

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 219
Committee Substitute Favorable 3/16/21
Senate Agriculture, Energy, and Environment Committee Substitute Adopted 6/1/22
Proposed Conference Committee Substitute H219-PCCS40813-BR-4

Short Title: Amend Environmental Laws. (Public)

Sponsors:

Referred to:

March 4, 2021

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES TO THE ENVIRONMENTAL LAWS OF THE STATE.

The General Assembly of North Carolina enacts:

DIRECTED INFRASTRUCTURE PROJECTS DEADLINE FOR REVERSION

SECTION 1.(a) Definition. – The following definitions apply to this section:

- (1) Directed infrastructure grant recipient. – An entity receiving a direct allocation of funds from the State Fiscal Recovery Fund under subsection 12.13(d), 12.13(e), 12.13(f), or 12.14(b) of S.L. 2021-180.
- (2) Applicable reversion provision. – Section 12.13(c) of S.L. 2021-180 for directed water and sewer allocations under subsections (d), (e), and (f) of that section, or Section 12.14(i) of S.L. 2021-180 for directed stormwater allocations from the Local Assistance for Stormwater Infrastructure Investments Fund established by that section.

SECTION 1.(b) Submission Requirement. – Directed infrastructure grant recipients must provide a complete Request for Funding form with a project budget describing a project that is eligible for funding under applicable federal and State law no later than June 30, 2023.

SECTION 1.(c) Full Reversion. – Directed allocations shall fully revert on July 1, 2023, and be reallocated as set forth in the applicable reversion provision if the directed infrastructure grant recipient (i) fails to provide a form by the deadline set forth in this subsection or (ii) provides a form describing a project ineligible for funding.

SECTION 1.(d) Partial Reversion. – If a directed infrastructure grant recipient submits a project budget by the deadline specified in subsection (b) of this section, but the budget is less than the direct allocation provided to them by S.L. 2021-180, then the portion of the directed allocation not required for the project shall revert on July 1, 2023, and be reallocated as set forth in the applicable reversion provision.

AMEND SCIF RIVER DEBRIS FUNDING AUTHORIZATION

SECTION 2.(a) Section 40.7(a) of S.L. 2021-180 reads as rewritten:

"SECTION 40.7.(a) Funds transferred from the State Capital and Infrastructure Fund to the Department of Environmental Quality (Department) for stream debris removal shall be used for the removal and disposal of waterway debris from waters of the State located in a targeted river basin—basin or other flood mitigation strategies prioritized through the Flood Resiliency



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1 Blueprint developed under the directive set forth in Section 5.9(c) of this act. The Department
2 shall develop a schedule for the removal and disposal of waterway debris from waters of the State
3 located in a targeted river basin and shall contract with one or more appropriate and qualified
4 private entities to carry out the debris removal and disposal activities."

5 **SECTION 2.(b)** Section 40.7(b) of S.L. 2021-180 is repealed.

6 **SECTION 2.(c)** This section is effective when it becomes law and applies
7 retroactively to July 1, 2021.

9 **FLOOD RESILIENCY BLUEPRINT TECHNICAL CORRECTION**

10 **SECTION 3.(a)** Section 5.9(c) of S.L. 2021-180 reads as rewritten:

11 **"SECTION 5.9.(c)** Flood Resiliency Blueprint. – Of the funds allocated in subdivision ~~(a)~~
12 ~~(7)~~ of this section, the Department of Environmental Quality, Division of Mitigation Services
13 (DMS), shall contract with an organization to develop a statewide Flood Resiliency Blueprint for
14 major watersheds impacted by flooding, including, among others, the Cape Fear River and the
15 Neuse River Basins. The watershed blueprint shall form the backbone of a State flood planning
16 process that increases community resiliency to flooding, shall be a resource for riverine and
17 stream management to reduce flooding, and should support the establishment and furtherance of
18 local government stormwater maintenance programs. The blueprint shall identify the major
19 watersheds affected by flooding and direct these funds toward the activities which are central to
20 the creation of an actionable blueprint, namely flood risk assessment, identification of data gaps,
21 and recommendations to reduce flood risk for each target watershed. When developing the
22 blueprint with the organization selected, DMS shall ensure the blueprint incorporates local
23 knowledge, community goals, projections of future flood risk, and the best available science and
24 hydrologic modeling to create a decision tool for flood mitigation investments and strategies
25 from local watersheds up to whole river basins. A successful blueprint should ultimately lead to
26 a prioritized set of projects and funding strategies that the State can implement. DMS and the
27 organization selected are encouraged to examine examples from other states such as the
28 Louisiana Coastal Master Plan or the flood resiliency planning processes in South Carolina and
29 Virginia. The organization shall send all necessary information to DMS on the implementation
30 of the blueprint upon request by DMS. The organization shall submit an initial draft of the
31 blueprint to DMS no later than December 31, 2023. DMS shall report by July 1, 2022, and
32 annually thereafter to the Joint Legislative Commission on Governmental Operations and the
33 Fiscal Research Division on the implementation of this subsection."

34 **SECTION 3.(b)** This section is effective when it becomes law and applies
35 retroactively to July 1, 2021.

37 **PROVIDE THE DIVISION OF MARINE FISHERIES FLEXIBILITY IN** 38 **MAINTAINING DIVISION AIRCRAFT**

39 **SECTION 4.** Section 13.16 of S.L. 2010-31 is repealed.

41 **ALIGN COASTAL AREA MANAGEMENT ACT PUBLIC NOTICE REQUIREMENTS** 42 **FOR LAND-USE PLAN HEARINGS WITH EXISTING LOCAL GOVERNMENT** 43 **NOTICE REQUIREMENTS**

44 **SECTION 5.** G.S. 113A-110(e) reads as rewritten:

45 "(e) Prior to adoption or subsequent amendment of any land-use plan, the body charged
46 with its preparation and adoption (whether the county or the Commission or a unit delegated such
47 responsibility) shall hold a public hearing at which public and private parties shall have the
48 opportunity to present comments and recommendations. Notice of the hearing shall be ~~given not~~
49 ~~less than 30 days before the date of the hearing and published at least one time, not less than 10~~
50 days nor more than 25 days before the date scheduled for the hearing. In computing such period,
51 the day of publication is not to be included but the day of the hearing shall be included. Notice

1 of the hearing shall state the date, time, and place of the hearing; the subject of the hearing; the
2 action which is proposed; and that copies of the proposed plan or amendment are available for
3 public inspection at a designated ~~office in the county courthouse~~ county or local government
4 office during designated hours. Any such notice shall be published at least once in a newspaper
5 of general circulation in the ~~county~~ area."

7 **DEQ STUDY OF THE EXPRESS PERMIT AND CERTIFICATION REVIEW** 8 **PROGRAM AND THE FAST-TRACK STORMWATER PERMITTING PROGRAM**

9 **SECTION 6.** The Department of Environmental Quality shall study approaches to
10 expedite permit issuance under the following programs: (i) the express permit and certification
11 review program established pursuant to G.S. 143B-279.13 and (ii) the fast-track permitting for
12 the stormwater management systems program established pursuant to G.S. 143-214.7B and 15A
13 NCAC 02H .1043 and .1044. The Department shall report its findings, including any
14 recommendations for legislative action to improve permitting efficiencies under the programs,
15 to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic
16 Resources no later than December 31, 2022.

17 18 **AUTHORIZE DEQ TO ALLOW LIMITED WASTEWATER DISCHARGE TO** 19 **WATERS WITH NATURALLY OCCURRING LOW DISSOLVED OXYGEN LEVELS**

20 **SECTION 7.(a)** G.S. 143-215.1 is amended by adding a new subsection to read:

21 "(c7) For surface waters of the State that have naturally occurring low dissolved oxygen
22 levels, as determined by the Department, permitted wastewater discharges to such surface waters
23 shall not cause a reduction in the dissolved oxygen levels of such surface waters of more than
24 0.10 mg/l below the approved modeled in-stream dissolved oxygen level for the surface waters
25 at total permitted capacity for all discharges to such surface waters."

26 **SECTION 7.(b)** This section is effective when it becomes law. G.S. 143-215.1(c7),
27 as enacted by subsection (a) of this section, applies only to permits for a new or expanded
28 wastewater discharge facility issued on or after that date.

29 30 **MINING PERMIT NOTICE AND APPEAL CHANGES**

31 **SECTION 8.(a)** G.S. 74-50 reads as rewritten:

32 **"§ 74-50. Permits – General.**

33 ...

34 (b) As used in subsection (b1) of this section:

35 (1) "Land adjoining" means any parcel or tract of land that is not owned in whole
36 or in part by, or that is not under the control of, the applicant or operator or
37 any lessor, affiliate, parent, or subsidiary of the applicant or operator and that
38 is contiguous to either:

39 a. ~~(i) any~~ Any parcel or tract that includes the permitted area.

40 b. ~~area or (ii) any~~ Any parcels or tracts of land that are owned in whole
41 or in part by or under the control of the applicant or operator or any
42 lessor, affiliate, parent, or subsidiary of the applicant or operator and
43 that, ~~taken together,~~ when combined, are contiguous to the permitted
44 area.

45 (2) "Permit boundaries" means the boundaries of a permitted area.

46 (3) "Permitted area" means affected land and all other land used for or designated
47 as buffers or reserves, or used for other purposes, as delineated in a mining
48 permit or an application for a mining permit.

49 (b1) At the time of an application for a new mining permit or for a modification of a mining
50 permit to add land to the permitted area, the applicant or operator shall make a reasonable effort,
51 satisfactory to the Department, to notify:

- 1 (1) The chief administrative officer of each county and municipality in which any
- 2 part of the permitted area is located.
- 3 (2) The owners of record of land adjoining that lies within 1,000 feet of the
- 4 proposed permit boundaries, as applicable, under (i) a permit for a
- 5 new mine or (ii) a modification of a mining permit to add land to a permitted
- 6 area, with notice required for only that land to be added.
- 7 (3) The owners of record of land that meets both of the following criteria:
- 8 a. ~~Lies~~ Lies directly across and is contiguous to any highway; creek,
- 9 stream, river, or other watercourse; railroad track; or utility or other
- 10 public ~~right of way and that lies~~ right-of-way. For purposes of this
- 11 sub-subdivision, "highway" means a highway, as defined in
- 12 G.S. 20-4.01(13), that has four lanes of travel or less and that has not
- 13 been designated a part of the Interstate Highway System.
- 14 b. Lies within 1,000 feet of the permit boundaries. For purposes of this
- 15 subdivision, "highway" means a highway, as defined in
- 16 G.S. 20-4.01(13) that has four lanes of travel or less and that has not
- 17 been designated a part of the Interstate Highway System. the proposed
- 18 permit boundaries, as applicable, under (i) a permit for a new mine or
- 19 (ii) a modification of a mining permit to add land to a permitted area,
- 20 with notice required for only that land to be added.

21 (b2) The notice shall inform the owners of record and chief administrative officers of the

22 opportunity to submit written comments to the Department regarding the proposed new or

23 modified mining operation that adds land to the permitted area and the opportunity to request a

24 public hearing regarding the proposed new or modified mining operation. Requests for public

25 hearing shall be made within 30 days of issuance of the notice.

26"

27 **SECTION 8.(b)** G.S. 74-61 reads as rewritten:

28 "**§ 74-61. Administrative and judicial review of decisions.**

29 An applicant, permittee, or affected person may contest a decision of the Department to grant,

30 deny, suspend, modify, or revoke a permit or a reclamation plan, to refuse to release part or all

31 of a bond or other security, or to assess a civil penalty by filing a petition for a contested case

32 under G.S. 150B-23 within 30 days after the Department makes the decision. For purposes of

33 this section, the date of the decision to grant, deny, suspend, modify, or revoke a permit

34 application shall be when the Department posts the decision on a publicly available website.

35 Article 4 of Chapter 150B of the General Statutes governs judicial review of a decision of the

36 Commission."

37 **SECTION 8.(c)** This section is effective when it becomes law. Subsection (a) of this

38 section applies to permit applications submitted on or after that date. Subsection (b) of this section

39 applies to permit decisions made on or after that date.

40 **EFFECTIVE DATE**

41 **SECTION 9.** Except as otherwise provided, this act is effective when it becomes

42 law.

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