of the city.

33 (2) Any ordinance shall require that the hive be placed at ground level or
34 securely attached to an anchor or stand. If the hive is securely attached to an
35 anchor or stand, the city may permit the anchor or stand to be permanently
36 attached to a roof surface.

37 (3) Any ordinance may include regulation of the placement of the hive on the
38 parcel, including setbacks from the property line and from other hives.

39 (4) Any ordinance may require removal of the hive if the owner no longer
40 maintains the hive or if removal is necessary to protect the health, safety,
41 and welfare of the public.

42 (c) For purposes of this section, the term "hive" has the same definition as in
43 G.S. 106-635(15)."

44 45 **LEASES OF PROPERTY BY LOCAL GOVERNMENTS FOR COMMUNICATION** 46 **TOWERS**

47 **SECTION 9.** G.S. 160A-272 reads as rewritten:

48 **"§ 160A-272. Lease or rental of property.**

49 (a) Any property owned by a city may be leased or rented for such terms and upon such
50 conditions as the council may determine, but not for longer than 10 years (except as otherwise
51 provided ~~herein~~ in subsection (b1) of this section) and only if the council determines that the

1 property will not be needed by the city for the term of the lease. In determining the term of a
2 proposed lease, periods that may be added to the original term by options to renew or extend
3 shall be included.

4 (a1) Property may be rented or leased only pursuant to a resolution of the council
5 authorizing the execution of the lease or rental agreement adopted at a regular council meeting
6 upon ~~40~~ 30 days' public notice. Notice shall be given by publication describing the property to
7 be leased or rented, stating the annual rental or lease payments, and announcing the council's
8 intent to authorize the lease or rental at its next regular meeting.

9 (b) No public notice as required by subsection (a1) of this section need be given for
10 resolutions authorizing leases or rentals for terms of one year or less, and the council may
11 delegate to the city manager or some other city administrative officer authority to lease or rent
12 city property for terms of one year or less.

13 (b1) Leases for terms of more than 10 years shall be treated as a sale of property and may
14 be executed by following any of the procedures authorized for sale of real property.

15 (c) ~~The~~ Notwithstanding subsection (b1) of this section, the council may approve a lease
16 without treating that lease as a sale of property for any of the following reasons:

17 (1) ~~for~~ For the siting and operation of a renewable energy facility, as that term is
18 defined in G.S. 62-133.8(a)(7), for a term up to 25 years ~~without treating the~~
19 ~~lease as a sale of property and without giving notice by publication of the~~
20 ~~intended lease years.~~

21 (2) For the siting and operation of a tower, as that term is defined in
22 G.S. 146-29.2(a)(7), for communication purposes for a term up to 25 years."

23 24 LOCAL REVIEW OF PROTOTYPE FRANCHISE FOOD ESTABLISHMENTS

25 SECTION 10. G.S. 130A-248 is amended by adding a new subsection to read:

26 "(e1) Plans for a franchised or chain food establishment that have been reviewed and
27 approved by the Department shall not require further review and approval under this section by
28 any local health department. The local health department may suggest revisions to a reviewed
29 and approved plan to the Department. The local health department shall not impose any of the
30 suggestion revisions on the owner or operator without written approval from the Department."

31 32 NOTICE TO PROPERTY OWNERS PRIOR TO CONSTRUCTION

33 SECTION 12.(a) Article 23 of Chapter 153A of the General Statutes is amended
34 by adding a new section to read:

35 "§ 153A-457. Notice prior to construction.

36 (a) A county shall notify the property owners and adjacent property owners prior to
37 commencement of any construction project by the county.

38 (b) Notice under this section shall be in writing at least 15 days prior to the
39 commencement of construction, except in any of the following instances:

40 (1) If the construction is a repair of an emergency nature, the notice may be
41 given by any means, including verbally, that the county has for contacting
42 the property owner within a reasonable time prior to, or after,
43 commencement of the repair.

44 (2) The property owner requests action of the county that requires construction
45 activity.

46 (3) The property owner consents to less than 15 days' notice.

47 (4) Notice of the construction project is given in any open meeting of the county
48 prior to the commencement of the construction project."

49 SECTION 12.(b) Article 21 of Chapter 160A of the General Statutes is amended
50 by adding a new section to read:

51 "§ 160A-499.4. Notice prior to construction.

1 (a) A city shall notify the property owners and adjacent property owners prior to
2 commencement of any construction project by the city.

3 (b) Notice under this section shall be in writing at least 15 days prior to the
4 commencement of construction, except in any of the following instances:

5 (1) If the construction is a repair of an emergency nature, the notice may be
6 given by any means, including verbally, that the city has for contacting the
7 property owner within a reasonable time prior to, or after, commencement of
8 the repair.

9 (2) The property owner requests action of the city that requires construction
10 activity.

11 (3) The property owner consents to less than 15 days' notice.

12 (4) Notice of the construction project is given in any open meeting of the city
13 prior to the commencement of the construction project."

14 **SECTION 12.(c)** This section becomes effective October 1, 2015, and applies to
15 construction commenced on or after that date.

17 **RIPARIAN BUFFER REFORM**

18 **SECTION 13.1.(a)** Subsection (e1) of G.S. 143-214.23 is repealed.

19 **SECTION 13.1.(b)** Part 1 of Article 21 of Chapter 143 of the General Statutes is
20 amended by adding a new section to read:

21 **"§ 143-214.23A. Limitations on local government riparian buffer requirements.**

22 (a) As used in this section:

23 (1) "Local government ordinance" means any action by a local government
24 carrying the effect of law approved before or after October 1, 2015, whether
25 by ordinance, comprehensive plan, policy, resolution, or other measure.

26 (2) "Protection of water quality" means nutrient removal, pollutant removal,
27 stream bank protection, or protection of an endangered species as required
28 by federal law.

29 (3) "Riparian buffer area" means an area subject to a riparian buffer
30 requirement.

31 (4) "Riparian buffer requirement" means a landward setback from surface
32 waters.

33 (b) Except as provided in this section, a local government may not enact, implement, or
34 enforce a local government ordinance that establishes a riparian buffer requirement that
35 exceeds riparian buffer requirements necessary to comply with or implement federal or State
36 law or a condition of a permit, certificate, or other approval issued by a federal or State agency.

37 (c) Subsection (b) of this section shall not apply to any local government ordinance that
38 establishes a riparian buffer requirement enacted prior to August 1, 1997, if (i) the ordinance
39 included findings that the requirement was imposed for purposes that include the protection of
40 aesthetics, fish and wildlife habitat, and recreational use by maintaining water temperature,
41 healthy tree canopy and understory, and the protection of the natural shoreline through
42 minimization of erosion and potential chemical pollution in addition to the protection of water
43 quality and the prevention of excess nutrient runoff, and (ii) the ordinance would permit small
44 or temporary structures within 50 feet of the water body and docks and piers within and along
45 the edge of the water body under certain circumstances.

46 (d) A local government may request from the Commission the authority to enact,
47 implement, and enforce a local government ordinance that establishes a riparian buffer
48 requirement for the protection of water quality that exceeds riparian buffer requirements for the
49 protection of water quality necessary to comply with or implement federal or State law or a
50 condition of a permit, certificate, or other approval issued by a federal or State agency. To do
51 so, a local government shall submit to the Commission an application requesting this authority

1 that includes the local government ordinance, including the riparian buffer requirement for the
2 protection of water quality, scientific studies of the local environmental and physical conditions
3 that support the necessity of the riparian buffer requirement for the protection of water quality,
4 and any other information requested by the Commission. Within 90 days after the Commission
5 receives a complete application, the Commission shall review the application and notify the
6 local government whether the application has been approved, approved with modifications, or
7 disapproved. The Commission shall not approve a local government ordinance that establishes
8 a riparian buffer requirement for the protection of water quality unless the Commission finds
9 that the scientific evidence presented by the local government supports the necessity of the
10 riparian buffer requirement for the protection of water quality.

11 (e) Cities and counties shall not treat the land within a riparian buffer area as if the land
12 is the property of the State or any of its subdivisions unless the land or an interest therein has
13 been acquired by the State or its subdivisions by a conveyance or by eminent domain. Land
14 within a riparian buffer area in which neither the State nor its subdivisions holds any property
15 interest may be used by the property owner to satisfy any other development-related regulatory
16 requirements based on property size, including, but not limited to, residential density and
17 nonresidential intensity calculations and yields, tree conservation purposes, open space or
18 conservation area requirements, setbacks, perimeter buffers, and lot area requirements.

19 (f) When riparian buffer requirements are included within a lot, cities and counties
20 shall require that the riparian buffer area be shown on the recorded plat. Nothing in this
21 subsection shall be construed to require that the riparian buffer area be surveyed. When riparian
22 buffer requirements are placed outside of lots in portions of a subdivision that are designated as
23 common areas or open space and neither the State nor its subdivisions holds any property
24 interest in that riparian buffer area, the local government shall attribute to each lot abutting the
25 riparian buffer area a proportionate share based on the area of all lots abutting the riparian
26 buffer area for purposes of development-related regulatory requirements based on property
27 size, including, but not limited to, residential density and nonresidential intensity calculations
28 and yields, tree conservation purposes, open space or conservation area requirements, setbacks,
29 perimeter buffers, and lot area requirements.

30 (g) The Commission may adopt rules to implement this section."

31 **SECTION 13.1.(c)** The definitions set out in G.S. 143-214.23A(a), as enacted by
32 Section 13.1(b) of this act, shall apply to this section. Notwithstanding G.S. 143-214.23A(b), as
33 enacted by Section 13.1(b) of this act, a local government ordinance that establishes a riparian
34 buffer requirement for the protection of water quality that exceeds riparian buffer requirements
35 necessary to comply with or implement federal or State law or a condition of a permit,
36 certificate, or other approval issued by a federal or State agency that is in effect on October 1,
37 2015, may remain in effect and enforceable until January 1, 2017. If the local government
38 ordinance is authorized by the Environmental Management Commission pursuant to
39 G.S. 143-214.23A(d), as enacted by Section 13.1(b) of this act, on or before January 1, 2017,
40 the ordinance may continue to be in effect and enforceable. If the local government ordinance
41 is not authorized by the Environmental Management Commission pursuant to
42 G.S. 143-214.23A(d), as enacted by Section 13.1(b) of this act, on or before January 1, 2017,
43 the ordinance shall no longer be in effect or enforceable.

44 **SECTION 13.1.(d)** This section becomes effective October 1, 2015.

45 **SECTION 13.2.(a)** The Environmental Management Commission, with the
46 assistance of the Department of Environment and Natural Resources, shall examine ways to
47 provide regulatory relief from the impacts of riparian buffer rules adopted to implement the
48 State's Riparian Buffer Protection Program for parcels of land that were platted on or before the
49 effective date of the applicable riparian buffer rule. The Commission shall specifically examine
50 ways to fairly provide properties with relief where a change in use has occurred that would
51 otherwise trigger the requirements of the riparian buffer rules. Such relief would be determined

1 on a case-by-case basis and provide relief to successor owners. For purposes of this study, a
2 change in use that would otherwise trigger the requirements of the riparian buffer rules shall
3 not include either of the following circumstances:

- 4 (1) Developing from a vacant condition to a use allowed by the current local
5 regulations, unless the local regulations have been changed at the request of
6 the property owner since the date the buffer rule was applied; the parcel was
7 recorded prior to the effective date of the applicable buffer rule; and the
8 allowable use is for any nonfarming or nonagricultural purpose.
- 9 (2) The property configuration has not been altered except as a result of either
10 an eminent domain action or a recombination involving not more than three
11 parcels, all of which were recorded before the effective date of the applicable
12 buffer rule.

13 The Commission may also consider and recommend other circumstances that should
14 not constitute a change in use that would otherwise trigger the requirements of the riparian
15 buffer rules. No later than April 1, 2016, the Commission shall report the results of its study,
16 including any recommendations, to the Environmental Review Commission.

17 **SECTION 13.2.(b)** This section becomes effective October 1, 2015.

18 **SECTION 13.3.(a)** As used in this section, "coastal wetlands" means any salt
19 marsh or other marsh subject to regular or occasional flooding by tides, including wind tides,
20 whether or not the tidewaters reach the marshland areas through natural or artificial
21 watercourses, provided this shall not include hurricane or tropical storm tides.

22 **SECTION 13.3.(b)** For purposes of implementing 15A NCAC 02B .0233 (Neuse
23 River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of
24 Existing Riparian Buffers) and 15A NCAC 02B .0259 (Tar-Pamlico River Basin: Nutrient
25 Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian
26 Buffers), Zone 1 of a protective riparian buffer for coastal wetlands shall begin at the most
27 landward limit of the normal high water level or the normal water level, as appropriate.

28 **SECTION 13.3.(c)** The Environmental Management Commission shall adopt
29 temporary rules to amend its rules consistent with this section.

30 **SECTION 13.3.(d)** This section becomes effective October 1, 2015.

31 **SECTION 13.4.(a)** The Environmental Management Commission shall amend its
32 rules for the protection of existing riparian buffers to provide for the case-by-case modification
33 of the requirement for maintaining woody vegetation in the riparian buffer area upon a showing
34 by a landowner that alternative measures will provide equal or greater water quality protection.

35 **SECTION 13.4.(b)** The Environmental Management Commission shall adopt
36 temporary rules to amend its rules consistent with this section.

37 **SECTION 13.4.(c)** This section becomes effective October 1, 2015.

38 **ZONING DENSITY CREDITS**

39 **SECTION 16.** G.S. 160A-381(a) reads as rewritten:

40 "(a) For the purpose of promoting health, safety, morals, or the general welfare of the
41 community, any city may adopt zoning and development regulation ordinances. These
42 ordinances may be adopted as part of a unified development ordinance or as a separate
43 ordinance. A zoning ordinance may regulate and restrict the height, number of stories and size
44 of buildings and other structures, the percentage of lots that may be occupied, the size of yards,
45 courts and other open spaces, the density of population, the location and use of buildings,
46 structures and land. The ordinance ~~may~~ shall provide density credits or severable development
47 rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11."
48

49 **CLARIFY AUTHORITY OF COUNTIES AND CITIES TO EXPAND ON DEFINITION** 50 **OF BEDROOM** 51

1 **SECTION 18.(a)** G.S. 153A-346 reads as rewritten:

2 "**§ 153A-346. Conflict with other laws.**

3 (a) When regulations made under authority of this Part require a greater width or size of
4 yards or courts, or require a lower height of a building or fewer number of stories, or require a
5 greater percentage of a lot to be left unoccupied, or impose other higher standards than are
6 required in any other statute or local ordinance or regulation, the regulations made under
7 authority of this Part govern. When the provisions of any other statute or local ordinance or
8 regulation require a greater width or size of yards or courts, or require a lower height of a
9 building or a fewer number of stories, or require a greater percentage of a lot to be left
10 unoccupied, or impose other higher standards than are required by regulations made under
11 authority of this Part, the provisions of the other statute or local ordinance or regulation govern.

12 (b) When adopting regulations under this Part, a county may not use a definition of
13 dwelling unit, bedroom, or sleeping unit that is more expansive than any definition of the same
14 in another statute or in a rule adopted by a State agency."

15 **SECTION 18.(b)** G.S. 160A-390 reads as rewritten:

16 "**§ 160A-390. Conflict with other laws.**

17 (a) When regulations made under authority of this Part require a greater width or size of
18 yards or courts, or require a lower height of a building or fewer number of stories, or require a
19 greater percentage of a lot to be left unoccupied, or impose other higher standards than are
20 required in any other statute or local ordinance or regulation, regulations made under authority
21 of this Part shall govern. When the provisions of any other statute or local ordinance or
22 regulation require a greater width or size of yards or courts, or require a lower height of a
23 building or a fewer number of stories, or require a greater percentage of a lot to be left
24 unoccupied, or impose other higher standards than are required by the regulations made under
25 authority of this Part, the provisions of that statute or local ordinance or regulation shall govern.

26 (b) When adopting regulations under this Part, a city may not use a definition of
27 dwelling unit, bedroom, or sleeping unit that is more expansive than any definition of the same
28 in another statute or in a rule adopted by a State agency."

30 DEVELOPMENT AGREEMENTS

31 **SECTION 19.(a)** G.S. 153A-349.4 reads as rewritten:

32 "**§ 153A-349.4. Developed property ~~must contain certain number of acres; criteria;~~**
33 **~~permissible durations of agreements.~~**

34 (a) A local government may enter into a development agreement with a developer for
35 the development of property as provided in this Part, ~~provided the property contains 25 acres or~~
36 ~~more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes,~~
37 ~~and other portions of the property which may be precluded from development at the time of~~
38 ~~application).~~ Part for developable property of any size, including property that is subject to an
39 executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General
40 Statutes. Development agreements shall be of a reasonable term specified in the agreement,
41 provided they may not be for a term exceeding 20 years.agreement.

42 (b) ~~Notwithstanding the acreage requirements of subsection (a) of this section, a local~~
43 ~~government may enter into a development agreement with a developer for the development of~~
44 ~~property as provided in this Part for developable property of any size (exclusive of wetlands,~~
45 ~~mandatory buffers, unbuildable slopes, and other portions of the property which may be~~
46 ~~precluded from development at the time of application), if the developable property that would~~
47 ~~be subject to the development agreement is subject to an executed brownfields agreement~~
48 ~~pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development~~
49 ~~agreements shall be of a term specified in the agreement, provided they may not be for a term~~
50 ~~exceeding 20 years."~~

51 **SECTION 19.(b)** G.S. 160A-400.23 reads as rewritten:

1 **"§ 160A-400.23. Developed property ~~must contain certain number of acres; criteria;~~**
2 **~~permissible durations of agreements.~~**

3 (a) A local government may enter into a development agreement with a developer for
4 the development of property as provided in this Part, ~~provided the property contains 25 acres or~~
5 ~~more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes,~~
6 ~~and other portions of the property which may be precluded from development at the time of~~
7 ~~application).~~ Part for developable property of any size, including property that is subject to an
8 executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General
9 Statutes. Development agreements shall be of a reasonable term specified in the agreement,
10 provided they may not be for a term exceeding 20 years. ~~agreement.~~

11 (b) ~~Notwithstanding the acreage requirements of subsection (a) of this section, a local~~
12 ~~government may enter into a development agreement with a developer for the development of~~
13 ~~property as provided in this Part for developable property of any size (exclusive of wetlands,~~
14 ~~mandatory buffers, unbuildable slopes, and other portions of the property which may be~~
15 ~~precluded from development at the time of application), if the developable property that would~~
16 ~~be subject to the development agreement is subject to an executed brownfields agreement~~
17 ~~pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development~~
18 ~~agreements shall be of a term specified in the agreement, provided they may not be for a term~~
19 ~~exceeding 20 years."~~

20 **SECTION 19.(c)** G.S. 153A-349.3 reads as rewritten:

21 **"§ 153A-349.3. Local governments authorized to enter into development agreements;**
22 **approval of governing body required.**

23 (a) A local government may establish procedures and requirements, as provided in this
24 Part, to consider and enter into development agreements with developers. A development
25 agreement must be approved by the governing body of a local government by ordinance.

26 (b) The development agreement may, by ordinance, be incorporated, in whole or in
27 part, into any planning, zoning, or subdivision ordinance adopted by the local government."

28 **SECTION 19.(d)** G.S. 160A-400.22 reads as rewritten:

29 **"§ 160A-400.22. Local governments authorized to enter into development agreements;**
30 **approval of governing body required.**

31 (a) A local government may establish procedures and requirements, as provided in this
32 Part, to consider and enter into development agreements with developers. A development
33 agreement must be approved by the governing body of a local government by ordinance.

34 (b) The development agreement may, by ordinance, be incorporated, in whole or in
35 part, into any planning, zoning, or subdivision ordinance adopted by the local government."

36 **SECTION 19.(e)** This section becomes effective October 1, 2015, and applies to
37 development agreements entered into on or after that date.

38 **SECTION 20.** If any provision of this act or its application is held invalid, the
39 invalidity does not affect other provisions or applications of this act that can be given effect
40 without the invalid provisions or application, and to this end the provisions of this act are
41 severable.

42 **SECTION 21.** Except as otherwise provided, this act is effective when it becomes
43 law.