

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 177
PROPOSED COMMITTEE SUBSTITUTE H177-PCS40441-TQ-17

Short Title: DEQ Omnibus.-AB

(Public)

Sponsors:

Referred to:

February 23, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE STATUTES GOVERNING THE
3 DEPARTMENT OF ENVIRONMENTAL QUALITY, AS RECOMMENDED BY THE
4 DEPARTMENT OF ENVIRONMENTAL QUALITY.

5 The General Assembly of North Carolina enacts:

6
7 **COAL COMBUSTION RESIDUAL REPORT REVISION**

8 **SECTION 1.** G.S. 130A-309.204(a) reads as rewritten:

9 "(a) The Department shall submit ~~quarterly written reports~~ an annual report no later than
10 October 1 to the Environmental Review Commission on its operations, activities, programs, and
11 progress with respect to its obligations under this Part concerning all coal combustion residuals
12 surface impoundments. This report may be combined with the report to members of the General
13 Assembly required by subsection (b) of this section. At a minimum, the report shall include
14 information concerning the status of assessment, corrective action, prioritization, and closure for
15 each coal combustion residuals surface impoundment and information on costs connected
16 therewith. The report shall include an executive summary of each annual Groundwater Protection
17 and Restoration Report submitted to the Department by the operator of any coal combustion
18 residuals surface impoundments pursuant to G.S. 130A-309.211(d) and a summary of all
19 groundwater sampling, protection, and restoration activities related to the impoundment for the
20 preceding year. The report shall also include an executive summary of each annual Surface Water
21 Protection and Restoration Report submitted to the Department by the operator of any coal
22 combustion residuals surface impoundments pursuant to G.S. 130A-309.212(e) and a summary
23 of all surface water sampling, protection, and restoration activities related to the impoundment
24 for the preceding year, including the status of the identification, assessment, and correction of
25 unpermitted discharges from coal combustion residuals surface impoundments to the surface
26 waters of the State. The Department shall supplement the written reports required by this
27 subsection with additional written and oral reports as may be requested by the Environmental
28 Review Commission. The Department shall submit the written reports required by this subsection
29 whether or not the General Assembly is in session at the time the report is due."
30

31 **SOLID WASTE BENEFICIAL REUSE CLARIFICATION**

32 **SECTION 2.(a)** G.S. 130A-309.05 reads as rewritten:

33 **"§ 130A-309.05. Regulated wastes; certain exclusions.**

34 (a) Certain Wastes Regulated as Nonhazardous. – Notwithstanding other provisions of
35 this Article, the following waste shall be regulated pursuant to this Part:

36 (1) Medical waste; and



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1 (2) Ash generated by a solid waste management facility from the burning of solid
2 waste.

3 (b) Management of Ash Generated From Burning of Solid Waste. – Ash generated by a
4 solid waste management facility from the burning of solid waste shall be disposed of in a properly
5 designed solid waste disposal area that complies with standards developed by the Department for
6 the disposal of the ash. The Department shall work with solid waste management facilities that
7 burn solid waste to identify and develop methods for recycling and reusing incinerator ash or
8 treated ash.

9 (c) Recovered Material. – Recovered material is not subject to ~~regulation as permitting~~
10 ~~requirements for solid waste under this Article. In order for a material that would otherwise be~~
11 ~~regulated as solid waste to qualify as a recovered material, the~~ The Department may require any
12 person who owns or has control over the material to demonstrate that the material meets the
13 requirements of this subsection. In order to protect public health and the environment, the
14 Commission subsection or may require the person to obtain a beneficial use determination from
15 the Department in accordance with subsection (d) of this section. The Department may adopt
16 rules to implement this subsection. Materials that are accumulated speculatively, as that term is
17 defined under 40 Code of Federal Regulations § 261 (July 1, 2014 Edition), shall not qualify as
18 a recovered material, and shall be subject to regulation as solid waste. In order to qualify as a
19 recovered material, the material. The material shall be managed as a valuable commodity in a
20 manner consistent with the desired use or end use, and all of the following conditions shall be
21 met:

22 (1) Seventy-five percent (75%), by weight or volume, of the recovered material
23 stored at a facility at the beginning of a calendar year commencing January 1,
24 shall be removed from the facility through sale, use, or reuse by December 31
25 of the same year.

26 (2) The recovered material or the products or by-products of operations that
27 process recovered material shall not be discharged, deposited, injected,
28 dumped, spilled, leaked, or placed into or upon any land or water so that the
29 products or by-products or any constituent thereof may enter other lands or be
30 emitted into the air or discharged into any waters including groundwaters, or
31 otherwise enter the environment or pose a threat to public health and safety.
32 Facilities that process recovered material shall be operated in a manner to
33 ensure compliance with this subdivision.

34 (3) The recovered material shall not be a hazardous waste or have been recovered
35 from a hazardous waste.

36 (4) The recovered material shall not contain significant concentrations of foreign
37 constituents that render it unserviceable or inadequate for sale, or its intended
38 use or reuse.

39 (d) Beneficial Use Determination. – For the purposes of preservation of landfill capacity,
40 economic development, energy savings, and reduction of greenhouse emissions, the Department
41 may determine whether nonhazardous solid waste may be used or reused for a particular site or
42 application as an alternative to disposal at a permitted solid waste management facility as set
43 forth in this subsection.

44 (1) A person seeking a beneficial use determination shall submit an application to
45 the Department. The Department, after a review of an application submitted
46 under this subsection, may take any of the following actions:

47 a. Authorize management of a specified type of nonhazardous solid
48 waste at a site other than a permitted solid waste management facility.

49 b. Issue a beneficial use determination with appropriate conditions for
50 use of specific types of solid waste in construction, land application,
51 or other projects and applications.

- 1 (2) An applicant for a determination under this subsection shall submit
2 information on forms prescribed by the Department and any additional
3 information required by the Department necessary for a determination under
4 this subsection. In its review of the application and additional information, the
5 Department shall also consider internal research or information submitted by
6 any person or entity concerning the potential hazard to public health or the
7 environment of any type of solid waste.
- 8 (3) The Department may require submittal of a demonstration that the solid waste
9 is being managed in a manner to protect public health or the environment and
10 may include any of the following as a part of an authorization under
11 subdivision (1) of this subsection:
- 12 a. Requirements for periodic testing of solid wastes.
- 13 b. Conditions to ensure that the product or by-products of a material
14 recovered or diverted for beneficial use shall not be discharged,
15 deposited, injected, dumped, spilled, leaked, or placed into or upon
16 any land or water so that the products or by-products or any
17 constituents thereof may enter other lands or be emitted into the air, or
18 discharged into any waters, including groundwaters, or otherwise enter
19 the environment or pose a threat to public health and safety.
- 20 (4) Approvals granted under this subsection are valid for no longer than five
21 years. Requests for renewal shall be made at least 60 days in advance of the
22 expiration date of the approval.
- 23 (5) The applicant for a determination under this subdivision shall submit to the
24 Department on an annual basis a report detailing the usage of material under
25 the approval and certifying compliance with this Article and any applicable
26 rules adopted under this Article.
- 27 (6) The Department may suspend or revoke an authorization and may modify an
28 authorization if it is determined that the activity is not in compliance with the
29 requirements of applicable laws or rules or if new information is provided to
30 the Department that impacts the determination of protection of public health
31 or the environment.
- 32 (7) The Department shall provide notice on its website of approved beneficial use
33 determinations.
- 34 (8) Facilities that manage source separated materials for the purpose of recycling
35 as defined in G.S. 130A-290 are not subject to the provisions of this
36 subsection.
- 37 (9) The Department may adopt rules implementing this subsection and
38 establishing application fees for a reuse determination under this subsection.
39 All fees collected under this subdivision shall be credited to the Solid Waste
40 Management Account established under G.S. 130A-295.8(a). In determining
41 the amount of the total application fee in rule, the Department shall have the
42 authority to establish separate fee amounts for annual fees for each year based
43 on the length of time for which the approval will be valid as requested by the
44 applicant."

45 **SECTION 2.(b)** This section becomes effective October 1, 2023.

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47 **CODIFY LASII IN WATER INFRASTRUCTURE FUND**

48 **SECTION 3.(a)** G.S. 159G-22 is amended by adding a new subsection to read:

49 "(g1) LASII Fund. – The Local Assistance for Stormwater Infrastructure Investments
50 (LASII) Fund created in Section 12.14 of S.L. 2021-180 is established as an account within the
51 Water Infrastructure Fund to provide grants to eligible entities for projects that will improve or

1 create infrastructure for controlling stormwater quantity and quality. For purposes of grants from
2 LASII under this subsection, an eligible entity is a city or county that (i) documents in a form
3 and manner as the Department may specify a stormwater quality or quantity issue and (ii)
4 demonstrates that it would experience a significant hardship raising the revenue necessary to
5 finance stormwater management activities within its jurisdiction based on income and
6 unemployment data, population trends, and any other data determined relevant by the
7 Department. A regional council of government created pursuant to Part 2 of Article 20 of Chapter
8 160A of the General Statutes or a nonprofit entity is also an eligible entity under this section if
9 the regional council of government or nonprofit entity partners with a city or county."

10 **SECTION 3.(b)** This section becomes effective October 1, 2023.

11
12 **REMOVE TIME LIMITS ON CERTAIN VUR GRANTS**

13 **SECTION 4.(a)** G.S. 159G-36(d)(2) reads as rewritten:

14 "(2) Grants for the purpose set forth in G.S. 159-32(d)(6) to any single local
15 government unit shall not ~~(i) exceed seven hundred fifty thousand dollars~~
16 ~~(\$750,000) in any fiscal year and (ii) be awarded for more than three~~
17 ~~consecutive fiscal years.~~"

18 **SECTION 4.(b)** This section becomes effective July 1, 2023.

19
20 **EXTEND LIMIT ON INTERGOVERNMENTAL PERSONNEL ACT AGREEMENTS**

21 **SECTION 5.** G.S. 126-53 reads as rewritten:

22 "**§ 126-53. Authority to interchange employees.**

23 (a) Any division, department, agency, instrumentality, authority, or political subdivision
24 of the State of North Carolina is authorized to participate in a program of interchange of
25 employees with divisions, departments, agencies, instrumentalities, authorities, or political
26 subdivisions of the federal government, of another state, or of this State, as a sending agency or
27 a receiving agency.

28 (b) The period of individual assignment, detail, or leave of absence under an interchange
29 program ~~shall not exceed two years.~~ may last up to two years and may be extended for an
30 additional two years if the sending agency and receiving agency agree.

31"

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33 **EFFECTIVE DATE**

34 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes
35 law.