

# General Assembly of North Carolina

## Environmental Review Commission State Legislative Building Raleigh, North Carolina

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SENATOR DANIEL G. CLODFELTER

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October 15, 2009

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TO: Members of the Environmental Review Commission  
Interested Parties

FROM: Jeff Hudson, Commission Counsel

RE: Environmental Review Commission: 2009-2010 Interim

Please find the following attached documents:

- Membership of the Environmental Review Commission for the 2009-2010 Interim
- Authorizing legislation for the Environmental Review Commission
- Environmental Review Commission Studies for the 2009-2010 Interim

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2009-2010 Interim

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**2009-2010 Interim**

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# **North Carolina General Statutes**

## **Article 12D.**

### **Environmental Review Commission.**

#### **§ 120-70.41. Commission established.**

The Environmental Review Commission is hereby established. (1987 (Reg. Sess., 1988), c. 1100, s. 4.1.)

#### **§ 120-70.42. Membership; cochair; vacancies; quorum.**

(a) The Environmental Review Commission shall consist of six Senators appointed by the President Pro Tempore of the Senate, six Representatives appointed by the Speaker of the House of Representatives, who shall serve at the pleasure of their appointing officer, the Chair or a Cochair of the Senate Committee on Agriculture, Environment, and Natural Resources or the equivalent committee, the Chair or a Cochair of the House of Representatives Committee on Environment and Natural Resources or the equivalent committee, the Chair or a Cochair of the Senate Committee on Appropriations – Natural and Economic Resources or the equivalent committee, and the Chair or a Cochair of the House of Representatives Committee on Appropriations – Natural and Economic Resources or the equivalent committee.

(b) The President Pro Tempore of the Senate shall designate one Senator to serve as cochair and the Speaker of the House of Representatives shall designate one Representative to serve as cochair.

(c) Except as otherwise provided in this subsection, a member of the Commission shall continue to serve for so long as the member remains a member of the General Assembly and no successor has been appointed. A member of the Commission who does not seek reelection or is not reelected to the General Assembly may complete a term of service on the Commission until the day on which a new General Assembly convenes. A member of the Commission who resigns or is removed from service in the General Assembly shall be deemed to have resigned or been removed from service on the Commission. Any vacancy that occurs on the Environmental Review Commission shall be filled in the same manner as the original appointment.

(d) A quorum of the Environmental Review Commission shall consist of nine members. (1987 (Reg. Sess., 1988), c. 1100, s. 4.1; 1989, c. 727, s. 139; 1991, c. 739, s. 5; 1997-31, s. 1; 2002-176, s. 4; 2003-340, s. 4.)

#### **§ 120-70.43. Powers and duties.**

(a) The Environmental Review Commission shall have the following powers and duties:

- (1) To evaluate actions of all boards, commissions, departments, and other agencies of the State and local governments as such actions relate to the environment or protection of the environment, including but not limited to an evaluation of:
  - a. Benefits of each program relative to costs;
  - b. Achievement of program goals;
  - c. Use of measures by which the success or failure of a program can be measured; and
  - d. Conformity with legislative intent;

- (2) To study on a continuing basis the organization of State government as it relates to the environment or to the protection of public health and the environment, including but not limited to:
  - a. Improvements in administrative structure, practices, and procedures;
  - b. Increased integration and coordination of programs and functions;
  - c. Increased efficiency in budgeting and use of resources;
  - d. Efficient administration of licensing, permitting, and grant programs;
  - e. Prompt, effective response to environmental emergencies;
  - f. Opportunities for effective citizen participation; and
  - g. Broadening of career opportunities for professional staff;
- (3) To make any recommendations it deems appropriate regarding the reorganization and consolidation of environmental regulatory agencies and the recodification of statutes relating to the environment, including but not limited to:
  - a. Ways in which agencies may operate more efficiently and economically;
  - b. Ways in which agencies can provide better services to the State and to the people; and
  - c. Instances in which functions of agencies are duplicative, overlapping, incomplete in scope or coverage, fail to accomplish legislative objectives, or for any other reason should be redefined or redistributed;
- (4) To review and evaluate changes in federal law and regulations, relevant court decisions, and changes in technology affecting the environment or protection of the environment;
- (5) To review existing and proposed State law and rules affecting the environment or protection of the environment and to determine whether any modification of law or rules is in the public interest;
- (6) To make reports and recommendations, including draft legislation, to the General Assembly from time to time as to any matter relating to the powers and duties set out in this section; and
- (7) To undertake such additional studies as it deems appropriate or as may from time to time be requested by the President Pro Tempore of the Senate, the Speaker of the House of Representatives, either house of the General Assembly, the Legislative Research Commission, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Utility Review Committee, or the Joint Select Committee on Low-Level Radioactive Waste and to make such reports and recommendations to the General Assembly regarding such studies as it deems appropriate; provided that the Environmental Review Commission shall not undertake any study which the General Assembly has assigned to another legislative commission or committee.

(b) The Environmental Review Commission may continue the study of environmental agency consolidation and reorganization. The study of environmental agency consolidation shall include, but is not limited to:

- (1) Monitoring the implementation of Session Laws 1989, c. 727;

- (2) Evaluation of the organization, programs, and operation of the Department of Environment and Natural Resources;
  - (3) Evaluation of the organization, functions, powers, and duties of the components of the Department of Environment and Natural Resources, including boards, commissions, councils, and regional offices; and
  - (4) Recodification of the General Statutes relating to the environment and environmental agencies.
- (c) In addition to its general powers and duties, the Environmental Review Commission shall have the following powers and duties with respect to hazardous waste management:
- (1) To study the current and projected need for hazardous waste treatment, storage, and disposal capacity in the State in light of anticipated generation of hazardous waste and alternatives for hazardous waste treatment and disposal;
  - (2) To evaluate the potential for the development of additional hazardous waste treatment, storage, and disposal capacity by the private sector;
  - (3) To study the necessity for and scope of hazardous waste treatment, storage, and disposal facilities which are sited, owned, or operated by the State;
  - (4) To review progress in securing a volunteer county to host a hazardous waste treatment facility;
  - (5) To study incentives and compensation for the community which hosts, either voluntarily or involuntarily, a hazardous waste treatment facility, including any additional incentives and compensation which may be needed, whether there should be differential compensation for a volunteer county, options for use of funds by local governments, distribution of compensation among local governments, and methods of providing flexibility in the development of an incentives and compensation package for a particular local community;
  - (6) To review progress in developing interstate agreements for the treatment, storage, and disposal of hazardous waste;
  - (7) To assist in the development of cooperative, comprehensive regional approach to hazardous waste treatment and disposal;
  - (8),(9) Repealed by Session Laws 2001-474, s. 12.
  - (10) To study the capacity assurance requirement under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613, as amended as it relates to the continued eligibility of North Carolina for remedial actions under Superfund;
  - (11) To study alternatives available to the State for dealing with hazardous waste and the ramifications of those alternatives; and
  - (12) To receive and evaluate reports of every State agency, board, and commission which has any power or duty with respect to hazardous waste management. (1987 (Reg. Sess., 1988), c. 1100, s. 4.1; 1989, c. 168, s. 46(b); c. 727, s. 225(a); 1991, c. 739, s. 6; 1991 (Reg. Sess., 1992), c. 990, s. 4; 1997-443, s. 11A.119(a); 2001-474, s. 12.)

**§ 120-70.44. Additional powers.**

(a) The Environmental Review Commission, while in the discharge of official duties, may exercise all the powers provided for under the provisions of G.S. 120-19, and G.S. 120-19.1 through G.S. 120-19.4. The Environmental Review Commission may meet at any time upon the call of either cochairman, whether or not the General Assembly is in session. The Environmental Review Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

(b) Notwithstanding any rule or resolution to the contrary, proposed legislation to implement any recommendation of the Environmental Review Commission regarding any study the Environmental Review Commission is authorized to undertake or any report authorized or required to be made by or to the Environmental Review Commission may be introduced and considered during any session of the General Assembly.

(c) The Commission may contract for consultants or hire employees in accordance with G.S. 120-32.02. (1987 (Reg. Sess., 1988), c. 1100, s. 4.1; 1989, c. 784, s. 5; 2006-255, s. 3.1.)

#### **§ 120-70.45. Compensation and expenses of members.**

Members of the Environmental Review Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1. (1987 (Reg. Sess., 1988), c. 1100, s. 4.1.)

#### **§ 120-70.46. Staffing.**

The Legislative Services Officer shall assign as staff to the Environmental Review Commission professional employees of the General Assembly, as approved by the Legislative Services Commission. Clerical staff shall be assigned to the Environmental Review Commission through the offices of the Directors of the Legislative Assistants of the Senate and House of Representatives. The expenses of employment of clerical staff shall be borne by the Environmental Review Commission. (1987 (Reg. Sess., 1988), c. 1100, s. 4.1; 1996, 2nd Ex. Sess., c. 18, s. 8(f); 2007-495, s. 12.)

#### **§ 120-70.47. Funding.**

From funds available to the General Assembly, the Legislative Services Commission shall allocate monies to fund the work of the Environmental Review Commission. (1987 (Reg. Sess., 1988), c. 1100, s. 4.1.)

# General Assembly of North Carolina

## Environmental Review Commission State Legislative Building Raleigh, North Carolina

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COMMISSION CLERK

TO: Members of the Environmental Review Commission  
Interested Parties

FROM: Jeff Hudson, Commission Counsel

RE: Environmental Review Commission Studies: 2009-2010 Interim

Pursuant to the 2009 Studies Bill (S.L. 2009-574; HB 945), the Environmental Review Commission may study the topics listed below and report its findings, together with any recommended legislation, to the 2010 Regular Session of the 2009 General Assembly:

- The feasibility and environmental impact of interbasin netting of water withdrawals and discharges by contract among water systems subject to regulation by the North Carolina Utilities Commission. (Sec. 6.2)
- Continue study of those topics identified for further research and study in the 2008 Report of the Water Allocation Study (Water Resources Policy Act of 2009). (Sec. 6.3)
- The desirability and feasibility of consolidating the State's environmental policymaking, rule-making, and quasi-judicial functions into one commission. (Sec. 6.4)
- Issues related to the environmental impacts of cement plants. (Sec. 6.5)
- The feasibility and desirability of State government expanding its use of alternative sources of energy for fueling vehicles that are owned or leased by the State as well as for providing energy to power heating, ventilation, and air conditioning (HVAC) systems in buildings owned or leased by the State and to power other systems, motors, and appliances that are owned or leased by the State. (Sec. 6.6)
- How the State can grow and develop sustainably in the future through the year 2050. (Sec. 6.7)
- The possibility of establishing a green school construction loan fund. (Sec. 6.8)
- The establishment of a system whereby prospective purchasers of coastal properties subject to certain coastal hazards can receive reasonable notice of these hazards prior to purchase. (Sec. 6.9)



- Ways to phase out animal waste management systems that employ lagoon and sprayfield systems. (Sec. 6.10)
- Ways to phase out Polybrominated Diphenyl Ethers (PBDE's) and Bisphenol A in flame-retardant products. (Sec. 6.11)
- Ways to strengthen pesticide laws for the protection of workers. (Sec. 6.12 )
- The possibility of requiring all public agencies to recycle all spent fluorescent lights and mercury thermostats and requiring the removal of all fluorescent lights and mercury thermostats from buildings prior to demolition. (Sec. 6.13)
- City and county ordinances prohibiting the installation of clotheslines. (Sec. 6.14)
- The possibility of requiring new and renovated commercial buildings and new residential buildings to comply with energy conservation standards. (Sec. 6.15)
- Whether the circumstances under which an environmental document must be prepared pursuant to G.S. 113A-4 should be clarified. (Sec. 6.16)
- Issues related to the use and storage of reclaimed water. (Sec. 6.17)
- Environmentally sound mechanisms for accelerating the remediation of industrial and commercial site contamination. (Sec. 6.18)
- The feasibility and the advisability of adopting requirements aimed at reducing diesel emissions for construction projects that are funded in whole or in part with State or federal funds. (Sec. 6.19)
- Renewable energy tax credits and incentives for energy conservation. (Sec. 7.5)