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SENATE BILL DRS15204-MHa-100A

Short Title: Establish PFAS Task Force/Add'l Measures. (Public)

Sponsors: Senators deViere, Murdock, and Mayfield (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE "PFAS TASK FORCE" TO IDENTIFY AND ANALYZE ALL PER- AND POLY-FLUOROALKYL SUBSTANCES (PFAS) IN THE LOWER CAPE FEAR RIVER BASIN, TO IDENTIFY THEIR SOURCE OF DISCHARGE AND THEIR HEALTH IMPACT ON THE HUMAN POPULATION THEREIN, TO ESTABLISH ALLOWABLE MAXIMUM HEALTH STANDARDS FOR EXPOSURE TO PFAS, AND TO PROVIDE FOR THE IMMEDIATE REPLACEMENT AND/OR UPGRADE OF DRINKING WATER SYSTEMS, INCLUDING PRIVATE WELLS, WITHIN THE AFFECTED AREA.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Environmental Quality shall establish the PFAS Task Force. The Task Force shall:

(a) Undertake a comprehensive, nontargeted, scientific identification and analysis of all per- and poly-fluoroalkyl substances (PFAS), including GenX compounds, and other chemical contaminants of emerging interest, including 1,4-Dioxane, found in ground and surface waters, private wells, air, soil, dust, food, and locally produced garden and farm products within the Lower Cape Fear River Basin, including the counties of Cumberland, Bladen, Columbus, Brunswick, and New Hanover and the streams and tributaries contained therein. In examining these media and other elements for PFAS contamination, and contamination from other chemical contaminants of emerging interest, including 1,4-Dioxane, the Task Force shall give particular emphasis to analysis of public water systems within the area subject to PFAS exposure, including testing of water at intakes, outflows, sediment in tanks and lines, and at residential and commercial taps. In conducting this research, the Task Force shall also study the environmental pathways PFAS travel to reach human tissue, including wastewater discharges, air emissions, and other means, and any laboratory studies and science associated with the precursors of these contaminants and their genesis.

(b) Identify all public and private parties responsible for the discharge or emissions of such contaminants.

(c) Develop and implement a Biomonitoring Study Program, in consultation with the Department of Health and Human Services, to identify and measure concentrations of toxic chemicals in the population groups within the study area exposed to PFAS chemicals to establish foundational baseline data to support future epidemiological and public health studies and to assess the effectiveness of public health efforts and regulatory programs to decrease exposure to specific toxic chemicals. The Program shall give thorough consideration to epidemiological research completed and in process at academic institutions within the State as well as the Centers for Disease Control and Prevention.



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1 (d) Draw on all previous and current academic studies and findings related to per- and
2 poly-fluoroalkyl substances (PFAS), including GenX compounds, and other chemical
3 contaminants of emerging interest, including 1,4-Dioxane, including research performed
4 pursuant to Section 13.1 of S.L. 2018-5 by the North Carolina Policy Collaboratory at the
5 University of North Carolina at Chapel Hill (Collaboratory); independent research by academic
6 institutions, including the Universities of North Carolina at Wilmington (UNCW) and Chapel
7 Hill (UNC-CH), North Carolina State University, North Carolina A&T State University, Duke
8 University, Cape Fear Public Utility Authority (CFPUA), and other public and private
9 institutions; and international testing and findings.

10 The Task Force shall consult and coordinate with these other research entities in order to
11 minimize redundancy of efforts and unnecessary expenditure of public funds.

12 (e) Review and update (i) the National Pollutant Discharge Elimination System (NPDES)
13 permitting requirements and (ii) the appropriateness of the amount of sanctions and remedies that
14 may be assessed under State law for noncompliance with State environmental requirements.

15 (f) Encourage the administrators of the United States Environmental Protection Agency
16 (USEPA) to accelerate evaluation of emerging contaminants and development of enforceable
17 standards therefor under the federal Toxic Substances Control Act (TSCA).

18 (g) Based upon research conducted pursuant to this study, the Task Force shall formulate
19 a maximum allowable standard for all PFAS, including GenX compounds, and other chemical
20 contaminants of emerging interest, including 1,4-Dioxane, the Task Force identifies through the
21 course of its work. These recommended standards should be based on the body of scientific
22 research available, including lab studies; "in vivo" and "in vitro" assessments; biomonitoring;
23 and scientific research and findings generated by academic institutions, other states, and
24 countries. If no research or guidelines are available for a given contaminant, the Task Force shall
25 recommend adoption of a "precautionary" standard of 10 ppt for the contaminant that should be
26 applied until such time when a science-based test method has been developed to allow standards
27 to be established that will protect human health.

28 **SECTION 1.(b)** The Task Force shall serve as a pilot program for establishment of
29 future statewide initiatives to aggressively examine and resolve public health concerns as a result
30 of the discharge of illegal toxic contaminants into the public realm.

31 **SECTION 1.(c)** The Department shall, no later than March 1, 2022, report to the
32 Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources
33 regarding its recommendations for legislative action, and information on required staffing,
34 equipment, and instrumentation for the conduct of the Task Force's work, and appropriations
35 necessary therefore. The Department of Environmental Quality shall collaborate with and take
36 recommendations from the ERC to determine membership and structure for the Task Force and
37 determine and recommend the necessary appropriation for the Task Force to complete its work.

38 **SECTION 1.(d)** The Task Force shall complete the work identified under subsection
39 (a) of this section no later than April 30, 2024. Until such time, the Task Force shall submit
40 quarterly reports to the Environmental Review Commission (ERC), beginning no later than
41 September 1, 2022, with updates on the Task Force's work.

42 **SECTION 2.(a)** G.S. 143-215.2A reads as rewritten:

43 **"§ 143-215.2A. Relief for contaminated private or public water supplies, including private**
44 **drinking water wells.**

45 (a) The Secretary shall, upon direction of the Governor, order any person who the
46 Secretary finds responsible for the discharge or release of industrial waste that includes per- and
47 poly-fluoroalkyl substances (PFAS), including the chemical known as "GenX" (CAS registry
48 number 62037-80-3 or 13252-13-6), into the air, groundwater, surface water, or onto the land
49 that results in contamination of a public or private water supply, including a private drinking
50 water well, as that term is defined in G.S. 87-85, to establish permanent replacement water
51 supplies for affected parties. For purposes of this section, the terms (i) "contamination" means an

1 ~~exceedance of a standard established by the Environmental Management Commission for~~
2 ~~groundwater, surface water, or air quality, or an exceedance of a health advisory level established~~
3 ~~by the United States Environmental Protection Agency, of 10 ppt for a single PFAS compound,~~
4 ~~and a cumulative threshold of 25 ppt where three or more PFAS compounds are detected for any~~
5 ~~chemical classified as a PFAS, including GenX; and (ii) "affected party" means a household,~~
6 ~~business, school, or public building with a well served by a public or private water supply,~~
7 ~~including a private drinking water well, contaminated with PFAS, including GenX, as a result of~~
8 ~~the discharge or release of industrial waste.~~

9 (b) ~~If the Secretary orders a person responsible for the discharge or release of a PFAS,~~
10 ~~including GenX, that results in contamination of a private drinking water well public or private~~
11 ~~water supply, including a private drinking water well, to establish a permanent replacement water~~
12 ~~supply for an affected party with such a well pursuant to subsection (a) of this section, preference~~
13 ~~shall be given to permanent replacement water supplies by connection to public water supplies;~~
14 ~~provided that (i) an affected party may elect to receive a filtration system in lieu of a connection~~
15 ~~to public water supplies and (ii) if the Department determines that connection to a public water~~
16 ~~supply to a particular affected party would not be cost effective, party, the Department shall~~
17 ~~authorize require provision of a permanent replacement water supply to that affected party~~
18 ~~through installation of a filtration system system or connection to a public water system. For~~
19 ~~affected parties for which filtration systems are installed, the person responsible shall be liable~~
20 ~~for any periodic required maintenance of the filtration system. An order issued by the Secretary~~
21 ~~pursuant to subsection (a) of this section shall include a deadline by which the responsible person~~
22 ~~must establish the permanent replacement water supply for the affected party or parties subject~~
23 ~~to the order.~~

24 (c) An order issued by the Secretary pursuant to subsection (a) of this section shall be
25 delivered by registered or certified mail, or by any means authorized by G.S. 1A-1, Rule 4, to the
26 person ordered to establish the permanent replacement water supply and shall include detailed
27 findings of fact and conclusions in support of the order. A person to whom such order is issued
28 may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after
29 receipt of notice of the order. If the person does not file a petition within the required time, the
30 Secretary's decision is final and is not subject to review.

31 (d) A person required to establish a permanent replacement water supply pursuant to this
32 section shall be jointly and severally liable for all necessary costs associated with establishment
33 of the permanent replacement water supply. The remedy under this section is in addition to those
34 provided by existing statutory and common law. Nothing in this section shall limit or diminish
35 any rights of contribution for costs incurred herein.

36 (e) Nothing in this section shall be construed to (i) require an eligible affected party to
37 connect to a public water supply or receive a filtration system or (ii) obviate the need for other
38 federal, State, and local permits and approvals.

39 (f) All State entities and local governments shall expedite any permits and approvals that
40 may be required for the establishment of permanent replacement water supplies required pursuant
41 to this section."

42 **SECTION 3.(a)** The Department, with the assistance of the Cape Fear Public Utility
43 Authority and other regional utility providers, shall identify all affected parties, as that term is
44 defined under G.S. 143-215.2A.

45 **SECTION 3.(b)** The State Controller shall transfer from the Savings Reserve
46 Account to the General Fund the sum of three hundred million dollars (\$300,000,000) for the
47 2021-2022 fiscal year to execute agreements with appropriate contractors for the immediate
48 installation of filtration systems for all affected parties identified pursuant to subsection (a) of
49 this section. This transfer is intended to provide relief and assistance from the effects of a public
50 health emergency, as provided in G.S. 143C-4-2(b)(4). The Department shall seek cost recovery
51 from the party or parties responsible for all funds expended pursuant to this section, which, once

1 recovered, shall revert to the General Fund and be transferred by the State Controller into the
2 Savings Reserve.

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