

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H

D

HOUSE BILL 873
PROPOSED COMMITTEE SUBSTITUTE H873-PCS40557-MHf-3

Short Title: DEQ Agency Bill.-AB

(Public)

Sponsors:

Referred to:

April 10, 2025

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

The General Assembly of North Carolina enacts:

USE OF TAX-MAINTAINED PROPERTIES FOR PUBLIC HEARINGS

SECTION 1.(a) Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-279.21. Use of schools and other public buildings for public hearings.

(a) The governing authority having control over (i) public buildings or (ii) schools governed by the governing body of a public school unit which have facilities for group meetings is hereby authorized and directed to permit the use of such buildings without charge, except custodial and utility fees, by the Department for public hearings. Provided, that the use of such buildings or schools by the Department for public hearings shall not be permitted at times during the school day or which would interfere with normal school activities or functions normally carried on in such school buildings, and such use shall be subject to reasonable rules and regulations of the governing body of the public school unit and other governing authorities.

(b) The Department of Environmental Quality shall be entitled to use any school governed by the governing body of a public school unit or other State, county, or municipal building, or a part thereof, or any other building, or a part thereof, which is supported or maintained, in whole or in part, by or through tax revenues; provided, however, that this section shall not be construed to permit the Department to use any tax-exempt church property for such purposes without the express consent of the individual church involved for the purpose of conducting public hearings."

SECTION 1.(b) G.S. 115C-47 is amended by adding a new subdivision to read:

"(70) To Provide Access to School Facilities to the Department of Environmental Quality. – A local board of education shall adopt policies to allow the Department of Environmental Quality to have access to facilities that can facilitate group meetings on school property of a school governed by the local school board pursuant to G.S. 143B-279.21(a)."

SECTION 1.(c) Part 2 of Article 14A of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-238.35A. Provide access to school facilities to the Department of Environmental Quality.



* H 8 7 3 - P C S 4 0 5 5 7 - M H F - 3 *

1 A charter school shall adopt policies to allow the Department of Environmental Quality to
2 have access to facilities that can facilitate group meetings on charter school property consistent
3 with G.S. 143B-279.21(a)."

4 **SECTION 1.(d)** Subsections (a), (b), and (c) of this section are effective when they
5 become law and apply beginning with the 2025-2026 school year.

6 7 **CLARIFY REQUIREMENTS FOR HAZARDOUS WASTE RECYCLING**

8 **SECTION 2.** Article 9 of Chapter 130A of the General Statutes is amended by
9 adding a new section to read:

10 **"§ 130A-295.07. Requirements for hazardous waste recycling.**

11 (a) For purposes of this section, "off-site recycling facility" means any facility receiving
12 shipments of hazardous waste from off-site to be recycled or processed for recycling through any
13 process conducted at the facility. A facility owned or operated by a generator of hazardous waste
14 to recycle their own waste is not an off-site recycling facility.

15 (b) An off-site recycling facility shall comply with the requirements of this Article and
16 with 15A NCAC 13A .0113.

17 (c) A hazardous waste facility that (i) accepts hazardous waste from off-site for recycling
18 and (ii) meets the definition of "commercial" in G.S. 130A-290 is subject to the requirements of
19 this Article and rules adopted by the Commission applicable to commercial hazardous waste
20 facilities."

21 22 **MODIFY PAYMENT OF BROWNFIELDS PROPERTY REUSE ACT FEES**

23 **SECTION 3.(a)** G.S. 130A-310.39 reads as rewritten:

24 **"§ 130A-310.39. Fees.**

25 (a) The Department shall collect the following fees:

26 (1) A prospective developer who submits an application for a proposed
27 brownfields agreement for review by the Department shall pay an initial fee
28 of two thousand dollars (\$2,000).

29 (2) A prospective developer who enters into a brownfields agreement with the
30 Department shall ~~pay-pay, on a schedule that the Department may specify, a~~
31 ~~fee in an amount equal to the full cost to the Department and the Department~~
32 ~~of Justice of all activities related to the brownfields agreement, including but~~
33 ~~not limited to negotiation of the brownfields agreement, public notice and~~
34 ~~community involvement, and monitoring the implementation of and~~
35 ~~compliance with the brownfields agreement. agreement and requirements of~~
36 ~~this Part regarding the Notice of Brownfields Property. The procedure by~~
37 ~~which the amount of this fee is determined shall be established by agreement~~
38 ~~between the prospective developer and the Department and shall be set out as~~
39 ~~a part of the brownfields agreement. The fee imposed by this subdivision shall~~
40 ~~be paid in two installments. The first installment shall be due at the time the~~
41 ~~prospective developer and the Department enter into the brownfields~~
42 ~~agreement and shall equal all costs that have been incurred by the Department~~
43 ~~and the Department of Justice at that time less the amount of the initial fee~~
44 ~~paid pursuant to subdivision (1) of this subsection. The Department shall not~~
45 ~~enter into the brownfields agreement unless the first installment is paid in full~~
46 ~~when due. The second installment shall be due at the time the prospective~~
47 ~~developer submits a final report certifying completion of remediation under~~
48 ~~the brownfields agreement and shall include any additional costs that have~~
49 ~~been incurred by the Department and the Department of Justice, including all~~
50 ~~costs of monitoring the implementation of the brownfields agreement.~~

(3) Any prospective developer or owner of properties subject to a recorded Notice of Brownfields Property who is out of compliance with the requirements of this Part regarding the Notice shall pay a fee to the Department and the Department of Justice sufficient to cover the costs to the State to enforce or otherwise seek to correct the noncompliance.

(b) Fees and interest imposed under this section shall be credited to the Brownfields Property Reuse Act Implementation Account.

(c) If a prospective developer fails to pay the full amount of any fee due under this section, interest on the unpaid portion of the fee shall accrue from the time the fee is due until paid at the rate established by the Secretary of Revenue pursuant to G.S. 105-241.21. A lien for the amount of the unpaid fee plus interest shall attach to the real and personal property of the prospective developer and to the brownfields property until the fee and interest is paid. The Department may collect unpaid fees and interest in any manner that a unit of local government may collect delinquent taxes."

SECTION 3.(b) G.S. 105-277.13 reads as rewritten:

"§ 105-277.13. Taxation of improvements on brownfields.

(a) Qualifying improvements on brownfields properties are designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be appraised, assessed, and taxed in accordance with this section. An owner of land subject to a recorded Notice of Brownfields Property under G.S. 130A-310.35 is entitled to the partial exclusion provided by this section for the first five taxable years beginning after completion of qualifying improvements made after the later of July 1, 2000, or the date ~~of the~~ upon which the Department of Environmental Quality provides written confirmation that the prospective developer of that land and the proposed improvements are eligible to receive a brownfields agreement. After property has qualified for the exclusion provided by this section, the assessor for the county in which the property is located shall annually appraise the improvements made to the property during the period of time that the owner is entitled to the exclusion.

(b) For the purposes of this section, the terms "qualifying improvements on brownfields properties" and "qualifying improvements" mean improvements made to real property ~~that is subject to as prescribed in a brownfields agreement entered into by the Department of Environmental Quality and the owner~~ recorded Notice of Brownfields Property pursuant to G.S. 130A-310.32. ~~The Brownfields Property Reuse Act of 1997, Part 5 of Article 9 of Chapter 130A of the General Statutes, as amended.~~

(c) The following table establishes the percentage of the appraised value of the qualified improvements that is excluded based on the taxable year:

<u>Year</u>	<u>Percent of Appraised Value Excluded</u>
Year 1	90%
Year 2	75%
Year 3	50%
Year 4	30%
Year 5	10%."

SECTION 3.(c) Subsection (a) of this section becomes effective January 1, 2026.

Subsection (b) of this section is effective for taxes imposed for taxable years beginning on or after July 1, 2025.

SOLID WASTE BENEFICIAL REUSE CLARIFICATION

SECTION 4.(a) G.S. 130A-309.05 reads as rewritten:

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

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

(1) Medical waste; and

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

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

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

- (1) Seventy-five percent (75%), by weight or volume, of the recovered material stored at a facility at the beginning of a calendar year commencing January 1, shall be removed from the facility through sale, use, or reuse by December 31 of the same year.
- (2) The recovered material or the products or by-products of operations that process recovered material shall not be discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water so that the products or by-products or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters including groundwaters, or otherwise enter the environment or pose a threat to public health and safety. Facilities that process recovered material shall be operated in a manner to ensure compliance with this subdivision.
- (3) The recovered material shall not be a hazardous waste or have been recovered from a hazardous waste.
- (4) The recovered material shall not contain significant concentrations of foreign constituents that render it unserviceable or inadequate for sale, or its intended use or reuse.

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

- (1) A person seeking a beneficial use determination shall submit an application to the Department. The Department, after a review of an application submitted under this subsection, may take any of the following actions:
 - a. Authorize management of a specified type of nonhazardous solid waste at a site other than a permitted solid waste management facility.
 - b. Issue a beneficial use determination with appropriate conditions for use of specific types of solid waste in construction, land application, or other projects and applications.

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

SECTION 4.(b) This section becomes effective January 1, 2026.

EXPAND ELIGIBILITY FOR TARGETED INTEREST RATES ON WATER AND WASTEWATER PROJECTS

SECTION 5. G.S. 159G-20(21) reads as rewritten:

"(21) Targeted interest rate project. – Either of the following types of projects:

- a. A project that is awarded a loan from the Drinking Water Reserve or the Wastewater Reserve based on affordability.
- b. A project that is awarded a loan from the CWSRF or the DWSRF and is in a category for which the Department or federal law encourages a special focus."

REVISE STEWARDSHIP LAWS

SECTION 6. G.S. 143-214.15 reads as rewritten:

"§ 143-214.15. Compensatory mitigation for diverse habitats.

(a) The Department of Environmental Quality shall seek more net gains of aquatic resources through compensatory mitigation by increasing wetland establishment of diverse habitats, including emergent marsh habitat, shallow open water, and other forested and non-forested wetland habitats.

(b) The Department of Environmental Quality shall further establish with the district engineer of the Wilmington District of the United States Army Corps of Engineers compensatory mitigation credit ratios that incentivize the creation or establishment of diverse wetland habitats to support waterfowl and other wildlife.

(c) The Department of Environmental Quality shall work in cooperation with the Wildlife Resources Commission to ensure that all purchased mitigation lands or conservation easements on these lands ~~maximize opportunities for public recreation, including hunting, and promote wildlife and biological diversity.~~ prioritize management practices that promote wildlife and biological diversity and, where feasible, provide opportunities for public recreation, including hunting by property owners and lessees. The Department and the Commission shall pursue the voluntary involvement of third-party groups to leverage resources and ensure that there is no additional cost to private mitigation bankers or the taxpayers in achieving these mitigation credits.

(d) The Stewardship Program of the Department of Environmental Quality shall maintain an inventory of all its land holdings and determine how many of those holdings are potential wildlife habitats, either as currently held or with some modification. The Stewardship Program shall maximize use of these mitigation land holdings as ecological research sites and for hunting leases when the Stewardship Program determines it is feasible to do so.

(e) ~~If private individuals, corporations, or other nongovernmental entities wish to purchase any of the inventory of land suitable for wildlife habitat, then the Stewardship Program of the Department of Environmental Quality shall issue a request for proposal to all interested respondents for the purchase of the land. The State shall accept a proposal and proceed to dispose of the land only if the Department determines that the proposal meets both of the following requirements:~~

- (1) ~~The proposal provides for the maintenance in perpetuity of management measures listed in the original mitigation instrument or otherwise needed on an ongoing or periodic basis to maintain the functions of the mitigation site.~~
- (2) ~~Where the functions of the mitigation site include provision of recreation or hunting opportunities to members of the general public, the proposal includes measures needed to continue that level of access.~~

~~The instrument conveying a property interest in a mitigation site shall be executed in the manner required by Article 16 of Chapter 146 of the General Statutes, and shall reflect the requirements of this subsection.~~

(f) The Department of Environmental Quality shall report to the Environmental Review Commission by March 1 of each year in which there are changes in inventory during the preceding year under the provisions of this section regarding the changes."

EFFECTIVE DATE

1 **SECTION 7.** Except as otherwise provided, this act is effective when it becomes
2 law.