

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 189
PROPOSED COMMITTEE SUBSTITUTE H189-PCS40668-TQ-1

Short Title: Short-Term Response to Emerging Contaminants.

(Public)

Sponsors:

Referred to:

February 27, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT SHORT-TERM MEASURES TO RESPOND TO EMERGING
3 CONTAMINANTS IN THE ENVIRONMENT.

4 The General Assembly of North Carolina enacts:

5
6 **DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO CONSULT**
7 **WITH THE SECRETARIES' SCIENCE ADVISORY BOARD IN THE**
8 **DEVELOPMENT OF HEALTH GOALS FOR CONTAMINANTS**

9 **SECTION 1.(a)** For purposes of this section, the Secretaries' Science Advisory
10 Board shall mean the Science Advisory Board established by the Secretary of Environmental
11 Quality and the Secretary of Health and Human Services on July 28, 2017.

12 **SECTION 1.(b)** The Department of Health and Human Services shall consult with
13 the Secretaries' Science Advisory Board on the Department's process for the establishment of
14 health goals for contaminants. The Secretaries' Science Advisory Board shall review the
15 process by which the Department establishes health goals for contaminants and make
16 recommendations on how to improve the process, including how to promote greater public
17 understanding of and confidence in the health goals.

18 **SECTION 1.(c)** To the extent practicable, the Department of Health and Human
19 Services shall notify the Chair of the Secretaries' Science Advisory Board prior to issuing a
20 provisional health goal for a contaminant. The Department of Health and Human Services shall
21 submit all newly issued provisional health goals to the Secretaries' Science Advisory Board at
22 their next scheduled meeting.

23
24 **STUDY NPDES PERMIT PROGRAM**

25 **SECTION 2.** The Department of Environmental Quality shall study the State's
26 National Pollutant Discharge Elimination System (NPDES) permitting program to ensure that
27 associated requirements are sufficient to protect public health, safety, welfare, and the
28 environment. In conducting the study, the Department shall examine the adequacy of:

- 29 (1) Requirements for persons applying for individual NPDES permits to fully
30 disclose in applications for new permits, permit renewals, or permit
31 modifications, all pollutants, including emerging chemicals for which an
32 applicable discharge standard has not been established under State or federal
33 law, included in their discharge.
- 34 (2) Monitoring, sampling, and laboratory analytical requirements applicable to
35 persons holding current NPDES permits and to persons applying for new
36 NPDES permits. In assessing the adequacy of analytical requirements, the



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1 Department shall evaluate the consistency of analytical methods used by
2 private labs to detect and quantify pollutants, including emerging chemicals
3 for which an applicable discharge standard has not been established under
4 State or federal law. And, based on information gathered in that regard,
5 whether, to ensure the accuracy of discharge sampling results, it would be
6 feasible and advisable for the Department to develop a certified list of
7 laboratories through which dischargers must obtain laboratory analyses of
8 their discharge or whether the Department should require submission of
9 discharge samples to the Department for laboratory analyses by the
10 Department.

- 11 (3) Existing processes for developing standards or limitations for emerging
12 chemicals for which an applicable discharge standard has not previously
13 been established under State or federal law, included in a permittee's
14 discharge.
- 15 (4) Internal permit review processes to ensure thorough and timely review of
16 permit applications.

17 The Department shall submit an interim report with findings, including any
18 recommendations for legislative action, to the House Select Committee on North Carolina
19 River Quality, the Senate Select Committee on North Carolina River Water Quality, and the
20 Environmental Review Commission no later than April 1, 2018, and a final report with
21 findings, including any recommendations for legislative action, to the House Select Committee
22 on North Carolina River Quality, the Senate Select Committee on North Carolina River Water
23 Quality, and the Environmental Review Commission no later than December 1, 2018.

24
25 **DIRECT THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO COORDINATE**
26 **AND SHARE WATER QUALITY DATA WITH STATES IN THE REGION**

27 **SECTION 3.** Article 21 of Chapter 143 of the General Statutes is amended by
28 adding a new section to read:

29 **"§ 143-215.1D. Coordination with neighboring states.**

30 The Department of Environmental Quality shall coordinate with the Georgia Department of
31 Natural Resources, the South Carolina Department of Health and Environmental Control, the
32 Tennessee Department of Environment and Conservation, the Virginia Department of
33 Environmental Quality, and the West Virginia Department of Environmental Protection to
34 improve processes for sharing information about contaminants identified in surface water or
35 groundwater shared by or passing or flowing across the border of those states and this State. As
36 needed, the Department shall share with those agencies water quality data for, and information
37 about any contaminant identified in, surface water or groundwater shared by or passing or
38 flowing across the border of those states and this State."

39
40 **DEPARTMENT OF ENVIRONMENTAL QUALITY REPORTING AND NOTICE**
41 **STUDY**

42 **SECTION 4.** The Department of Environmental Quality shall study the statutory
43 requirements for dischargers of untreated wastewater, untreated waste, and other substances to
44 notify the Department and the public of discharges, including the volumetric thresholds that
45 trigger the reporting requirements, to ensure that the requirements are sufficient to protect
46 public health and provide adequate notice to the Department and the public. The Department
47 shall consider whether there are any conflicts or redundancies in the statutory notice and
48 reporting requirements. The Department shall also study its processes for notifying the General
49 Assembly and the Environmental Management Commission of the presence in the environment
50 of emerging chemicals for which an applicable discharge standard has not been established
51 under State or federal law. The Department shall report its findings, including any legislative

1 recommendations, to the House Select Committee on North Carolina River Quality, the Senate
2 Select Committee on North Carolina River Water Quality, and the Environmental Review
3 Commission no later than April 1, 2018.

4 5 **WATER UTILITY CIVIL LIABILITY STUDY**

6 **SECTION 5.** The School of Government at the University of North Carolina at
7 Chapel Hill shall study the extent to which public and private water utilities may be held civilly
8 liable for distribution of drinking water contaminated by a pollutant without applicable
9 discharge standards established under State or federal law and the extent to which public water
10 utilities and private water utilities are treated differently for purposes of civil liability. The
11 School of Government shall submit the results of the study to the House Select Committee on
12 North Carolina River Quality, the Senate Select Committee on North Carolina River Water
13 Quality, and the Environmental Review Commission no later than April 1, 2018.

14 15 **GENX FUNDING**

16 **SECTION 6.(a)** The General Assembly finds that the discharges of the
17 poly-fluoroalkyl chemical known as "GenX" (CAS registry number 62037-80-3 or 13252-13-6)
18 demonstrate the need for supplemental funding to support the identification, characterization,
19 and monitoring by scientists, engineers, and other professionals of GenX and other emerging
20 contaminants in the land, air, and waters of the State. The purpose of this section is to
21 repurpose existing funds to address these critical needs.

22 **SECTION 6.(b)** One million three hundred thousand dollars (\$1,300,000) in
23 nonrecurring funds appropriated to the Department of Environmental Quality for the
24 2016-2017 fiscal year and allocated for in situ nutrient management by Section 14.13(e) of S.L.
25 2016-94, as amended by Section 13.24 of S.L. 2017-57, is reallocated for the purposes
26 described in subsection (d) of this section.

27 **SECTION 6.(c)** Twenty-five thousand dollars (\$25,000) in nonrecurring funds
28 appropriated to the Rural Economic Development Division of the Department of Commerce for
29 the 2017-2018 fiscal year and provided as a grant-in-aid to the Town of Stedman by
30 subdivision (15) of Section 15.8(b) of S.L. 2017-57 is transferred to the Department of
31 Environmental Quality and allocated for the purposes described in subsection (d) of this
32 section.

33 **SECTION 6.(d)** The funds provided to the Department of Environmental Quality
34 by subsections (b) and (c) of this section shall be allocated for the 2017-2018 fiscal year as
35 follows:

- 36 (1) Eight hundred thirteen thousand dollars (\$813,000) to the Division of Water
37 Resources for time-limited positions and operations support of water quality
38 sampling related to GenX and other emerging contaminants and to address
39 permitting backlogs.
- 40 (2) Two hundred thirty-two thousand nine hundred fifty dollars (\$232,950) to
41 the Division of Air Quality for sampling and analysis of atmospheric
42 deposition of GenX and other emerging contaminants.
- 43 (3) Two hundred seventy-nine thousand fifty dollars (\$279,050) to the Division
44 of Waste Management for sampling and analysis of GenX and other
45 emerging contaminants in groundwater wells, soil, and sediment.

46 **SECTION 6.(e)** Funds reallocated by this section shall not revert but shall remain
47 available for nonrecurring expenses, including the establishment of time-limited positions,
48 through June 30, 2019.

49 **SECTION 7.(a)** The sum of four hundred seventy-nine thousand seven hundred
50 thirty-six dollars (\$479,736) in recurring funds for the 2017-2018 fiscal year is appropriated
51 from the unappropriated balance remaining in the General Fund to the Department of

1 Environmental Quality to support sampling and analysis activities associated with discharges of
 2 GenX and other emerging contaminants.

3 **SECTION 7.(b)** Notwithstanding Section 6.1(a) of S.L. 2017-57, five hundred
 4 thirty-seven thousand dollars (\$537,000) in nonrecurring funds for the 2017-2018 fiscal year is
 5 allocated from the Contingency and Emergency Fund to the Department of Environmental
 6 Quality to support the acquisition by the Department of analytic equipment to evaluate in a
 7 more timely and cost-effective manner the threat to public health and safety resulting from
 8 discharges of GenX and other emerging contaminants.

9 **SECTION 8.(a)** Section 2.1 of S.L. 2017-57, as amended by Section 1.1 of S.L.
 10 2017-197, reads as rewritten:

11 "SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of
 12 the State departments, institutions, and agencies, and for other purposes as enumerated, are
 13 made for the fiscal biennium ending June 30, 2019, according to the following schedule:
 14

Current Operations – General Fund	FY 2017-2018	FY 2018-2019
15 ...		
17 NATURAL AND ECONOMIC RESOURCES		
18 ...		
19 Department of Environmental Quality	78,170,32778,650,063	77,012,71477,492,450
20 ...		
21 TOTAL CURRENT OPERATIONS –		
22 GENERAL FUND	\$ 22,980,769,89322,981,249,629	\$ 23,650,253,95823,650,733,694"

23 **SECTION 8.(b)** Section 2.2(a) of S.L. 2017-57 reads as rewritten:

24 "SECTION 2.2.(a) The General Fund availability used in developing the 2017-2019 fiscal
 25 biennial budget is shown below:
 26

	FY 2017-2018	FY 2018-2019
27 Unappropriated Balance	\$ 208,607,416	\$ 499,303,328498,823,592
28 ...		
30 Revised Unappropriated Balance	108,607,416	499,303,328498,823,592
31 ...		
32 Beginning Unreserved Fund Balance	471,279,046	499,303,328498,823,592
33 ...		
34 Total General Fund Availability	23,623,979,046	24,634,803,32824,634,323,592
35 ...		
36 Revised General Fund Availability	\$ 23,529,781,221	\$ 24,022,005,28324,021,525,547
37		
38 Less General Fund Net		
39 Appropriations	(23,030,477,893)(23,030,957,629)	(23,652,171,951)(23,652,651,687)
40		
41 Unappropriated Balance		
42 Remaining	\$ 499,303,328498,823,592	\$ 369,833,332368,873,860"

43 **SECTION 9.** Nonrecurring funds appropriated by this act for the 2017-2018 fiscal
 44 year shall not revert but shall remain available for nonrecurring expenses through June 30,
 45 2019.
 46

47 **EFFECTIVE DATE**

48 **SECTION 10.** Except as otherwise provided, this act is effective when it becomes
 49 law.