

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

SESSION LAW 2006-215 (SB 1862)

AN ACT TO SET THE PER POUND FACTOR USED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION TO CALCULATE NUTRIENT OFFSET PAYMENTS, TO REQUIRE THAT THE NUTRIENT OFFSET PAYMENT FOR NITROGEN BE CALCULATED AS IT WAS PRIOR TO CERTAIN RULE AMENDMENTS, AND TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY ISSUES RELATED TO THE NUTRIENT OFFSET PAYMENTS.

**AS AMENDED BY
SESSION LAW 2006-218 (SB 927)**

AN ACT TO ALLOW THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DECLINE TO ACCEPT A NUTRIENT OFFSET PAYMENT FOR PHOSPHOROUS FOR THE TAR-PAMLICO RIVER BASIN IF THE DEPARTMENT FINDS THAT THE PAYMENT IS NOT SUFFICIENT TO COVER THE FULL COSTS OF NUTRIENT REDUCTION MEASURES NEEDED TO COMPLY WITH THE NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY.

**AS AMENDED BY
SESSION LAW 2006-255, SECTION 5.3 (SB 1587, SECTION 5.3)**

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: . . . (5.3) PROVIDE, ON A TEMPORARY BASIS, THAT DONATIONS OF REAL PROPERTY TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES THAT SERVE AS ALTERNATIVES TO MAINTENANCE OF RIPARIAN BUFFERS ARE LIMITED TO A PROPERTY THAT IS LOCATED IN THE SAME RIVER BASIN AS THE RIPARIAN BUFFER THAT IS LOST BUT ARE NOT LIMITED TO A PROPERTY THAT IS LOCATED ON THE SAME STREAM AS THE RIPARIAN BUFFER THAT IS LOST;

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the per pound factors for nutrient offset payments established in 15A NCAC 2B.0240, as adopted by the Environmental Management Commission on 12 January 2006, the per pound factors for nutrient offset payments are established as follows:

- (1) Eleven dollars (\$11.00) per pound of nitrogen, calculated in accordance with the method used as of 1 January 2006, for determining pounds of nitrogen per acre.

(2) Eleven dollars (\$11.00) per tenth of a pound of phosphorous.

SECTION 1.1 Notwithstanding 15A NCAC 2B.0240 and Section 1 of this act, the Department of Environment and Natural Resources shall not be required to accept a nutrient offset payment for phosphorous as a means of fulfilling any requirement of the nutrient sensitive waters management strategy for the Tar-Pamlico River Basin if the Department finds that the payment is not sufficient to cover the full costs of nutrient reduction measures needed to comply with the nutrient sensitive waters management strategy. If the Department declines to accept a nutrient offset payment for phosphorous, the Department shall provide an estimate of the full cost of the nutrient reduction measures required for compliance with the nutrient sensitive waters management strategy. The Department may negotiate and enter into contracts to provide nutrient reduction measures needed to fulfill any requirement of the nutrient sensitive waters management strategy for phosphorous for the Tar-Pamlico River Basin based on the full cost of providing the nutrient reduction measures.

SECTION 2. Study. – The Environmental Review Commission, with the assistance of the Division of Water Quality of the Department of Environment and Natural Resources, shall study issues related to the nutrient offset payment program. The Commission shall specifically study the costs associated with providing nutrient controls that are adequate to offset point source and nonpoint source discharges of nitrogen; whether nutrient offset payments should be authorized for additional nutrients, including phosphorus; and whether the nutrient offset program should be expanded to other areas of the State.

SECTION 2.1. A donation of real property or of an interest in real property to the Department of Environment and Natural Resources, another State agency, a unit of local government, or a private nonprofit conservation organization under G.S. 143-214.20 shall be limited to property that is located in the same river basin as the riparian buffer that is lost but shall not be limited to a donation of property located on the same stream as the riparian buffer that is lost.

SECTION 3. Report. – The Environmental Review Commission shall report its findings, together with any recommended legislation, to the 2007 General Assembly upon its convening.

SECTION 4. The Division of Water Quality of the Department of Environment and Natural Resources must refund any fee paid in excess of the amount established under this act.

SECTION 5. This act becomes effective 1 August 2006, and applies to all nutrient offset payments, including those set out in 15A NCAC 2B.0240, as adopted by the Environmental Management Commission on 12 January 2006. This act expires 1 September 2007.

In the General Assembly read three times and ratified this the 27th day of July, 2006.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 10:02 a.m. this 8th day of August, 2006